



Town of Niagara-on-the-Lake

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REPORT #: CDS-25-068 **COMMITTEE DATE:** 2025-05-15
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Minor Variance Application A-04/25 – 407 Victoria Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-04/25 for 407 Victoria Street be approved, subject to the following conditions:
 - 1.1.1 That a Stage 1 and 2 archaeological assessment be completed, by a consultant archaeologist licensed by the Ministry of Citizenship and Multiculturalism under the provisions of the Ontario Heritage Act (R.S.O. 1990), on the whole subject lands and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. The results of the Stage 1 and 2 archaeological assessment will determine the need for further studies. No demolition, grading or other soil disturbances shall take place on the subject property 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 all archaeological assessment reports and Ministry Compliance Letters are submitted to the Town, to the satisfaction of the Town;
 - 1.1.2 That the owner/applicant submit a Tree Inventory and Protection Plan, completed by a certified arborist, including all Town trees, to the satisfaction of the Town's Urban Forestry Officer; and,
 - 1.1.3 That the owner/applicant submits and obtains approval from the Town for the removal or relocation of any tree on the subject property, including any compensation, to the satisfaction of the Town's Urban Forestry Officer.

2. PURPOSE

The applicant is proposing the construction of a new single-detached dwelling with an attached garage. In order to facilitate the development as proposed, the following variances from the provision of Town Zoning By-law 4316-09, as amended, are requested:

1. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 6.58 metres for the proposed covered porch;

2. Minimum exterior side yard setback from 4.5 metres, as required in the Zoning By-law, to 2.14 metres for the proposed dwelling facade;
3. Minimum exterior side yard setback from 4.5 metres, as required in the Zoning By-law, to 1.22 metres for the proposed covered porch; and
4. Maximum step encroachment into a side yard from 0.6 metres, as permitted in the Zoning By-law, to 3.6 metres for the proposed unenclosed and uncovered steps.

The application drawings are attached as **Appendix I** to this report.

3. BACKGROUND

3.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 407 Victoria Street, situated on the west corner of the intersection of Victoria Street and William Street within the Urban Area of Old Town. The location of the subject lands is shown on **Appendix II** to this report.

The subject lands have an approximate area of 831 square metres with 18.29 metres of frontage on Victoria Street, and 45.46 metres of flankage on William Street. The lands contain an existing one-storey single-detached dwelling and an accessory structure. The property is serviced by municipal water and sanitary services. The surrounding lands are characterized by single-detached residential dwellings.

3.2 Queen-Picton Heritage Conservation District Study Area

The subject property is located within the Queen-Picton (Old Town) Heritage Conservation District Study Area. At the February 25, 2025 Council Meeting, Council approved enacting the Revised Study Area By-law under Section 40.1 of the *Ontario Heritage Act* with an effective date of March 27, 2025. The Study Area By-law established temporary restrictions on property alterations within the Queen-Picton (Old Town) Heritage Conservation District Study Area for one year, with specific exemptions. All *Planning Act* applications received on or before March 27, 2025, are not subject to the Study Area By-law currently in effect. The Minor Variance application for 407 Victoria Street was submitted on March 26, 2025 and as such, is not subject to the Study Area By-law currently in effect.

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 requested front yard setback of the proposed new dwelling will provide a greater setback than the current existing dwelling which was permitted by way of a Minor Variance in 1994. The orientation of the new home will be on William Street; however, the front yard remains on Victoria Street as it is the shorter of the two as per the definition of front yard under Zoning By-law 4316-09, as amended.

The requested setbacks are not uncharacteristic for the immediate neighbourhood, there are several properties, including 393 Victoria Street (across William Street) with reduced exterior side yards. The plans submitted with the application indicate that there is an intention to plant trees at the front of the driveway, in addition to the garage being set back behind the building face, which will assist in visually screening the garage fronting William Street. Staff do not anticipate the requested setbacks will result in adverse impacts to the adjacent lands and overall streetscape of Victoria Street and William Street.

Staff consider the requested variances to be minor in nature.

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

The surrounding properties are comprised of one and two-storey single-detached dwellings; the proposal would facilitate the construction of a dwelling that is consistent with the built form in the immediate neighbourhood. Town staff note that the requested variances allow for increased living area, in addition to an attached garage. Further, the proposed new dwelling will accommodate greater front yard setbacks to Victoria Street than the existing dwelling, allowing for additional landscaped area to assist in beautifying the streetscape. The road allowance width of William Street is quite large (approximately 10 metres), which has the effect of a larger exterior side yard. Given the Town road allowance, the dwelling will be set back 12.14 metres from William Street.

Town staff consider the requested variances to be appropriate for the development and use of the land as the variances are not anticipated to negatively impact the character of the streetscape.

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

The subject lands are zoned “Established Residential (ER)” in Zoning By-law 4316-09, as amended. A single-detached dwelling is a permitted use.

The requested exterior side yard setback and step encroachment will allow for a façade that engages with the streetscape, particularly on William Street. While the existing house is proposed for removal, the overall streetscape is not anticipated to significantly impacted as a result of the new dwelling. The proposed development will shift the bulk of the dwelling from front yard dominant to exterior side yard dominant. This shift will in effect provide greater setback from the road, and will continue to maintain the general character of the property. Further, all other Existing Residential Zone requirements will be met.

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

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

As of March 31, 2025, pursuant to Bill 185 the *Cutting Red Tape to Build More Home Act, 2024*, the *Planning Act* was amended to recognize the Regional Municipality of Niagara as an upper-tier municipality without planning responsibilities. Accordingly, the Niagara Official Plan

("NOP") has been downloaded to the Town of Niagara-on-the-Lake and other local area municipalities across the Region to implement the policy direction contained therein.

The subject lands are designated and Delineated Built-up Area in the Niagara Official Plan, 2022, as well as "Low Density Residential" and "Built-up Area" in the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended. A single-detached dwelling is a permitted use.

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 to minimize the potential for land use compatibility impacts, as well as promote the maintenance and rehabilitation of the existing housing stock.

Section 6A outlines urban design guidelines in Old Town that require new development to fit within the context of which it is located and be designed in a manner where it is consistent with the land use compatibility criteria of the Official Plan. This criterion directs for development to have a consistent built form, height, massing, and building setbacks as the surrounding area.

The proposal does not conflict with the goals and objectives of the Residential designation and is facilitating a permitted use that is consistent in terms of built form and scale when compared to the surrounding neighbourhood. Relevant urban design guidelines have been considered in the review of the requested variances. Staff are of the opinion that the proposed development is consistent with the surrounding neighbourhood and is not anticipated to result in any negative impacts.

The requested variances 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.

Finance – No objections.

Fire and Emergency Services– No objections.

Heritage – An Archaeological Assessment is required; a condition has been included to ensure that this work is completed in advance of any ground disturbance.

Operations – No objections.

Urban Forestry – Private trees will be impacted by the construction works required for the proposed dwelling with attached garage. A Tree Inventory and Protection Plan, completed by a

certified arborist, including all Town trees, to the satisfaction of the Town's Urban Forestry Officer is required.

Agencies

No comments or objections.

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 will be impacted by the new single-detached dwelling with an attached garage proposed garage construction. Any tree removal and/or impacts will be addressed through the Town's Private Tree By-law.

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-04/25 subject to the recommended condition, as the requested variances are 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 Drawings
- **Appendix II –** Location Map

Respectfully submitted:

Prepared by:



**Alex Bokestyn
Planner II**

Recommended by:



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