



Town of Niagara-on-the-Lake

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REPORT #: CDS-24-121 **COMMITTEE DATE:** 2024-07-18
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: Minor Variance Application A-14/24 – 50 Henry Street

1. RECOMMENDATION

It is respectfully recommended that:

1.1 Minor Variance Application A-14/24 for 50 Henry Street be approved.

2. PURPOSE

The applicant is proposing the re-construction of an existing attached garage. To accommodate the proposal, the following variance has been requested:

1. Minimum interior side yard setback from 1.5 metres, as required in the Zoning By-law, to 1.0 metres for the proposed garage.

The application drawing is attached as **Appendix I** to this report.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands, known municipally as 50 Henry Street, are located on the east side of Henry Street and south of Pine Street, within the urban area of Virgil. The location of the subject lands is shown on **Appendix II** to this report.

The subject lands have an approximate area of 1,440 square metres, with 21.3 metres of frontage on Henry Street. The lands contain a one-storey single-detached dwelling and an attached garage. The reconstruction of the attached garage is proposed to be located 1.0 metres from the interior side lot line. The existing attached garage, constructed approximately 50 years ago, is located 0.9 metres from the interior side lot line, as shown in **Appendix I**. The dwelling is serviced by municipal water and sanitary connections. The surrounding lands are characterized by residential uses.

4. DISCUSSION / ANALYSIS

4.1 Minor Variance Tests – Subsection 45(1), *Planning Act, R.S.O. 1990, c. P.13*

Subsection 45(1) of the *Planning Act* establishes four tests for considering minor variances:

1. Is the requested variance minor in nature?

The proposed garage would increase the interior side yard setback to 1.0 metres, from the 0.9-meter setback established for the existing garage. While the proposed setback of 1.0 metres is

lesser than the minimum requirement of 1.5 metres of the Zoning By-law, no known nuisances or adverse impacts have resulted from the established lesser setback of the existing garage. Staff are of the opinion that the newly proposed garage maintains sufficient distance to the neighbouring property for drainage and for maintenance of the structure.

Staff consider the requested variance to be minor in nature.

2. Is the requested variance desirable for the appropriate development or use of the land, building or structure?

A reduced side yard setback is being requested to accommodate the proposed garage which is to be located largely within the same footprint as the existing garage. The new garage would extend further into the rear yard in comparison with the existing garage, but would increase the setback to the southerly interior lot line from 0.9 metres to 1.0 metres.

Staff do not anticipate adverse impacts to the adjacent properties and consider the requested variance to be appropriate for the development and use of the land.

3. Does the requested variance maintain the general intent and purpose of the By-law?

The subject lands are zoned “Virgil Community Zoning District - Residential (R1) Zone” in Zoning By-law 4316-09, as amended. The rear of the subject lands contain Niagara Peninsula Conservation Authority (“NPCA”) regulated lands, associated with the Four Mile Creek and its floodplain. A single-detached dwelling and associated accessory buildings and structures are permitted uses within the R1 Zone.

The intent of the minimum interior side yard setback is to ensure adequate spatial separation between dwellings and structures for drainage and for maintenance. The existing garage pre-dates the By-law and has a side yard setback of 0.9 metres to the adjacent interior lot line. While the Zoning By-law requires a minimum interior side yard setback of 1.5 metres, staff are of the opinion that the requested setback is sufficient for ongoing maintenance and separation from the side yard of the neighbouring lot. Adverse impacts to the adjacent properties are not anticipated and the character of the R1 Zone would be maintained.

No site alteration is proposed within the NPCA regulated lands.

Staff are of the opinion that the requested variance maintains the general intent and purpose of the By-law.

4. Does the requested variance maintain the general intent and purpose of the Official Plan?

The subject lands are designated “Low Density Residential” in the Town Official Plan (2017 Consolidation, as amended). A single-detached dwelling and associated accessory buildings and structures are permitted uses within this designation.

The goals and objectives of the Residential designation as set out in the Official Plan outline that new development or redevelopment must be appropriately located and compatible with surrounding land uses in order to minimize the potential for land use compatibility impacts, as well as promote the maintenance and rehabilitation of the existing housing stock.

The reconstruction of the garage facilitates greater functionality of the subject lands, and would function as a parking space and storage area. The requested variance does not conflict with the goals and objectives of the Residential designation, and is proposed to facilitate a permitted use.

Staff consider the requested variance to maintain the general intent and purpose of the Official Plan.

5. TOWN, AGENCY AND PUBLIC COMMENTS

The application was circulated to all appropriate Town Departments and external agencies, and public notice of the application was provided as required by the *Planning Act*. The following responses were received:

Town Departments

Building – No objections. Building permit required for the proposed garage reconstruction.

Finance – No objections.

Fire and Emergency – No objections.

Heritage – No objections.

Operations – No objections.

Urban Forestry – Private trees may be impacted by the construction works required for the proposed garage. The applicant has provided a signed Tree Declaration Form, confirming that any requirements of the Town's Private Tree Protection By-law will be adhered to.

Agencies

Niagara Peninsula Conservation Authority (NPCA) – No objections. The property contains regulated features including the Four Mile Creek watercourse and associated valleyland and floodplain; however, the proposed works are located away from the regulated features. Erosion Sediment Control measures (such as silt fencing) are recommended for use during the construction phase.

Niagara Region – No objections. The property is impacted by the Region's Natural Environment System ("NES"), consisting of a of Significant Woodland and Other Wetlands (the Virgil Conservation Area Wetland Complex). The Region is satisfied that the proposal will not have a negative impact on the NES, provided best management practices are implemented during construction, including erosion and sediment control fencing.

Public

No public comments were received at the time this report was prepared.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

The Committee may approve, refuse or modify the requested application.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

Private trees may be impacted by the eventual proposed garage construction. Any tree removal and/or impacts will be addressed through the Town's Private Tree By-law. No impacts to the regulated features to the rear of the property associated with Four Mile Creek are anticipated, provided best management practices are implemented during construction, including erosion and sediment control fencing, per Region and NPCA comments.

10. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the application, notice of the decision will be given as set out in the *Planning Act*. The decision of the Committee of Adjustment is subject to a 20-day appeal period from the date of the decision. If no appeals are received during the appeal period, the decision is final.

Changes to provincial legislation have been made by way of Bill 23 and third-party appeals from private property owners are no longer permitted.

11. CONCLUSION

Planning Staff recommend approval of Minor Variance Application A-14/24 as the requested variance is considered to be minor in nature, appropriate for the development or use of the land, building or structure, and is considered to maintain the general intent and purpose of the By-law and the Official Plan, pursuant to Subsection 45(1) of the *Planning Act*.

12. PREVIOUS REPORTS

Not applicable.

13. APPENDICES

- Appendix I – Application Drawing and Elevations
- Appendix II – Location Map

Respectfully submitted:

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