



Town of Niagara-on-the-Lake

1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0

REPORT #: CDS-25-098

COMMITTEE DATE: 2025-07-17

DUE IN COUNCIL: N/A

REPORT TO: Committee of Adjustment

SUBJECT: Minor Variance Application A-12/25 – 46 Shakespeare Avenue

1. RECOMMENDATION

It is respectfully recommended that:

1.1.1 Minor Variance Application A-12/25 for 46 Shakespeare Avenue be approved.

2. PURPOSE

This report provides a recommendation to the Committee of Adjustment regarding a Minor Variance Application (A-12/25) submitted under Section 45 of the *Planning Act*, to permit a proposed garage addition, and recognize a veranda and deck on the subject property, known municipally as 46 Shakespeare Avenue.

3. PROPOSED VARIANCES

The applicant is proposing the construction of an addition to the existing garage and second storey, and requires a number of variances to recognize the existing front veranda, side yard deck and rear deck. In order to facilitate the development as proposed, the following variances from the provisions of Town Zoning By-law 4316-09, as amended, are requested:

1. Maximum lot coverage from 40%, as required in the Zoning By-law, to 51.5% for the proposed garage addition, covered porch, and veranda;
2. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law, to 6.25 metres for the proposed garage addition;
3. Minimum front yard setback from 7.5 metres, as required in the Zoning By-law to 3.28 metres for the covered front porch;
4. Maximum step encroachment into a front yard from 1.5 metres, as permitted in the Zoning By-law, to 5.36 metres for the proposed unenclosed and uncovered steps;
5. Maximum deck encroachment into a front yard from 1.5 metres, as permitted in the Zoning By-law, to 4.93 metres for the existing deck;
6. Minimum rear yard setback from 7.5 metres, as required in the Zoning By-law, to 5.50 metres for the covered rear porch;

7. Maximum deck encroachment into a rear yard from 1.5 metres, as permitted in the Zoning By-law, to 7.5 metres for the proposed deck;
8. Maximum step encroachment into a rear yard from 1.5 metres, as permitted in the Zoning By-law, to 3.29 metres for the proposed unenclosed and uncovered steps;
9. Minimum side yard setback from 1.22 metres, as required in the Zoning By-law, to 0.39 metres for the proposed covered porch; and
10. Maximum deck encroachment into a side yard from 0.6 metres, as permitted in the Zoning By-law, to 0.72 metres for the proposed deck.

The application drawings and documents are attached as **Appendix II** to this Report.

4. BACKGROUND

The subject lands are known municipally as 46 Shakespeare Avenue, situated on the west side of Shakespeare Avenue, directly across from Luther Avenue within the Urban Area of Old Town. The location of the subject lands is shown on **Appendix I** to this report.

The subject lands have an approximate area of 362.32 metres with 15.24 metres of frontage along Shakespeare Avenue. The lands contain an existing single-detached dwelling with an attached garage. The property is serviced by municipal water and sanitary services. The surrounding lands are characterized by single-detached residential dwellings, and are adjacent to a forested area outside of the Urban Area Boundary.

4.1 Existing and Proposed Development

Some of the proposed variances are requested to recognize existing structures whereas other elements have not yet been constructed. The covered deck in the front yard was substantially constructed in the spring of 2024. The rear yard deck was rebuilt in the spring of 2024, in the same location as the previous deck. The side deck and roof overhang (front, rear and side) construction commenced in the spring of 2024; however, has since ceased as the applicant is now seeking planning approvals for the work. The proposed garage addition has not yet been constructed, and is subject to the requested variances regarding front yard setback and lot coverage.

5. DISCUSSION / ANALYSIS

5.1 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 variances requested are required to accommodate the proposed garage addition and recognize the constructed deck and associated veranda. Staff recognize the historic nature of the Chautauqua community, which predates the in-effect Zoning By-law. The area is characterized by varying lot sizes, smaller front yards, and prominent front gardens. Given this, Staff recognize that any development or additions to the dwelling on the subject lands, in the

front or rear yard, would require a variance as the distance from the dwelling is less than the required 7.5 metre front and rear yard setbacks as per Zoning By-law 4316-09, as amended.

The constructed veranda is sympathetic to the character of the neighbourhood and is not overbearing in terms of scale. The curved support brackets create a natural extension of the existing roof line without resulting in a significant increase in massing on the front façade. The rear deck has existed in a similar configuration for more than a decade and there are no known issues with the rear yard deck.

The garage addition is located 1.41 metres behind the front of the building façade. The addition will positively contribute to the façade and does not significantly alter the existing condition of the dwelling as it is setback from the dwelling existing front face.

While there are numerous variances requested, given the context of the site and the nature of the additions, Staff are of the opinion that the requested variances are minor in nature, and will contribute positively to the streetscape, while providing additional outdoor amenity space.

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

Town Staff note that the requested variances will allow for increased living area and outdoor amenity space to meet the needs of the owner, as indicated in the submitted application materials. Height requirements will continue to be met, and the location of the garage addition is set back further (1.41 metres) from the front property line than the existing dwelling. Further, the veranda and addition pay homage to Queen Anne architectural style and will contribute positively to the character of the established neighbourhood.

The requested setback reductions and increase in lot coverage are not uncharacteristic of the established Chautauqua neighbourhood. Staff note that numerous homes in the area have similar conditions, which result in existing deficient setbacks and increased lot coverage.

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 2 (ER2)" in Zoning By-law 4316-09, as amended. A single-detached dwelling is a permitted use. The intent of the zoning by-law is to prevent the overdevelopment of properties and to maintain sufficient space for features such as amenities, parking, landscaping and on-site stormwater management.

Both the veranda and the addition contribute to the increase in lot coverage, with the veranda accounting for approximately 17.29% of the total lot coverage on site. The veranda will provide increased amenity space, and the garage addition will provide area for personal storage. The garage addition requires a reduced front yard setback of 6.25 metres whereas the zoning by-law permits 7.5 metres. Staff note that the proposed garage will remain behind the front façade

of the existing dwelling. Despite the reduced front yard setback, the proposal will retain adequate area for parking consistent with the requirements of the Zoning By-law. Further, as shown below in **Figure 1**, the front yard has sufficient space to provide for landscaping.



Figure 1: Dwelling Facade

The remaining variances are required to accommodate the veranda and rear yard deck. Given the nature of the established residential community of Chautauqua, many dwellings were established long before the in-force and effect Zoning By-law. Subsequently, additions or modifications to many of the existing homes necessitate variances from the zoning by-law.

A front yard setback of 3.28 metres is required for the front veranda, whereas 7.5 metres is permitted. A maximum encroachment of 4.93 metres for the existing decking and a front yard encroachment of 5.36 metres for the unenclosed steps are also required, whereas 1.5 metres is permitted for front yard encroachments. Town Staff note that the road allowance width is approximately 7.0 metres from the property line to the road, which, until such time as Shakespeare Avenue is widened, has the effect of providing a far larger front yard.

The veranda continues along the south side yard to connect with the deck in the rear yard. Subsequently, a reduced minimum interior side yard setback of 0.39 metres for the veranda is required, whereas 1.22 metres is permitted. A maximum deck encroachment into a side yard

of 0.72 metre is also required, whereas 0.60 metres is permitted. Staff note the fence along the side yard provides adequate screening between the adjacent property. It is Staff's opinion that the side yard encroachment and setbacks maintain the general intent of the Zoning By-law and do not anticipate negative impacts to neighbouring properties.

Lastly, the veranda wraps around to connect with the deck in the rear yard. A reduced rear yard setback of 5.5 metres is required for the covered portion, whereas 7.5 metres is permitted. The uncovered deck in the rear yard encroaches into the rear yard, and required a maximum encroachment of 7.5 metres whereas 1.5 metres is permitted. Finally, a step encroachment of 3.29 metres is required for the step off of the rear deck, whereas 1.5 metres is permitted.

The existing dwelling is located approximately 6.92 metres from the rear property line and any additions or covered decks in the rear yard would require a variance. Additionally, there are no residential neighbours to the rear, as the property backs onto a forest and is at the limit of the urban area boundary. Staff are of the opinion that the setback and encroachments into the rear yard maintain the intent of the Zoning By-law and do not result in overdevelopment of the subject property.

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 Town Official Plan recognizes the importance of conserving and preserving the character and amenities of established residential designations. This is reflected in the goals and objectives for residential designations, which includes ensuring existing housing and residential areas be preserved and improved, encouraging the development of well-designed and visually distinct forms, and ensuring that development be appropriately located and compatible with surrounding land uses in order to reduce land use compatibility impacts.

Further, 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. Additionally, it requires that garages not exceed 50% of the building façade and remain set back from the front façade.

Town staff are of the opinion that the proposed garage addition and associated deck and veranda conform with the goals and objectives of the Residential designation. The design of the addition preserves the character of the existing house and neighbourhood, and accentuates the historic architectural style of the Chautauqua Community. Staff note that the garage will not exceed 50% of the building façade and will remain set back from the front façade of the dwelling by 1.41 metres. It is staff's opinion that the scale of the development fits the context of the area, and that the development does not conflict with the relevant urban design guidelines. 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.

5.2 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 objection.

By-law – No objection. The owner is advised that the fence is to be reduced in height to meet the maximum height of 2.0 metres under the Town's Fence By-law (4778-14).

Finance – No objection.

Fire and Emergency Services – No objection.

Heritage – No objection.

Operations – No objection.

Urban Forestry – No objection. During construction, equipment should not be stored in the front yard in order to protect the root zone of large Town-owned oak tree.

Agencies

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 application.

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

No trees are to be removed as a part of the Minor Variance Application.

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-12/25, 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
- **Appendix III** – Town and Agency Comments

Respectfully submitted:

Prepared by:



Alex Boekestyn
Planner II

Recommended by:



Aimee Alderman, MCIP, RPP
Manager of Development Planning

