



Town of Niagara-on-the-Lake

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REPORT #: CDS-25-042 **COMMITTEE DATE:** 2025-03-20
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Minor Variance Application A-03/25 – 874 Line 1 Road

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-03/25 for 874 Line 1 Road be approved, subject to the following conditions:
 - 1.1.1 That the owner/applicant proceeds with one of the following options with regard to the two westerly driveway accesses fronting the lands shown on the site plan (Part 8 of Plan 30R-15971), to the satisfaction of the Director of Operations:
 - a) That a fence, substantive hedgerow or other permanent barrier suitable to the Director of Operations be installed along the dividing lot line between Parts 6 and 8 of Plan 30R-15971; or
 - b) That the owner/applicant applies for, and receives approval for an appropriate easement to be registered to allow for continued access across Part 8 lands to access Part 6 lands as shown on Plan 30R-15971);
 - 1.1.2 That prior to the issuance of a building permit for the new accessory structure, an archaeological assessment be completed at the owner/applicants' expense, scoped to the area disturbance of the new accessory structure; and that no demolition, grading or other soil disturbances shall take place on the subject property, in the vicinity of the new accessory structure, prior to the Ministry of Citizenship and Multiculturalism confirming to the Town that all archaeological resources concerns have met licensing and resource conservation requirements, and that a copy of the Ministry letter is submitted to the Town, to the satisfaction of the Town;
 - 1.1.3 A new septic system is installed on the property to service the proposed development, which meets all Ontario Building Code requirements, to the satisfaction of Niagara Region. A permit for the new system shall be applied for and obtained from Niagara Region prior to installation; and
 - 1.1.4 That the applicant/owner provides a written undertaking, to the satisfaction of the Region and Town, confirming that the accessory structure does not contain any bedroom or living spaces, is built in accordance with the plans submitted with the

application, and that the uses will be accessory to the residential dwelling.

2. EXECUTIVE SUMMARY

The applicant is proposing the reconstruction of the existing single-detached dwelling on the property, including a second storey addition the construction of a new attached garage, a covered front porch, and a covered rear deck. The applicant is also proposing the construction of a new detached accessory structure (detached garage and storage area), and an in-ground pool.

To facilitate the development as proposed, the following variances from the provisions of Town Zoning By-law 500A-74, as amended, are requested:

1. Maximum height of an accessory structure from 4.5 metres, as required in the Zoning By-law, to 6.4 metres for the proposed detached accessory structure; and
2. Minimum front yard setback from 15.24 metres, as required in the Zoning By-law, to 14.0 metres for the proposed covered porch.

No variances are required to facilitate the remainder of the proposed development. The application drawings are attached as **Appendix I** to this report.

3. PURPOSE

3.1 Site Description and Proposal

The subject lands are known municipally as 874 Line 1 Road, lying on the north side of Line 1 road, east of Concession 4 Road, and west of Concession 3 Road, in the agricultural area of Town. The location of the subject lands is shown on **Appendix II**.

The subject lands have an area of approximately 4,054 square metres, a frontage of 82.4 metres along Line 1 Road, and a lot depth of 49.2 metres. The rural residential lot, which was created as a surplus farm dwelling in 2021 through Consent Application B-09/21, currently contains a one-storey single-detached dwelling that is serviced by municipal water and a private septic system. The surrounding lands contain agricultural and rural residential uses.

As shown in **Appendix I**, the applicant is proposing to reconstruct the existing single-detached dwelling, construct a new detached accessory structure (detached garage and storage area) and construct a new in-ground pool.

The applicant has indicated that the new accessory structure will be utilized for personal storage related to the dwelling on the subject lands, and is not proposed to be used for human habitation. The applicant has also noted that the accessory structure would replace the existing storage containers currently utilized for storage, as shown in **Figure 1** below. Town Zoning By-law 500A-74 (as amended) defines “height” as the vertical distance between grade and, in the case of a gable, hip or gambrel roof, the mean height between the eaves and the ridge. The ridge of the proposed accessory structure has a height of 7.36 metres, and the eaves are at a height of 5.28 metres; accordingly, the mean height between the ridge and the eaves is 6.38 metres.

The proposal creates deficiencies from the Zoning By-law 500A-74 related to the front yard setback of the proposed covered porch to the reconstructed dwelling and the height of the proposed accessory structure.



Figure 1 – Existing Location of Proposed Accessory Structure

4. BACKGROUND

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. Are the requested variances minor in nature?

The proposed accessory structure will exceed the permitted maximum height of an accessory structure of 4.5 metres by 1.9 metres, with a proposed height of 6.4 metres.

Staff are of the opinion that the requested increase in height will not significantly impact the streetscape or surrounding uses, nor is it anticipated to create adverse impacts on the adjacent agricultural and rural residential uses. Based on the location of the proposed accessory structure, the height of the accessory structure is not anticipated to result in visual obstruction or impact to the public realm. Staff are of the opinion that the location and size of the accessory structure will be compatible with the rural residential properties in the vicinity.

The proposed front yard setback for the covered porch will be deficient of the minimum front yard setback required of 15.24 metres, by 1.24 metres, with a proposed setback of 14 metres.

The proximity of the proposed covered porch to the front lot is not anticipated to create any adverse impacts on the abutting lands, including the rural character of the area, or the ability to farm the adjacent lands. The location of the porch is not anticipated to result in visual obstruction or impact to the public realm.

Staff are of the opinion that the requested variances are considered minor in nature.

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

The owner has indicated that the requested increase in height for the accessory structure is necessary to provide adequate vertical clearance to accommodate the storage of items related to the dwelling on the subject lands. As shown in **Figure 1**, storage containers are currently utilized to store additional items which cannot be stored indoors. The applicant has indicated that upon construction of the proposed accessory structure, the storage containers will be removed, contributing positively to the rural character of the area. No lands are being removed from agricultural production to accommodate the structure, and staff do not anticipate adverse impacts to the adjacent rural residential properties as a result of the proposed increase in height.

Covered front porches are considered desirable as they allow for a covered amenity space which is weather protected. Staff do not anticipate that the reduced front yard setback would create adverse impacts to the rural character of the area, nor hinder adjacent agricultural operations.

As such, staff consider the requested variances to be appropriate for the development and continued rural residential use of the land.

3. Do the requested variances maintain the general intent and purpose of the By-law?

The subject lands are zoned "Rural (A) Zone" in Zoning By-law 500A-74, as amended. Single-detached dwellings and associated accessory structures are permitted in this zone.

The intent of the accessory structure maximum height provision for rural residential lots is to ensure that accessory buildings:

- do not impact neighbouring properties,
- are ancillary to the primary dwelling,
- do not dominate the streetscape, and
- are utilized for purposes ancillary to the primary residential use.

The Zoning By-law contains height restrictions based on the style of roofing on the structure. In the case of the current proposal, the roof can be considered a gambrel style and the height would be measured between grade and the average height between the eaves and ridge. The midpoint of the roof on the proposed addition results in a height increase of 1.9 metres than what is currently permitted.

It is Staff's opinion that no negative impacts to the subject lands, adjacent properties, or public realm or streetscape are anticipated as a result of the proposed accessory structure height. The applicant has indicated that the structure will be utilized for personal storage related to the dwelling on the subject lands. Staff do not anticipate that the increase in maximum height will result in incompatibility with the surrounding area, and will not negatively impact the character of the "Rural (A) Zone."

The intent of the minimum required front yard setback for dwellings in this zone is to ensure a relatively uniform setback along the street in the rural area. Staff are of the opinion that the proposed reduced front yard setback of the covered porch remains sufficiently setback from property lines and it is not anticipated that it will pose land use compatibility conflicts with the surrounding area.

Therefore, Staff are of the opinion that the requested variances maintain the general intent and purpose of the Zoning By-law.

4. Do the requested variances maintain the general intent and purpose of the Official Plan?

The subject lands are designated as “Agricultural” in the Town’s Official Plan (2017 Consolidation, as amended). Single-detached dwellings and associated accessory structures are permitted in this designation under secondary uses.

The goals and objectives of the Agricultural designation as set out in the Official Plan include the preservation of prime agricultural lands for farming with particular emphasis on the preservation of specialty crop lands, and to ensure that agricultural areas are protected from harassment and conflict from non-farm residents and non-farm related uses through measures such as preventing the development of non-farm uses in the Agricultural designation.

Staff are of the opinion that the proposed variances do not conflict with the objectives of the Agricultural designation identified in the Town Official Plan. The requested variances are not anticipated to pose adverse impacts with adjacent agricultural operations and maintain general land use compatibility with the rural nature of the area. No new conflicts of normal farm practices are anticipated as a result of the requested variances, as any conflict between rural residential and agricultural uses may already exist between such surrounding lands and the subject property.

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

4.2 Town, Agency and Public Comments

This 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.

Finance – No objections.

Fire and Emergency Services – No objections.

Heritage – The subject lands are located within the zone of archaeological potential according to the Town and Niagara Official Plans and, therefore, a Stage 1 and 2 archaeological assessment is required. The assessment can be scoped to the areas of the proposed new ground disturbances subject to this application, being the new accessory building. The archaeological assessment has been included as a condition of the recommended approval for the Minor Variance application.

Urban Forestry – No objections.

Operations – No objections. The three (3) driveways shown on the site plan accompanying the application are permitted through the Town's entrance policy; however, any extension of the driveways to the adjacent farm lands to the north shown as Part 6 on Registered Plan 30R-15971 is not permitted. A condition has been included to address the need to remove the existing access to the adjacent farm operation.

Agencies

Niagara Region – Regional staff have no objections to the proposed Minor Variance application, provided that a permit for the required septic system works is obtained, and that the proposed accessory structure does not contain any bedrooms, living spaces, or plumbing fixtures. Conditions to address these requirements have been included in the recommendation.

Niagara Peninsula Conservation Authority (NPCA) – No objections to the proposed variances. There is an NPCA-regulated watercourse which traverses the eastern lot line of the subject lands. The proposed accessory structure is geographically distant from NPCA-regulated features and the proposed covered entryway is incidental to the regulated watercourse in the east. The applicant is advised that a Development Permit under *Ontario Regulation 41/24* from the NPCA is required before the eastern uncovered deck's construction and for the second-storey addition to the existing dwelling. In support of the Development Permit for these works, an Erosion and Sediment Control (ESC) Plan, depicting the required ESC measures between the limit of development, and the eastern watercourse must be submitted to the satisfaction of Niagara Peninsula Conservation Authority staff.

Public

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

5. 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

6. OPTIONS

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

7. FINANCIAL IMPLICATIONS

Not applicable.

8. ENVIRONMENTAL IMPLICATIONS

There are no key natural heritage or key hydrologic features as identified in the Region's Niagara Official Plan, and the property is not within the Conservation Lands overlay within the Town Official Plan. A regulated watercourse by the Niagara Peninsula Conservation Authority (NPCA) traverses the eastern lot line of the subject lands; however, the works related to the proposed variances will not require any NPCA approval. The applicant is advised that NPCA Permits will be required for some development on the site, unrelated to the requested Minor Variance application. The Town's Tree Protection By-law does not apply to lands outside of an urban area.

9. 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.

10. CONCLUSION

Planning Staff recommend approval of Minor Variance Application A-18/24, subject to the recommended conditions, as the requested variances are considered to be minor in nature, appropriate for the development or use of the land, building or structure, and are 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*.

11. PREVIOUS REPORTS

Not applicable.

- **COA-46-2021** – Committee of Adjustment – Consent Application B-09/21 – 874 Line 1 Road (July 15, 2021)
- **COA-45-2021** – Committee of Adjustment – Minor Variance Application A-19/21 – 874 Line 1 Road (July 15, 2024)

12. APPENDICES

- Appendix I – Application Drawings
- Appendix II – Location Map

Respectfully submitted:

Prepared by:



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Recommended by:



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