



Town of Niagara-on-the-Lake

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REPORT #: CDS-25-161

COMMITTEE DATE: N/A

DUE IN COUNCIL: 2025-10-28

REPORT TO: Council

SUBJECT: Town Representation at the Ontario Land Tribunal - Minor Variance Applications A-14/25 & A-15/25 and Consent Application B-10-25 – 2052 York Road

1. RECOMMENDATION

It is respectfully recommended that Council choose one (1) or more of the following options:

- 1.1 Council retains the Town's legal counsel and an external qualified land use planner to defend the decision made by the Committee of Adjustment to refuse Minor Variance Applications A-14/25 and A-15/25 and Consent Application B-10/25 for 2052 York Road at the Ontario Land Tribunal; and/or
- 1.2 Council retains the Town's legal counsel and an external qualified land use planner to engage in mediation to reach a negotiated settlement with the appellant (applicant) respecting Minor Variance Applications A-14/25 and A-15/25 and Consent Application B-10/25 for 2052 York Road and present such settlement to the Ontario Land Tribunal; or
- 1.3 Council instructs the Town's legal counsel to reach a settlement with the appellant (applicant), accepting the recommendations contained within the Staff Report respecting Minor Variance Applications A-14/25 and A-15/25 and Consent Application B-10/25 for 2052 York Road and present such settlement to the Ontario Land Tribunal.

2. EXECUTIVE SUMMARY

- The purpose of this report is to seek direction from Council on their preferred path forward in proceeding to the Ontario Land Tribunal respecting the appeal of Committee of Adjustment decisions related to Minor Variance Applications A-14/25 and A-15/25 and Consent Application B-10/25 for lands known municipally as 2052 York Road.
- The Minor Variance and Consent Applications were considered at the Committee of Adjustment meeting on September 18, 2025. The applications were submitted to facilitate the severance of one (1) new vacant lot for future residential use, fronting York Road.
- Planning Staff recommended approval of the Minor Variance Applications and conditional approval of the Consent application. The Committee of Adjustment refused the applications.
- The applicant has filed appeals of the decisions of the Committee of Adjustment to the Ontario Land Tribunal ("OLT").
- Council must determine if it intends to retain legal counsel and a qualified land use planner to either defend the decision to refuse the applications or enter into mediation to reach a negotiated settlement. Otherwise, Council should instruct the Town's solicitor to accept Staff's recommendations to reach a settlement with the appellant prior to the anticipated OLT hearing.

3. PURPOSE

The purpose of this report is to obtain Council's direction with respect to the Town's legal and planning representation at a future OLT hearing for appeal of decision made by the Committee of Adjustment regarding applications for Minor Variance (A-14/25 and A-15/25) and Consent (B-10/25), for lands municipally known as 2052 York Road.

4. BACKGROUND

The subject lands are known municipally as 2052 York Road, located on the north side of York Road, west of the Niagara River Parkway, within the urban area of Queenston. The lands include an existing single-detached dwelling. The property is surrounded by residential uses and are serviced by municipal services.

The Applications submitted would facilitate the creation of one (1) new residential lot fronting York Road, for a total of two residential lots. The new lot would accommodate a future single-detached dwelling, and the retained lot would contain the existing single-detached dwelling.

The Minor Variance Applications were required to address deficiencies in minimum lot frontage and maximum building face width for both lots, and minimum lot area for the retained lot.

The Consent proposed to sever the subject lands into two (2) lots, one (1) lot with the existing single-detached dwelling and one (1) lot for a new single-detached residential dwelling. Staff recommended approval of the application, subject to conditions related to the submission of an archaeological assessment, tree removal and protection, removal of a pergola straddling the proposed lot line, lot grading, servicing, and approval of the Minor Variance applications. A condition requiring the dedication of parkland/cash-in-lieu of parkland was omitted in the report, but was recommended on the floor as an amendment to the conditions. The applicant was agreeable to the additional condition.

Staff Report CDS-25-138 (attached as **Appendix I** to this report) was considered at the September 18, 2025, Committee of Adjustment meeting. Town Planning Staff recommended approval of the applications. During the meeting, the Committee discussed matters related to the lot shape, the size of surrounding properties, and the lot frontages in the surrounding area. The Committee also heard from two (2) members of the public, who expressed concerns or objections to the proposal regarding the request not being minor, the scale of the dwelling and the size of the lot in comparison to others in the area. The Committee of Adjustment subsequently denied all three (3) applications. Minutes of the September 18, 2025, Committee of Adjustment meeting are attached as **Appendix II**.

5. DISCUSSION / ANALYSIS

The applicant has filed appeals of the decisions of the Committee of Adjustment on all three Applications to the OLT. Staff has submitted the required information to the OLT. A hearing date for the appeals has not yet been scheduled.

In accordance with Section 2.1 of the Canadian Institute of Planners Code of Professional Conduct, member Planners shall "provide independent professional opinion to clients, employers, the public, and tribunals." Town Planning Staff recommended approval of the Minor Variance Applications and the Consent Application. Accordingly, Town Planning Staff are unable to defend the Committee of Adjustment's decision to refuse the Minor Variance and Consent Applications.

An external qualified land use planner would have to be retained by the Town to support the Committee of Adjustment's decision or to provide planning opinion in a potential negotiated settlement.

Town Planning Staff anticipate being summoned by the appellant to provide planning evidence in support of the applications at the OLT hearing.

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

- 7.1 **Option 1:** Council may retain legal counsel and planning expertise to defend the Committee of Adjustments' decision and/or to reach a negotiated settlement with the appellant.
- 7.2 **Option 2:** Council may enter into mediation through the OLT to negotiate a settlement on these applications. Mediation is voluntary and confidential. The process provides parties an opportunity to come together to fully understand the issues in dispute and to explore option for a mutually acceptable solution to some or all of the issues.
- 7.3 **Option 3:** Council may seek to reach a settlement with the appellant by accepting Staff's recommendations respecting the proposed Minor Variance applications and Consent application.

8. FINANCIAL IMPLICATIONS

There are costs associated with retaining the services of legal counsel and a qualified land use planner to defend the Committee of Adjustment's decision, including preparation for and attendance at the OLT hearing. Staff cannot estimate the costs for legal and planning services at this time. The funds for these services would result from Corporate legal and consultant accounts.

9. ENVIRONMENTAL IMPLICATIONS

Not applicable. There is no environmental impact associated with this report.

10. COMMUNICATIONS

Should Council choose to retain legal counsel and external planning expertise, Staff will provide the Town's solicitor with the file materials. The solicitor will then retain a qualified land use planner in accordance with the procedures in the Town's Procurement of Goods and Services By-law.

11. CONCLUSION

The applicant has appealed the Committee of Adjustment's decision to refuse the Minor Variance Applications (A-14/15 and A-15-25) and Consent application (B-10/25) for 2052 York Road.

Options available to Council are outlined in this report. Council may retain legal counsel and a qualified land use planner to either defend the decision to refuse the applications for Minor Variance and Consent or enter into mediation to reach a negotiated settlement. Otherwise, Council should instruct the Town's legal counsel to accept Staff's recommendations for the applications to reach a settlement with the appellant prior to the anticipated OLT hearing.

12. PREVIOUS REPORTS

- **CDS-25-138** – Recommendation Report – 2052 York Road Minor Variance Applications A-14/25, A-15/25 and Consent Application B-10/25 (September 18, 2025)

13. APPENDICES

- **Appendix I** – Staff Report CDS-25-138 – Recommendation Report – 2052 York Road Minor Variance Applications A-14/25, A-15/25 and Consent Application B-10/25
- **Appendix II** – Committee of Adjustment Meeting Minutes – September 18, 2025

Respectfully submitted:

Prepared by:



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Planner II**

Recommended by:



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Recommended by:



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Submitted by:



**Nick Ruller, M.A.
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