



Town of Niagara-on-the-Lake

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REPORT #: CDS-25-062 **COMMITTEE DATE:** 2025-05-15
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Minor Variance Application A-06/25 – 329 Victoria Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-06/25 for 329 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 signs and submits the Town's Tree Protection Declaration Form, to the satisfaction of the Town's Urban Forestry Officer; and
 - 1.1.3 That the owner/applicant submits and obtains approval of permit applications for the proposed tree removal from the Town, 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's Urban Forestry Officer.

2. PURPOSE

The applicant is proposing alterations to the existing single-detached dwelling on the property, including the construction of a new addition, a new covered front porch, and a new covered rear deck. The applicant is also proposing additions to the currently under-construction detached accessory structure, which includes an additional dwelling unit. In order to facilitate

the development as proposed, the following variances from the provisions the Town's Comprehensive Zoning Bylaw 4316-09, as amended, are being requested:

1. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 4.94 metres for the proposed dwelling addition;
2. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 2.91 metres for the proposed covered front porch; and
3. Maximum accessory structure lot coverage from 8%, as required in the Zoning By-law, to 10% for the proposed additions to the existing accessory structure.

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 329 Victoria Street, lying on the west side of Victoria Street, north of Centre Street and south of Gage Street, in the urban area of Old Town. The surrounding lands are characterized by residential uses. The location of the subject lands is shown on **Appendix II**.

The subject lands have an area of approximately 1,226 square metres with 19.25 metres of frontage on Victoria Street. The subject lands contain an existing single-detached dwelling and a detached accessory structure which is currently under construction. The existing single-detached dwelling is shown in **Figure 1**. The dwelling is serviced by municipal water and sanitary connections.



Figure 1 – Existing Single-Detached Dwelling

As shown in **Appendix I**, the applicant is proposing alterations to the existing single-detached dwelling, including additions to the dwelling in line with the existing front yard setback of the dwelling, and an addition to the covered front porch in line with the existing front yard setback of the covered front porch. The proposal creates deficiencies from the Zoning By-law 4316-09, as amended, related to the front yard setback of the new portions of the proposed dwelling addition and covered porch.

A new detached accessory structure with a garage/storage space on the first floor and an additional dwelling unit on the second floor is currently under construction, as shown in **Figure 2**. The proposal creates deficiencies from the Zoning By-law 4316-09, as amended, related to the lot coverage of the reconstructed accessory structure. Following issuance of the building permit for the accessory structure currently under construction, the owner revised the plans to include the proposed additions. The revision to the plans necessitated the requirement for this Minor Variance application to increase the permitted lot coverage for an accessory structure. The accessory structure is serviced by municipal water and sanitary connections.



Figure 2 – Existing Accessory Structure (Under Construction)

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 329 Victoria Street was submitted on March 27, 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 front yard setback for the dwelling addition will be deficient of the minimum front yard setback required of 7.5 metres, by 2.56 metres, with a proposed setback of 4.94 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 4.59 metres, with a proposed setback of 2.56 metres.

The requested front yard setbacks of the extended dwelling and covered front porch maintain the same setback as the existing dwelling and covered front porch. Minor Variance application A-2/93, heard by the Committee of Adjustment in January of 1993, permitted the reduced front yard setback of the existing dwelling. Since the Committee of Adjustment's approval of the reduced front yard setback, there have been no demonstrated or known impacts to the streetscape and road allowance associated with the existing setbacks.

The proposed additions to the dwelling and covered front porch are in line with the existing setbacks and are not anticipated to negatively alter the streetscape or character of the area. The location of the building addition and covered porch are not anticipated to result in visual obstruction or impact to the public realm.

The proposed accessory structure lot coverage will exceed the maximum accessory structure lot coverage permitted (8% of the lot area) by 2%, with a proposed accessory structure lot coverage of 10% of the lot area.

The requested increase in lot coverage is attributed to the proposed construction of "open air covered areas" to the accessory structure currently under construction. The overall lot coverage provision (33% of lot area) for the ER zone is not exceeded through this application. The proposed addition to the accessory structure is within the rear yard and will not alter the streetscape or character of the area. It is Staff's opinion that the proposal would not create any additional privacy issues with neighbours, and maintains adequate spaces for amenities, parking, landscaping, and storm water management on the lot.

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?

Regarding the proposed front yard setback for the building addition and covered front porch, the requested variances allow for the additions to maintain the same front yard setback as the existing dwelling and covered porch, and allow for an increased living area. Covered front porches are considered desirable as they allow for a covered amenity space which is weather protected. Staff do not anticipate that the proposal will negatively impact the streetscape of Victoria Street, as the proposal will provide additional covered amenity space at a setback which is consistent with the context of the subject property and neighbourhood.

Regarding the proposed increase in accessory structure lot coverage, the requested increase would permit the construction of "open air covered areas" to the accessory structure currently

under construction. While these covered areas are an addition to the accessory structure, it would not increase the gross floor area. The outdoor covered areas are anticipated to improve the liveability of the additional dwelling unit, providing weather protected amenity space.

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, including additional dwelling units, are permitted in this zone.

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, public realm or streetscape are anticipated as a result of the requested location of the proposed dwelling addition or covered front porch. The proposed front yard setback is in keeping with the setbacks established within the neighbourhood. The requested variances maintain the character of the ER Zone and of the surrounding neighbourhood.

The intent of the maximum lot coverage for accessory structure(s) is to ensure the accessory nature of the structure(s) to the primary dwelling, avoid overdevelopment of lots, and to maintain adequate space for amenities, parking, landscaping, and stormwater management. The overall lot coverage provision for the ER zone (33% of lot area) is not exceeded through this application, and adequate spaces for amenities, parking, landscaping, and storm water management on the lot is maintained. It is Staff’s opinion that the proposed setback and location of the accessory structure will maintain the accessory nature of the structure, despite the increase in lot coverage, and will not result in overdevelopment of the subject lot.

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?

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, including additional dwelling units, are permitted in 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.

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 for 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, and promote the maintenance and rehabilitation of the existing housing stock. It is also Staff’s opinion that the proposed covered front porch and building façade are located appropriately, and the setbacks requested are consistent with surrounding properties.

The accessory structure is appropriately located on the subject lands well behind the primary dwelling and, accordingly, it is not anticipated that the proposed increase in lot coverage associated with the proposed additions to the accessory structure would result in incompatibility with neighbouring lands.

The applicant has identified that one private tree is within the development footprint that will require removal. The applicant has identified that removal of this tree is required to complete repairs to the existing foundation as a result of damage from the tree roots. 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. Conditions have been recommended to obtain the necessary tree removal permits and ensure that protection measures are in place when removals occur.

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

Finance – No objections.

Operations – No objections.

Urban Forestry – One private tree within the footprint of the addition to the rear of the house 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. 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 must be signed and all tree protection measures outlined in the future Tree Inventory and Preservation Plan must be adhered to. Conditions of approval to reflect these requirements have been requested.

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 private tree is within the development footprint of the proposed addition to the rear of the house, and 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-06/25, 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

- Committee of Adjustment – Minor Variance Application A-2/93 – 329 Victoria Street (January 27, 1993)

12. APPENDICES

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

Respectfully submitted:

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Reviewed by:



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