



Town of Niagara-on-the-Lake

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REPORT #: CDS-24-104 **COMMITTEE DATE:** 2024-07-16
REPORT TO: COTW-Planning **DUE IN COUNCIL:** 2024-07-30
SUBJECT: 187 Queen Street
Zoning By-law Amendment ZBA-05-2024

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The Application for Zoning By-law Amendment (File No. ZBA-05-2024) for lands known municipally as 187 Queen Street **BE APPROVED**, for reasons outlined in this report; and
- 1.2 The draft Zoning By-law Amendment, attached as **Appendix IV** to this report, be forwarded to Council for adoption.

2. EXECUTIVE SUMMARY

- This report provides a Staff recommendation to Committee and Council regarding an application for Zoning By-law Amendment (the “Application”) for 187 Queen Street.
- The Application requests to rezone the subject lands from “Old Town Community Zoning District – Established Residential (ER) Zone” to “Old Town Community Zoning District – Established Residential (ER) Site-Specific Zone” to facilitate the creation of one new residential lot fronting Simcoe Street, for a total of two residential lots.
- The initial proposal has been revised from its original submission for the creation of two new lots to now propose only one new lot.
- Since the current ER zone recognizes lot frontage and lot depth to be “as existing” on the date of the passing of Zoning By-law 4316-09, the Zoning By-law Amendment Application is required to facilitate a future Consent application.
- Both lots would contain site-specific provisions for lot frontage and depth, as well as an increased front yard setback, an additional encroachment permission for rear yard decks, and provisions for garage setback and garage door width for a future dwelling on the severed lot.
- The subject lands are designated under Part IV of the *Ontario Heritage Act* and the heritage dwelling would remain on the retained lot. An addition is being proposed to the heritage dwelling and site-specific provisions have been incorporated into the proposed by-law to recognize the new setbacks of the addition, as well as existing setbacks to the dwelling. A future heritage permit is required.
- Staff recommends approval of the Application, as detailed in this report, as the proposal conforms to *Planning Act* requirements, is consistent with the Provincial Policy Statement, and conforms to Provincial, Regional and Town planning policies.

3. PURPOSE

This report provides a recommendation to Committee and Council respecting an Application under the *Planning Act* seeking approval of a Zoning By-law Amendment to rezone the subject lands known as 187 Queen Street.

The Amendment proposes to rezone the subject lands from “Old Town Community Zoning District – Established Residential (ER) Zone” to “Old Town Community Zoning District – Established Residential (ER) Site-Specific Zone” to recognize site-specific provisions for lot frontage, lot depth, building setbacks and rear yard encroachment. The Application is required to facilitate the future creation of one new residential lot fronting Simcoe Street, for a total of two residential lots.

Lot 1 (severed lot) is proposed to have a frontage of 33.5 metres on Simcoe Street, with an area of 1,473.95 square metres, and contains an existing accessory structure.

Lot 2 (retained lot) is proposed to have a frontage of 29.3 metres on Simcoe Street and a lot flankage of 42.6 metres on Queen Street, with an area of 1,250.2 square metres. The retained lot contains an existing two-storey single-detached dwelling connected to municipal water and sanitary services.

The subject lands are designated under Part IV of the *Ontario Heritage Act* and the heritage dwelling will remain on the retained lot. An addition to the dwelling is being proposed and is subject to a future Heritage Permit.

The severance sketch is attached as **Appendix I** to this report and shows the proposed lots, the existing and proposed dwelling footprint on the retained lot and the proposed building envelope on the severed lot.

4. BACKGROUND

The subject lands are known municipally as 187 Queen Street, located on the northeast corner of Queen Street and Simcoe Street, in the urban area of Old Town. The location of the subject lands is shown on **Map 1** of **Appendix II** to this report.

The subject lands have a total lot area of 2,724.15 square metres with 42.6 metres of frontage on Queen Street and 62.5 metres of flankage on Simcoe Street. The lands contain an existing two-storey single-detached dwelling and accessory structure. The lands are designated under Part IV of the *Ontario Heritage Act*.

The surrounding lands include residential and commercial uses.

The Application was deemed complete by Town Staff on April 10, 2024.

5. DISCUSSION / ANALYSIS

5.1 Policy and Legislative Framework

The Application has been evaluated for consistency and conformity with the relevant Provincial, Regional, and local planning policies and legislation, as discussed in the following

report sections. Applicable planning legislation and policies are provided in **Appendix III** to this report.

5.1.1 *Planning Act, R.S.O. 1990, c. P.13*

Section 2 of the *Planning Act* identifies matters of Provincial interest that Council shall have regard for in carrying out its responsibilities under the *Planning Act*. Subsection 3(5) of the *Planning Act* requires that decisions of Council shall be consistent with provincial policy statements and shall conform with provincial plans that are in effect.

The Application supports the matters of provincial interest, is consistent with policy statements and conforms to provincial plans and upper-tier and lower-tier Official Plans, as demonstrated in the analysis provided in the following sections of this report.

5.1.2 Provincial and Regional Planning Documents

The subject lands are designated as being within a “Settlement Area” according to the Provincial Policy Statement, 2020 (the “PPS”) and are within a “Settlement Area” and “Delineated Built-Up Area” according to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (the “Growth Plan”). The Niagara Official Plan, 2022 (the “NOP”), designates the subject lands as being within the “Delineated Built-Up Area.”

Policies in these plans support residential intensification within urban and built-up areas subject to criteria, such as demonstrating that the proposal is appropriate in relation to the surrounding area and achieving the goals of the applicable legislative documents.

The Application would facilitate more efficient use of a large residential parcel in an urban area with available municipal services and would accommodate appropriate residential infill. The existing heritage dwelling on Lot 2 (retained lot) would remain, and an addition is proposed to the dwelling that would accommodate an attached garage and additional residential unit above. As the dwelling on the retained lot is designated under Part IV of the *Ontario Heritage Act*, the approval of a Heritage Permit from the Town’s Municipal Heritage Committee is required for the proposed addition. Lot 1 (severed lot) would allow for the construction of a future single-detached dwelling. The Application achieves the goals of complete communities by providing additional housing options where there is convenient access to services, employment, parks and other public facilities. The proposal also promotes active transportation in Old Town by allowing for easy access to a variety of services and shops that are within walking or cycling distance.

The NOP outlines a minimum population of 28,900 people and 17,610 jobs in Niagara-on-the-Lake by the year 2051. Furthermore, a minimum intensification target of 1,150 units (or a rate of 25%) to the Built-up Area is designated for the Town. The Application would retain the existing dwelling, facilitate an expansion to the dwelling that would accommodate an additional dwelling unit, and facilitate the construction of one new single-detached dwelling, for a total of two dwellings with one additional residential unit on the retained lot, and contributes to the forecasted growth and intensification targets.

A Stage 1-2 Archaeological Assessment Report, dated October 24, 2023, was completed for the subject lands and further recommended a Stage 3 Assessment due to the findings of the Stage 1-2 assessment. A Stage 3 Archaeological Assessment, prepared by AMICK Consultants Limited, dated February 29, 2024, was completed and has cleared the subject lands of further archaeological concern. An acknowledgment letter from the Ministry of Citizenship and Multiculturalism must be submitted to confirm that the archaeological work was completed in accordance with Provincial standards. The submission of this letter will be a condition of approval for the future Consent application.

Staff consider the Application to be consistent with the PPS and conform with the Growth Plan and Niagara Official Plan.

5.1.3 Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended

The subject lands are designated “Established Residential” and “Built-up Area” in the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended (the “Town OP”). The Town OP designation on the subject lands is shown on **Map 2** of **Appendix II** to this report.

The Town OP policies for intensification indicate that the minimum density is 14 units per hectare and the maximum density is 30 units per hectare. The Application would allow for the creation of one new residential lot, and facilitate the expansion of the existing dwelling to accommodate an additional dwelling unit, for a total of three units. The three dwelling units results in a net density of 11 units per hectare (4.46 units per acre). While the proposed density of the Application falls short of the minimum density outlined, the creation of one new lot and construction of an additional dwelling unit to the existing dwelling will more efficiently utilize large residential parcel and existing municipal services. This is pursuant to and consistent with the infill policies within the built-up area.

A Planning Justification Report (“PJR”) was prepared and submitted in support of the proposed Application. The PJR provides analysis relating to applicable provincial, regional and town policies, as well as findings from supporting studies and discusses any potential impacts to the surrounding area as a result of the proposal. A Streetscape Analysis was conducted within the PJR and addressed compatibility with the surrounding area, including cultural heritage aspects of the neighbourhood. The Queen Street and Simcoe Street block faces were analysed and concluded that the average lot frontage of these properties is approximately 31 metres. Although the initial submission proposed two new lots, the Application has been revised and only one new lot is being proposed at this time with a 33.5 metre frontage that is comparable and compatible with the surrounding area. The proposed lot is also rectangular in nature and is consistent with the established parcel fabric of the neighbourhood.

The Town Official Plan also outlines policies for estate lots, which are properties in an urban area containing a historic dwelling, contributing to the streetscape of the municipality, and have the potential of being severed into additional lots. In order for the Town to consider such proposal, the applicant must provide a streetscape study, demonstrate no negative impacts to vegetation, drainage and the character of the area, as well as retain the historic value of the existing heritage home. The subject lands are considered an estate lot and the applicant has submitted the required information to support the proposal as detailed below.

Through the future application for consent to sever the lands, the applicant proposes to create one new lot, for a total of two lots, with configurations that are comparable and consistent with adjacent lands. The new lot provides sufficient frontage along Simcoe Street and lot area to accommodate a future single-detached dwelling, which is the prominent use in the area. The dwelling would maintain standard height and coverage provisions, as well as an increased front yard setback to match surrounding front yard setbacks and standard building setbacks of the Established Residential (ER) Zone under Town Zoning By-law 4316-09 (as amended). The applicant is also proposing a rear yard encroachment for covered amenity spaces on the new lot, which has been reflected in the site-specific request. It is recommended that a condition of Consent approval be included to require Urban Design Committee review of the proposed dwelling prior to its construction. Staff are of the opinion that the newly proposed lot is consistent and appropriate with the surrounding area.

The policies of Official Plan Amendment #78 (OPA #78) apply to the review of this application. The proposed lot configuration is in keeping with the surrounding lands, standard setbacks of the existing zoning in the established neighbourhood continue to apply, provisions for garages have been incorporated in the proposed amendment for the future new dwelling, and municipal services would be used more efficiently. In addition, the applicant has provided a larger front yard setback for the new dwelling in order to align better with the existing front yard setbacks along Simcoe Street. Overall, the Application is consistent with the policy intent of OPA #78.

The Town OP directs that existing trees must not be unnecessarily removed and that wherever possible, existing trees should be preserved and protected. The Town OP further states that within urban areas, where it is unavoidable that trees be removed, the proponent must plant trees of a similar or comparable species on the site or elsewhere in the Town to the Town's satisfaction. OPA #78 also provides direction for new driveways and service connections to be located where minimal tree loss would occur.

A Tree Inventory and Preservation Plan, prepared by Jackson Arboriculture Inc., dated January 25, 2024, was submitted to evaluate the trees on and in proximity to the subject lands. The report considered all trees on the subject lands, within the Town's boulevard, and trees along the boundaries of the lot. The report concluded that out of sixty (60) trees on and around the subject lands, twenty-four (24) are proposed for removal; of the trees proposed for removal, twenty-three (23) are on private property and one (1) is within the Town's boulevard. Out of the twenty-three (23) trees proposed for removal on the subject lands, two (2) are considered weed species and are not regulated under the Town's Private Tree By-law 5139-19. The tree within the Town's boulevard must be removed to facilitate the proposed driveway off Queen Street for the retained lot. The Town's Operations Department has provided no objection to this. The driveway of the severed lot is proposed to be repurposed in its existing location, not requiring further tree removal to accommodate an entrance to the property. Only one tree in the Town's boulevard fronts the severed lot, and efforts would be made during the servicing of the lands to protect and preserve the tree. The remaining trees on the retained and severed lots will be preserved and protected. For future construction on the lots, the Tree Preservation Plan has identified tree protection zones in the form of fencing to ensure the retained trees are not impacted by development. The Town will require an application to

facilitate any tree removals and will implement replanting conditions and fees at that time. Conditions relating to the recommendations of the tree preservation report will be imposed during the future Consent application.

Staff consider the Application, as recommended in this report, to conform to the relevant policies of the Town OP.

5.1.4 Town of Niagara-on-the-Lake Proposed Official Plan, 2019

Council adopted a proposed new Official Plan in November 2019. The proposed Official Plan has not been approved and is therefore not in effect but represents Council's intent. The subject lands are designated "Established Residential" in the proposed Town of Niagara-on-the-Lake Official Plan (the "proposed Town OP"). The proposed Town OP has similar and complementary policies relating to intensification, efficient use of land and infrastructure and land use compatibility criteria.

5.2 Municipal Heritage Committee Review

The subject lands at 187 Queen Street (Crysler-Burroughs House) are designated under Part IV of the *Ontario Heritage Act*, through Designating By-law No. 3633-02. A Heritage Impact Assessment ("HIA") prepared by Megan Hobson, dated March 5, 2024, was submitted with the Application to outline potential impacts to the heritage value of the property and propose mitigation and conservation measures. The Town's Municipal Heritage Committee ("MHC") considered the HIA and a Staff Report during their meeting on May 1, 2024.

Town Staff recommended the following to MHC:

- That the Municipal Heritage Committee provide input to Staff on the *Planning Act* application for Zoning By-law Amendment (ZBA-05-2024), as it pertains to impacts to cultural heritage resources;
- That the Municipal Heritage Committee endorse, in principle, the recommendations contained within the Heritage Impact Assessment prepared by Megan Hobson, dated March 5, 2024
- That the applicant considers landscaping as a means to screen the new two-storey garage addition;
- That the applicant proposes the design of future single detached dwellings on the severed lots to be in keeping with the existing streetscape on Simcoe Street;
- That the applicant ensures that any proposed development is sympathetic to the existing massing, scale and setbacks of the adjacent properties; and
- That the recommendations proposed within the HIA be considered for implementation through conditions of any future *Planning Act* application for severance.

The MHC did not support the above-mentioned recommendations and further provided that the Committee would be willing to receive a subsequent application that reflects the heritage designation of the property and addresses the comments made by the MHC at their meeting. Comments referenced included the removal of one of the proposed lots and setting back the proposed garage addition further from the Queen Street frontage of the heritage dwelling. The applicant has since revised the application to address the feedback provided by the MHC by

removing one of the proposed lots. Approval of the proposed garage addition is subject to a future Heritage Permit, which will be considered by the MHC in a future meeting.

The requirement for a Development Agreement registered on title to the subject lands would be implemented as a condition of the future Consent application to provide mitigation and conservation measures as outlined in the submitted HIA, and to require additional MHC review of the proposed garage addition. An amendment to the designation by-law is required to facilitate the future lot severance and would be captured through a condition of Consent approval.

5.3 Niagara-on-the-Lake Zoning By-law 4316-09, as amended

The subject lands are zoned “Old Town Community Zoning District – Established Residential (ER) Zone” in Zoning By-law 4316-09, as amended. The applicable zoning of the subject lands is shown on **Map 3** of **Appendix II** to this report.

The ER zone recognizes the lot frontage and lot depth to be “as existing” for lots as of the date of passing Zoning By-law 4316-09. In order to facilitate a future Consent application to sever the lands, the Application is proposing to rezone both severed and retained parcels to site-specific ER zones to address proposed lot frontages, lot depths, and other provisions required to facilitate the proposal. Provisions to limit the dominance of a garage is also recommended on the severed lot for the future dwelling.

The following site-specific ER zone provisions are recommended by Staff for the subject lands:

Lot 1 (Site-Specific ER Zone) – new vacant lot

Zone Requirement	ER Zone	Site-Specific ER Zone
Minimum lot frontage Minimum lot depth	As existing	33.0 metres 42.0 metres
Minimum front yard setback	7.5 metres	8.5 metres
Maximum encroachment into a required rear yard for an unenclosed and uncovered/covered porch, deck, balcony, patio or steps	1.5 metres only for unenclosed and uncovered	3.5 metres
A detached or attached garage shall be setback a minimum of 1.0 metre behind the main façade of the dwelling on the ground floor		
The door(s) of an attached garage shall not occupy more than 50% of the width of the dwelling façade		

Lot 2 (Site-Specific ER Zone) – lot with existing dwelling and proposed addition

Zone Requirement	ER Zone	Site-Specific ER Zone
Minimum lot frontage Minimum lot depth	As existing	29.0 metres 42.0 metres

Minimum front yard setback	7.5 metres	As existing on the date of passage of this by-law (13.9 metres)
Minimum rear yard setback	7.5 metres	5.0 metres
Minimum exterior side yard setback	4.5 metres	As existing on the date of passage of this by-law to the front face of the dwelling (0.0 metres) 12.0 metres to the front face of an attached garage

The proposed increase to the front yard setback for the new lot is consistent with the existing setbacks of the property directly abutting the proposed lot, and maintains a consistent streetscape along Simcoe Street.

The applicant has also requested an encroachment into the rear yard of the new lot for covered and unenclosed porches, which provides sheltered amenity space in the rear yard. A number of rear yard trees on the new lot are proposed to be preserved and maintained. Staff does not anticipate adverse privacy or overview impacts as a result of this permitted encroachment provision and any streetscape inconsistencies as a result of the increase in front yard setback.

Site-specific setback provisions are imposed on the retained lot as a result of the reconfigured property now having frontage on Simcoe Street. The front yard setback and exterior side yard setback of the existing heritage dwelling will be maintained as existing. As a result of the proposed garage addition, a 5-metre rear yard setback is proposed, which is lesser than the standard; however, the interior side yard allows sufficient area for amenity space which would support the residential use of the property. The increased exterior side yard setback for the garage addition allows a larger setback to Queen Street to further preserve the heritage nature of the property.

The proposed site-specific ER zone is an appropriate category to accommodate the proposal, and all remaining provisions of the ER zone and Zoning By-law 4316-09 (as amended) are to be maintained on the subject lands. Further alterations to the retained lot would be subject to a Heritage Permit and further MHC review. Staff are supportive of the draft Zoning By-law Amendment, attached as **Appendix IV** to this report.

5.4 Consultation

The Application was circulated to Town departments and external agencies for review and comment. Public notice of the Application was provided as required by the *Planning Act*.

Comments submitted by the public and agencies are included in **Appendix V** to this report, and summarized as follows:

5.4.1 Town Departments

Building – No objections.

Fire and Emergency Services – No objections.

Finance – No objections.

Heritage – The proposed setback of the garage addition at 12.11m from the Queen Street frontage will mitigate impacts of the addition on the Subject Property's attributes and those of the adjacent Heritage Conservation District. The Town will require the submission of detailed elevations and a revised Heritage Impact Assessment updated to address the new scheme as part of a future Heritage Permit Application.

Operations – No objections. Technical requirements will be addressed at the future Consent application with respect to driveway access and servicing.

Urban Forestry – No objections. At the future Consent and building permit stages, the Town's Urban Forestry Officer will conduct site visits to ensure that the preservation plan is followed as submitted.

5.4.2 External Agencies

Canada Post – No objections.

Enbridge – No objections.

Niagara Region – No objections. The Region defers to the Town with respect to the review of the Heritage Impact Assessment. The Ministry Letter for the Archaeological Assessment must be received prior to any site disturbance.

5.4.3 Public

An electronic Open House was held on April 15, 2024, where eight (8) residents attended. The statutory Public Meeting was held on May 7, 2024, and three (3) members of the public provided comments in objection to the proposed Application. Five (5) formal letters were receiving outlining concerns with the proposal (included in **Appendix V**). The following concerns have been raised and Staff responses are provided below:

Public Comment	Response
Overview and privacy	Staff do not anticipate adverse impacts to overview and privacy, as addressed throughout the report.
Removal of trees	Any future tree removal and replanting required as part of the proposal is subject to approval by the Town's Urban Forestry Officer and must be in compliance with the Town's tree by-laws.
Short term rental usage	Any future short term rental use on the lands is subject to an application to the Town for a short term rental licence and further review. New dwellings and additional residential

	units are not eligible short term rental license.
Massing and scale of future single-detached dwellings	The proposal was since scaled back to only propose one new lot for a single-detached dwelling. The massing and scale of a future dwelling is addressed throughout the report.
Preservation of character of neighbourhood	This comment has been addressed throughout the analysis of the report, in particular in the review of the estate lot policies and OPA 78.
Heritage designation of the property	Discussion on the Municipal Heritage Committee review is provided in Section 5.2 of this report.

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 Zoning By-law Amendment.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

The Application included a Tree Inventory and Preservation Plan of the trees on the lands. Information is included in Section 5.1.3 of this report. Any future tree removal and replanting required as part of the proposal is subject to approval by the Town's Urban Forestry Officer and must be in compliance with the Town's tree by-laws. Conditions relating to the recommendations of the tree preservation report may be imposed during the future Consent application.

10. COMMUNICATIONS

Once Council has made a decision on the Application, notice of the decision will be given as required in the *Planning Act*. The decision of Council is subject to a 20-day appeal period. If no appeals are received during the appeal period, the decision of Council is final.

Recent changes to provincial legislation have been made through Bill 185 and third-party appeals are restricted.

11. CONCLUSION

Community and Development Services Staff recommend approval of Zoning By-law Amendment Application ZBA-05-2024 as detailed in this report since the Application meets *Planning Act* requirements, is consistent with the Provincial Policy Statement and conforms with the Growth Plan, Niagara Official Plan, and Town Official Plan.

12. PREVIOUS REPORTS

- **CDS-24-066** – 187 Queen Street – Review of Heritage Impact Assessment (HER-13-2024) (May 1, 2024)
- **CDS-24-065** – Public Meeting – 187 Queen Street (ZBA-05-2024) (May 7, 2024)

13. APPENDICES

- **Appendix I** – Severance Sketch
- **Appendix II** – Maps
- **Appendix III** – Planning Legislation and Policies
- **Appendix IV** – Draft Zoning By-law Amendment
- **Appendix V** – Agency and Public Comments

Respectfully submitted:

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Recommended by:



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