



Town of Niagara-on-the-Lake

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REPORT #: CDS-25-069 **COMMITTEE DATE:** 2025-05-15
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: Minor Variance Application A-07/25 – 19 Kenmir Avenue

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1** Minor Variance Application A-07/25 for 19 Kenmir Avenue be approved, subject to the following condition:

- 1.1.1 That the owner/applicant submits and obtains approval from the Town for the removal or relocation of the Town tree fronting 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 two-storey single-detached dwelling with an attached garage. In order to facilitate the development as proposed, the following variance from the provisions of Town Zoning By-law 4316-09, as amended, is requested:

1. Maximum lot coverage from 33%, as required in the Zoning By-law, to 36.5% for the proposed single-detached dwelling and covered rear porch.

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 19 Kenmir Avenue, situated on the south side of Kenmir Avenue, between Highland Lane and Tanbark Road in the St. Davids urban area. The location of the subject lands is shown on **Appendix II** to this report.

The subject lands have an approximate area of 529.35 square metres with 15.29 metres of frontage on Kenmir Avenue. The subject lands are currently vacant and are serviced by municipal water and waste water services. The surrounding lands are characterized by single-detached and townhouse residential dwellings.

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 proposed variance seeks to increase the maximum allowable lot coverage to permit the construction of a new two-storey single-detached dwelling with a covered rear yard amenity deck.

The increase in lot coverage primarily results from the covering of the rear yard deck, which makes up approximately 3.7% in overall lot coverage. Staff is of the opinion that the requested variance will not have impacts on the streetscape or the surrounding residences, as the rear yard deck is screened from the street and is substantially setback from the abutting lands.

Staff consider the requested variance to be minor in nature.

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

The owner has advised that the requested increase in lot coverage is required to accommodate the covered deck in the rear yard. The increase in lot coverage is desirable for the dwelling as it will allow for greater use of the patio during the summer months. Staff are of the opinion that the requested variance will maintain a scale of development that is desirable for the lands and compatible with the adjacent properties.

Staff do not anticipate adverse impacts to the adjacent residential properties and consider the requested variance to be appropriate for the development and intended residential use of the lands.

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

The subject lands are zoned "St. Davids Community Zoning District – Residential (R1-11)" in Zoning By-law 4316-09, as amended. A single-detached dwelling is a permitted use.

The requested variance is considered to maintain the general intent and purpose of the Zoning By-law as single-detached dwellings are a permitted use, and the proposed dwelling will maintain the same character of the neighbourhood. The proposed dwelling is consistent with the overall built-form of the neighbourhood, and the scale of the dwelling is compatible with adjacent residential lands.

As a result, Staff are of the opinion that the requested variance maintains the general intent and purpose of the Zoning 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.

The requested variance is considered to maintain the general intent and purpose of the Official Plan as the proposal is generally consistent in built form, scale and massing with existing development and the character of the area. The application is considered to support residential policies in Section 9.2 and intensification policies in Section 6A(4) of the Official Plan.

Section 7.3 of the St. Davids Urban Design Guidelines provides guidance on new residential built form. Staff recognize that the development will exceed the permitted lot coverage of 33%. When considering lot coverage, the Urban Design Guidelines recommend consideration regarding minimum rear yard amenity areas. Staff note that the rear yard amenity area of the proposed dwelling greatly exceeds the minimum size of 50 square metres for single-detached dwellings, as recommended in the Guidelines, while exceeding the permitted lot coverage. Staff are of the opinion that the increased lot coverage maintains the intent of the St. David Urban Design Guidelines.

Staff consider the requested variance to 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 – No objections

Operations – No objections.

Urban Forestry – One (1) boulevard tree may be impacted by the construction works required for the proposed dwelling. A condition has been requested.

Agencies

No comments.

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

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 removal of one (1) tree along the front of the property will be required to accommodate the new driveway, which will require approval from the Director of Public Works and compensation from the owner. A condition has been included to this effect.

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-07/25, subject to the recommended condition, 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*.

12. APPENDICES

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

Respectfully submitted:

Prepared by:



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Planner II

Recommended by:



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