



Town of Niagara-on-the-Lake

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REPORT #: CDS-25-066 **COMMITTEE DATE:** 2025-05-15
DUE IN COUNCIL: N/A
REPORT TO: Committee of Adjustment
SUBJECT: Consent Application B-04/25 and Minor Variance Application A-08/25 – 767
Concession 2 Road

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-04/25 be approved, subject to the recommended conditions:
 - 1.1.1 That the owner/applicant provides a legal description of Part 2, acceptable to the Registrar, together with one (1) digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Town, for use in the issuance of the Certificate of Consent;
 - 1.1.2 That pursuant to *Planning Act* Section 50 (12), it is hereby stipulated that Section 50 (3) or 50 (5) shall apply to any subsequent conveyance of, or other transaction involving the identical subject parcel of land (Part 2) that Part 2 is merged in title with Part 3 and they become one parcel of land; and that the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Town, that Part 2 shall be conveyed to the owner of Part 3 and to prepare and register application to consolidate the lands and forward a copy of receipted application within two years of issuance of the consent certificate;
 - 1.1.3 That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Town, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 2, has been carried out, the documentation to be provided within two years of issuance of the consent certificate;
 - 1.1.4 That the conditions, restrictions or covenants specified by TransCanada PipeLines Limited (TCPL) shall be registered against title (by agreement) in relation to the "Lands" by way of application to register conditions, restrictions or covenants as applicable, pursuant to the Land Titles Act, or any amendments thereto;

1.1.5 That the Town Operations Department be provided with a copy of the deposited reference plan; and,

1.1.6 Dedication of 3.05 metre road allowance widening fronting Part 3 of the proposed severance, to the satisfaction of the Director of Operations.

1.2 Minor Variance Application A-08/25 for 767 Concession 2 Road be approved, subject to the recommended condition:

1.2.1 That the owner/applicant obtain final approval for Consent Application B-04/25.

2. EXECUTIVE SUMMARY

Staff have received a Consent Application (B-04/25) submitted under Section 53(12) of the *Planning Act* proposing a minor boundary adjustment by way of conveying the rear portion of 767 Concession 2 Road (Part 2) to 745 Concession 2 Road. A Minor Variance Application (A-08/25) is required to address the lot depth deficiency of Part 1 as a result of the boundary adjustment application.

Town staff has reviewed the Applications and consider them to meet applicable legislation and policies subject the recommended conditions.

3. PURPOSE

The application proposes a minor boundary adjustment by severing Part 2 from Part 1 (municipally known as 767 Concession 2 Road), and merging Part 2 with Part 3 (municipally known as 745 Concession 2 Road). Part 1 is to be retained for continued rural residential purposes; the existing orchards on Part 2 will be continued to be farmed. The boundary adjustment is being requested in order to keep the agricultural lands in the family as Part 1 is being sold.

In order to facilitate the minor boundary adjustment as proposed, the following variance from the provisions of Town Zoning By-law 500A-74, as amended, is requested:

1. Minimum lot depth of 60.96 metres, as required in the Zoning By-law, to 58.40 metres for the proposed new lot (Part 1).

The Application drawing is attached as **Appendix I** to this report.

4. BACKGROUND

4.1 Site Description and Surrounding Land Uses

The subject lands are known municipally as 767 Concession 2 Road, located on the eastern side of Concession 2 Road, situated between Line 6 Road and Line 7 Road, and are serviced by municipal water and a private septic system.

Part 1 has an area of 4,046.9 m² (0.40 hectares) and has approximately 69.3 metres of frontage on Concession 2 Road, and contains a single-detached dwelling and an accessory building.

Part 2 has an area of 103, 486.2 m² (10.34 hectares) and has approximately 96 metres of frontage on Concession 2 Road, and supports an existing agricultural operation (orchards). There is one accessory structure (shed) on the property.

Part 3 has an area of 1,613 m² and has approximately 42.33 metres of frontage along Concession 2 Road, and consists of an existing single-detached dwelling.

Part 4 has an area of 129 m² and will be conveyed to the Town for the purposes of a road widening along Concession 2 Road.

The subject lands are encumbered by an existing pipeline easement that bisects the northwest corner of Part 2.

4.2 Concurrent Application

Concurrent Minor Variance Application A-08/25 was submitted to address a minimum lot depth deficiency resulting from the proposed minor boundary adjustment associated with Consent Application B-04/25.

5. DISCUSSION / ANALYSIS

5.1 Consent Analysis

Section 3(5) of the *Planning Act*, R.S.O. 1990, c. P.13 states that a decision of Council, in respect to any planning matter, shall be consistent with the Provincial Planning Statement and conform with the Provincial Plans.

Section 53(12) of the *Planning Act* states that Council, in determining whether a provisional consent is to be given, shall have regard to the matters under Section 51(24), and that conditions of consent may be imposed as set out in Sections 51(25), 51(26) and 51.1.

The Provincial Planning Statement ("PPS") (2024) designates the subject lands as being within a "Prime Agricultural Area." The Greenbelt Plan (2017) designates the subject lands within "Protected Countryside", and more specifically, a "Specialty Crop Area (Niagara Peninsula Tender Fruit and Grape Area)".

The subject lands are designated "Specialty Crop Area" in the Niagara Official Plan (2022), and "Agricultural" in the Town's Official Plan (2017 consolidation, as amended).

The PPS permits lot adjustments in prime agricultural areas for legal or technical reasons, which includes minor boundary adjustments that do not result in the creation of a new lot. The Greenbelt Plan and Niagara Official Plan ("NOP") also permit minor boundary adjustments provided that a separate lot for a residential dwelling is not created and there is no increased fragmentation of a key natural heritage feature or key hydrologic feature.

The Town Official Plan permits minor boundary adjustments where the boundary adjustment is minor or land is being added to adjoining lands that contain an existing farm operation and the retained land is large enough to support a potentially viable farm operation, and where a separate lot is not being created for a residential dwelling.

Town Official Plan policies in Section 21.2 (Consent Policies) require that proposed new lot lines, wherever possible, shall avoid creating irregular boundaries for the parcel in question or that remaining. Where lands are located within the Agricultural designation, every attempt shall be made to avoid creating a lot pattern which would make it difficult to farm.

The Consent application would not result in the creation of a new lot. The agricultural lands at Part 2 would be merged with the existing rural residential lot at Part 3 (municipally known as 745 Concession 2 Road). The lands shown as Part 1 will continue be used for rural residential purposes, and the lands shown as Part 3 will continue to support a residential dwelling. Part 2 will continue to support active agricultural operations.

The boundary adjustment would result in a lot area of approximately 0.4 hectares for Part 1, and 10.72 hectares for Parts 2 and 3 combined. The proposed boundary adjustment will not negatively impact the agricultural functionality of the subject property, and no new lots will be created.

Town staff consider the proposed boundary adjustment to be minor with respect to area and impact, and complies with the consent policies and agricultural objective as set out in the Official Plan. The proposed boundary adjustment will not affection ability to farm the subject lands, now or in generations to come.

5.2 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 required variance minor in nature?

The newly reconfigured lot (Parts 1 and 3) would not alter the streetscape, pose adverse impacts to surrounding lands, nor hinder the existing agricultural potential on the subject or adjacent lands. The requested variance in lot depth will allow for the lot lines to contain the rural residential use, while ensure no crops are removed to support the boundary adjustment.

Therefore, Staff consider the 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 lot depth variance will ensure that additional agricultural land will not be taken out of production on Part 2. An area of approximately 10 ft is required to allow for a turning radius of farm vehicles to maintain crops on the Part 2. Further, the reduced lot depth will ensure that no lands are being removed from agricultural production on Part 2 to accommodate the needed turning area.

Staff are of the opinion that the proposed reduction in lot depth is appropriate considering it will provide adequate turning area for agricultural vehicles on Part 2.

Staff do not anticipate adverse impacts to the adjacent rural residential or agricultural properties and consider the requested variance to be appropriate for the development and continued rural residential use of the land.

3. Does the requested variance 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. A single-detached dwelling and agricultural uses are permitted.

The existing dwelling and accessory buildings/structures on the subject property meet the required setbacks and other provisions of the Rural (A) Zone. The requested variance will allow for continued support for agriculture and will not adversely impact land use compatibility issues; therefore, staff consider the variance to maintain 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?

The subject lands are designated Specialty Crop Area in the Niagara Official Plan (2022) and the Greenbelt Plan (2017) and "Agricultural" in the Town Official Plan (2017 Consolidation, as amended). The variance does not conflict with the goals and objectives of the Agricultural designation identified in the Official Plan. The lot configuration is not anticipated to have any impact on the viability of surrounding agricultural uses. As a result, the variance is considered to maintain the general intent and purpose of the Official Plan.

5.1 Town, Agency and Public Comments

The applications were 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 objection.

Finance – No objection.

Fire & Emergency Services – No objection.

Operations – A road allowance widening dedication has been requested as a condition of consent.

Agencies

Trans Canada Pipeline – No objection, condition requests the applicant to register any , , restrictions, conditions, or covenants specified by TransCanada PipeLines Limited (TCPL) against title (by agreement).

Hydro One – No objection.

Niagara Region – No objection.

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 Consent, and Minor Variance and/or conditions.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

No vegetation will be impacted by the Boundary Adjustment of the Minor Variance Application

10. COMMUNICATIONS

Once the Committee of Adjustment makes a decision on the applications, notice of the decision will be given as required in the Planning Act. The decision of the Committee is subject to a 20-day appeal period following notice of the Committee's decision. If no appeals are received during the appeal period, the decision of the Committee is final.

Changes to provincial legislation have been made through Bill 23 and third-party appeals from private property owners are no longer permitted.

11. CONCLUSION

Community and Development Services staff recommend approval of Consent Application B-04-25 and Minor Variance Application A-08/25 for 767 Concession 2 Road, subject to the recommended conditions, as the application meets the *Planning Act* requirements, is consistent with the PPS, and conforms with the Greenbelt Plan, Niagara Official Plan, and the Town Official Plan.

12. APPENDICES

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

Respectfully submitted:

Prepared by:

A handwritten signature in cursive script, appearing to read 'Alex Bokestyn'.

**Alex Bokestyn,
Planner II**

Recommended by:

A handwritten signature in cursive script, appearing to read 'Aimee Alderman'.

**Aimee Alderman, MCIP, RPP
Manager of Development Planning**