



Town of Niagara-on-the-Lake

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REPORT #: CDS-25-061

COMMITTEE DATE: 2025-05-15

DUE IN COUNCIL: N/A

REPORT TO: Committee of Adjustment

SUBJECT: Minor Variance Application A-05/25 – 310 Simcoe Street

1. RECOMMENDATION

It is respectfully recommended that:

1.1 Minor Variance Application A-05/25 for 310 Simcoe 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 submits and obtains approval of Town permit applications for the proposed tree removal, which may include but not be limited to the completion of a Tree Inventory and Protection Plan. If any boundary trees are proposed for removal, the owner/applicant is required to obtain written permission from adjacent landowners for the removal of any boundary trees, to the satisfaction of the Town.

2. PURPOSE

The applicant is proposing the demolition of the existing single-detached dwelling and detached accessory structure (carport), to enable the construction of a new single-detached dwelling with an attached garage on the subject lands. In order to facilitate the development of the new dwelling as proposed, the following variances from the provisions the Town's Comprehensive Zoning Bylaw 4316-09, as amended, are being requested:

- 1. Maximum lot coverage from 33%, as required in the Zoning By-law, to 37.5% for the proposed single detached dwelling and attached garage;

2. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 6.13 metres for the proposed attached garage;
3. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 4.55 metres for the proposed dwelling facade;
4. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 4.05 metres for the proposed covered front porch; and
5. Maximum step encroachment from 1.5 metres, as permitted in the Zoning By-law, to 3.76 metres for the proposed unenclosed and uncovered front step.

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

3. BACKGROUND

3.1 Site Description and Proposal

The subject lands are known municipally as 310 Simcoe Street, lying on the east side of Simcoe Street, at the southeast corner of the Gage Street at Simcoe Street intersection, in the urban area of Old Town. The surrounding lands are characterized by residential and institutional uses. The location of the subject lands is shown on **Appendix II**.

The subject lands have an area of approximately 825.6 square metres with 25.4 metres of frontage on Gage Street, and 32.5 metres of flankage on Simcoe Street. The subject lands currently contain an existing single-detached dwelling and a detached accessory structure (carport), which are proposed to be demolished to accommodate the construction of a new single-detached dwelling and attached garage as shown in **Appendix I**. The existing single-detached dwelling and carport is shown in **Figure 1**. The dwelling is serviced by municipal water and sanitary connections.



Figure 1 – Existing Dwelling and Carport from Gage Street (left) and Simcoe Street (right)

In the case of a corner lot, Town Zoning By-law 4316-09, as amended, defines “lot line, front” as the shorter lot line abutting the street. Accordingly, the front yard setback for 310 Simcoe Street is to be measured from Gage Street, while the exterior side yard setback is to be measured from Simcoe Street. The proposal creates deficiencies from the Zoning By-law 4316-09, as amended, related to the lot coverage, the front yard setback of the proposed of the attached garage, dwelling façade, and covered porch, and the encroachment of the proposed unenclosed and uncovered front step into the required front yard.

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 310 Simcoe Street was submitted on March 21, 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. Are the requested variances minor in nature?

The proposed lot coverage will exceed the maximum lot coverage permitted (33% of the lot area) by 4.5%, with a proposed total lot coverage of 37.5% of the lot area.

The increase in permitted lot coverage is considered minor in nature, as it is not anticipated to compromise the general function of the lot, nor result in adverse impacts on surrounding properties. It is Staff's opinion that the proposal would continue to provide adequate spaces for amenities, parking, landscaping, and stormwater management on the lot. At the time of building permit, a Grading Plan completed by an Ontario Land Surveyor or Professional Engineer will be required. The Plan will be reviewed by Town Building Staff to ensure that proper drainage for the site is achieved, and neighbouring properties are not negatively impacted by potential drainage issues.

The proposed front yard setback for the attached garage will be deficient of the minimum front yard setback required of 7.5 metres by 1.2 metres, with a proposed setback of 6.13 metres. The proposed front yard setback for the dwelling façade will be deficient of the minimum front yard setback required of 7.5 metres by 2.95 metres, with a proposed setback of 4.55 metres. The proposed front yard setback for the covered porch will be deficient of the minimum front yard setback required of 7.5 metres by 3.45 metres, with a proposed setback of 4.05 metres. The proposed step encroachment into the required front yard for the unenclosed and uncovered front step will exceed the maximum permitted encroachment of 1.5 metres by 2.26 metres, with an encroachment of 3.76 metres.

The location of the attached garage, dwelling façade, covered front porch, and unenclosed and uncovered front step are not anticipated to result in visual obstruction or impact to the public realm, and are in line with the existing setbacks in the area. Any potential impact of the reduced front yard setback(s) and encroachment of the unenclosed and uncovered front steps into the required front yard on the streetscape and character of the area are expected to be mitigated by the generous grassed boulevard, shown in **Figure 2**. As such, Staff are satisfied that the proximity of the new attached garage, dwelling façade, front porch, and unenclosed and uncovered front step to Gage Street are not anticipated to create significant adverse impacts on the abutting lands or streetscape.



Figure 2 – Large Grassed Boulevard Provides Buffering Between Lot Line and Street

The applicant has identified one (1) private tree in proximity to the footprint of the new dwelling that will require removal. The removal of this tree will require the applicant to obtain a tree removal permit under the Town's Private Tree Protection By-law No. 5139-19. A condition of approval to reflect this requirement has been included in Staff's recommendation. A Tree Declaration Form has been signed and submitted by the applicant, confirming that any tree removal will comply with the Town's Private Tree Protection By-law.

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 applicant has advised that the requested increased lot coverage and reduced front yard setbacks are necessary to accommodate a majority one-storey plan. The applicant has also noted that the new dwelling will incorporate similar design features to the established neighbourhood, contributing to the redevelopment of the site. The surrounding properties are comprised of one- to two-storey single-detached dwellings with a range of design features and materials, contributing to a diverse built form in the surrounding neighbourhood.

A review of the immediate neighbourhood reveals varying lot coverages, ranging from approximately 15% to 40%. The requested lot coverage is not uncharacteristic for the

immediate neighbourhood and Staff do not anticipate the increase in coverage to result in adverse impacts to the adjacent lands and overall streetscape of Victoria Street

Neighbouring properties have front yard setbacks which range from approximately 0 metres to 10 metres. The proposed setbacks would facilitate the construction of a dwelling that is consistent with the built form in the immediate neighbourhood.

It is Staff's opinion that the location and size of the new dwelling is compatible with the area. Staff do not anticipate adverse impacts to the adjacent properties and consider the requested variances to be appropriate for the development and use of the land.

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

The subject lands are zoned "Established Residential (ER) Zone" in Zoning By-law 4316-09, as amended. Single-detached dwellings and associated accessory structures are permitted in this zone.

The intent of the maximum lot coverage is to avoid over development of lots, and to maintain adequate space for amenities, parking, landscaping, and storm water management. Staff are of the opinion that the adequate spaces for amenities, parking, landscaping, and stormwater management on the lot is maintained. The requested coverage is not uncharacteristic for the immediate neighbourhood and Staff do not anticipate the increase in coverage to result in adverse impacts to the adjacent lands or overall streetscape of the neighbourhood. Further, the covered porch provides outdoor amenity space that is sheltered from the elements.

The intent of the minimum front yard setback is to ensure a relatively uniform setback along the street, as well as to ensure adequate area for amenity space and parking. 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 requested location of the proposed dwelling façade, garage, covered front porch, or unenclosed and uncovered front step. The porch being located closer to the public realm encourages social interaction with pedestrians. The proposed front yard setbacks are in keeping with the setbacks and front step locations established within the neighbourhood, including the adjacent property at 184 Gate Street.

The proposed setbacks and lot coverage are consistent with lots in the surrounding area. Staff are satisfied that the variances will allow for redevelopment of the lot that is consistent in terms of built form, height, massing, and building setbacks as the surrounding area, and respects and reflects the existing pattern and character of adjacent development,

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?

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.

As per the NOP, the subject lands are within the "Urban Built – Up Area." Section 2.2.1.1 of the NOP encourages opportunities for the integration of gentle density and a mix and range of housing options that consider the character of established residential neighbourhoods. The NOP also states that Local Area Municipalities may establish standards for appropriate infill development in established residential neighbourhoods to reflect the unique scale and character of these areas.

The subject lands are designated "Established Residential" in the Town Official Plan (2017 consolidation, as amended). Single-detached dwellings and associated accessory structures are permitted in this designation.

The goals and objectives of the Residential designation as set out in the Town 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.

Section 6A (Growth Management), Subsection 4.4 – Urban Design of the Official Plan 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. These criteria direct development to have a consistent built form, height, massing, and building setbacks as the surrounding area. Official Plan Amendment 78 (Residential Infill and Intensification Policies) requires that infill and intensification development and redevelopment within lands designated "Established Residential" respects and reflects the existing pattern and character of adjacent development.

The proposal does not conflict with the goals and objectives of the Residential designation and is facilitating a permitted use. It is Staff's opinion that the requested variances would permit the redevelopment of the site in a compatible manner with the surrounding land uses, given that a low density single-detached residential dwelling is proposed which promotes the maintenance and rehabilitation of the existing housing stock.

It is Staff's opinion that the proposed covered front porch, building façade, and steps are located appropriately, and the setbacks requested are consistent with surrounding properties. It is not anticipated that the proposed increase in lot coverage associated with the redevelopment of the site would result in incompatibility with neighbouring lands.

Regarding the proposed reduction in required setback for the attached garage, Section 6A (Growth Management), Subsection 4.4 – Urban Design(e) of the Official Plan requires that garages shall be set back from the front face of a single-detached dwelling. Official Plan Amendment 78 (Residential Infill and Intensification Policies) states that the width of the garage at the front of a new dwelling shall be limited to ensure that the streetscape is not dominated by garages and driveways. The garage is proposed to be setback 1.5 metres from

the front face of the covered front porch, and is limited in width (less than 50% of the façade of the dwelling) so as to not dominate the streetscape.

Staff are satisfied that the proposal is consistent with the direction contained in the Town Official Plan “Established Residential” designation. Staff consider the requested variances to maintain the general intent and purpose of the Town Official Plan. Staff also consider the requested variances to maintain the general intent and purpose of the NOP.

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.

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 requirement to complete an archaeological assessment has been included as a condition of the recommended approval for the Minor Variance application.

Urban Forestry – One (1) private tree in proximity of the footprint of the new dwelling has been identified for removal. The removal of this tree will require the applicant to obtain a tree removal permit under the Town’s Private Tree Protection By-law No. 5139-19. This permit will require the completion of a Tree Inventory and Protection Plan that demonstrates how all remaining trees (including Town and neighbouring trees within 6m of property lines) will be protected for the duration of the construction. All tree protection measures outlined in the future Tree Inventory and Preservation Plan must be adhered to. If any boundary trees are proposed for removal, the owner/applicant is required to obtain written permission from adjacent landowners for the removal of any boundary trees, to the satisfaction of the Town. A Tree Declaration Form has been signed and submitted by the applicant, confirming that any tree removal will comply with the Town’s Private Tree Protection By-law. Conditions of approval to reflect these requirements have been requested.

Finance – No objections.

Operations – No objections.

Agencies

Niagara Region – No objections.

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 Niagara Official Plan, the property is not within the Conservation Lands overlay within the Town Official Plan, nor are there any watercourse or wetland features regulated by the Niagara Peninsula Conservation Authority (NPCA) within the subject lands. The applicant has identified that one (1) private tree in proximity to the development footprint will require removal. Conditions have been recommended to obtain the necessary tree removal permits and ensure that protection measures are in place when removals occur.

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-05/25, subject to the recommended conditions, 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*.

11. PREVIOUS REPORTS

Not applicable.

12. APPENDICES

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

Respectfully submitted:

Prepared by:



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Recommended by:



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