



Town of Niagara-on-the-Lake

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REPORT #: PBDS-26-004 **COMMITTEE DATE:** 2026-04-16
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: Minor Variance Application A-02/26 – 187 Queen Street

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Minor Variance Application A-02/26 for 187 Queen Street be approved.

2. PURPOSE

The applicant is proposing to construct an attached garage to the existing 2-storey single-detached dwelling. To facilitate the addition, the following variances are requested:

1. Minimum rear yard setback from 5.0 metres, as required in site-specific Zoning By-law Amendment 4316FR-24, to 2.28 metres for the proposed garage addition; and
2. Maximum rear yard encroachment for unenclosed and uncovered steps from 1.5 metres, as required in the Zoning By-law, to 3.75 metres.

The application drawings (site plan and elevations) are attached as **Appendix I** to this report.

3. BACKGROUND

3.1 Site Description and Proposal

The subject lands are known municipally as 187 Queen Street, located on the northeast corner of Queen Street and Simcoe Street, in the urban area of Old Town. The surrounding land uses include residential and commercial uses. The location of the subject lands is shown on **Appendix II** to this report.

The subject lands have an area of approximately 1,250 square metres with a frontage of 29.3 metres on Simcoe Street and a flankage of 42.7 metres on Queen Street. The lands contain an existing two-storey single-detached dwelling serviced by municipal water and sanitary connections. The existing dwelling was designated under Part IV of the *Ontario Heritage Act* in 2002. The existing single-detached dwelling and area of development is shown in **Figure 1**.



Figure 1 – Existing Single-Detached Dwelling and Development Area

3.2 Previous Planning Approvals

The subject lands were previously subject to a Zoning By-law Amendment (“ZBA”) (File ZBA-05-2024) and Consent to Sever (File B-09/24) for the creation of one new residential lot and to retain the existing heritage dwelling. The ZBA rezoned the lands to an “Established Residential [ER-114 (b)] Site-Specific Zone” to facilitate the severance and establish provisions to recognize the proposed lot configuration and setbacks associated with a proposed garage addition to the heritage dwelling. The first iteration of the ZBA proposed two new residential lots; however, the proposal was scaled back to one new lot as a result of feedback received throughout the process. Planning Staff recommended approval of the proposal. The applications were refused by Town Council and the Committee of Adjustment, respectively, and were appealed to the Ontario Land Tribunal, where the applications were ultimately approved by the Tribunal, as recommended by Planning Staff.

As part of the conditions of the Consent, a Development Agreement was entered into between the Town and the owner to fulfil requirements associated with the build-out of the properties prior to any construction. For the subject lands at 187 Queen Street, the Development Agreement required the implementation of a previously completed Tree Inventory and Preservation Plan and the requirement to acquire a heritage permit for the proposed works.

More specifically, the Development Agreement requires the following matters to be addressed:

- Acquiring a heritage permit for any proposed alterations to the Part IV designated dwelling (187 Queen Street);
- Requiring applications to facilitate tree removals in accordance with the Town’s Tree By-laws;
- Implementing the recommendations of the Tree Inventory and Preservation Plan submitted with the ZBA application; and
- Providing a signed copy of the Town’s Tree Protection Declaration form.

The above-referenced Development Agreement conditions must be satisfied prior to any construction occurring for the proposal. The Development Agreement is registered on the title of the lands and is legally binding.

3.3 Heritage Review

At the time of the previous Planning applications, a Heritage Impact Assessment (“HIA”) was submitted in support of the ZBA and Consent to demonstrate potential impacts to the heritage dwelling and its attributes and to outline any necessary mitigation and conservation measures. The HIA was reviewed by the Town’s Municipal Heritage Committee (“MHC”) on May 1, 2024, where feedback was provided by the Committee to inform heritage-related matters associated with the proposed addition to the heritage dwelling and the creation of two new residential lots. The Committee did not support the proposal at the time, and the proposal was scaled back by removing one of the proposed new lots and setting the proposed garage addition further back from Queen Street.

During the previous MHC review, the proposed garage addition similarly included a 1-storey link between the heritage dwelling and the garage addition, but this link was significantly narrower than what is currently being proposed through this Minor Variance application. The previous link provided a separation of approximately 3.7 metres between the heritage dwelling and garage addition, while the current proposed link is approximately 6.4 metres in width, providing additional separation between the garage and heritage home. The easterly shift of the proposed garage results in further zoning deficiencies related to the minimum required rear yard setback and encroachment provisions. Ultimately, the proposed additions require the issuance of a heritage permit and approval of a minor variance to allow for this development, as modified.

The MHC reviewed a proposed heritage permit for the current proposal at their January 14, 2026 and March 4, 2026 meetings, respectively. At the time of the January 14 meeting, MHC approved a motion that the applicant submit a revised heritage permit application that includes alternate design options for the façade of the new garage addition. A revised façade design was presented at the March 4 meeting and was approved subject to the following conditions:

- That the proposed additions are carried out in accordance with the heritage permit;
- That the applicant facilitates landscaping on the lands as approved by the MHC;
- That the applicant obtains any required Planning approvals and building permits to facilitate the development; and
- That the applicant clears the subject lands from having archaeological potential prior to any ground disturbing activities taking place.

It should be noted that a Stage 3 Archaeological Assessment was previously submitted as part of the ZBA and Consent applications. As a condition of the associated heritage permit, the applicant will be required to submit any subsequent archaeological assessment(s) and Ministry letter(s) confirming that the lands no longer retain archaeological potential in order to pursue the proposal.

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?

Through the previous Planning applications, the configuration of the parcel at 187 Queen Street now considers the frontage at Simcoe Street to be the front yard, and as such, the rear yard is the easterly lot line of the property. The garage addition is proposed at a 2.28-metre rear yard setback, being within the minimum required rear yard setback of the lands of 5 metres as established through the site-specific zoning by-law amendment. The addition similarly proposes an encroachment for uncovered stairs within this rear yard at 3.75 metres instead of the maximum required 1.5-metre encroachment (based on the minimum required 5-metre rear yard setback). The interior side yard at the northern limit of the property continues to provide sufficient space for an outdoor amenity area, effectively acting as a rear yard for the residential use of the lands. The proposed addition is setback approximately 9.2 metres from the northern interior lot line, allowing for plenty of backyard amenity space to support the residence.

In an effort to minimize any adverse impacts to the adjacent property, the applicant has noted in their supporting materials that no windows are proposed on the eastern side of the garage, directly facing the neighbouring lands to the east of the property. An existing 6-foot-tall fence screens the subject lands and abutting residential lands to the east, and the fence will remain in place. The proposed step encroachment, facing east, is not anticipated to pose adverse impacts to the neighbouring lands as a result of the screening of the existing fence.

As a result, Staff are of the opinion that the requested variances are minor in nature.

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

The proposed construction of a 2-storey garage and 1-storey link was contemplated by the previous Planning applications and was ultimately approved by the Ontario Land Tribunal. Therefore, the proposed additions have been determined to be desirable for the development of the lands; however, this was based on a 5-metre rear yard setback. Given that the setback is proposed to be reduced through the requested variances as a result of further consultation through the associated heritage permit process, an evaluation of the setback reduction is necessary to determine appropriateness in relation to what is currently being proposed on the lands.

Available aerial imagery of the site shows that the property previously accommodated two (2) detached structures with little to no setback to the common lot line between the subject lands and abutting lands to the east. Similarly, aerial imagery shows similar rear yard setbacks for buildings on corner lots in the immediate vicinity, including residential properties on the northeast and southeast corners of Simcoe Street and Prideaux Street.

Setbacks along Queen Street vary and much of these setbacks are legal non-conforming situations due to the established heritage conservation area. The proposed rear yard setback of 2.28 metres for the garage and step encroachment of 3.75 metres into the required yard can be considered appropriate due to the established use through the previous Planning

approvals, restricting windows on the façade facing east, and implementing additional landscaping at the Queen Street frontage. The proposed additions continue to maintain adequate space for private rear yard amenity space, albeit in the interior side yard, and continue to be setback appropriately from Queen Street in order to maintain the streetscape.

In addition to this, the previously established 5-metre rear yard setback was recognized as a result of a less narrow link addition. Given that the link addition width has increased as a result of heritage-related consultation, it is evident that the rear yard setback will shrink to accommodate the garage configuration as-proposed.

Staff do not anticipate adverse impacts to adjacent properties and the Queen Street streetscape, and believe that the additions are compatible with the area. Staff are of the opinion that the proposed variances are appropriate for the development and use of the lands.

3. Do the requested variances maintain the general intent and purpose of the By-law?

The subject lands are zoned “Established Residential [ER-114 (b)] Site-Specific” by way of Zoning By-law Amendment 4316FR-24, an amendment to Zoning By-law 4316-09 (as amended). By-law 4316FR-24 was approved through the Ontario Land Tribunal. The ER Zone permits single-detached dwellings and additions to such use. The site-specific provisions established a minimum rear yard setback of 5 metres on the lands, as well as a minimum exterior side yard setback of 12 metres to the front face of an attached garage.

The intent of the minimum rear yard setback is to ensure adequate privacy for adjacent rear yards and abutting properties is maintained, as well as to ensure that sufficient rear yard amenity space is provided to support the residential use on the lands.

The proposed reduced rear yard setback and increased encroachment request are consistent with other residential corner lots in the surrounding area. The proposed garage continues to maintain the minimum 12 metre exterior side yard setback, and all other provisions of the applicable zoning continue to be met in terms of the remainder of the setbacks, encroachments, lot coverage, and building height. There is also sufficient outdoor amenity area in the northerly interior side yard of the property that can support the residential use in lieu of a “backyard” in the rear yard.

Staff are of the opinion that the requested variances maintain the general intent and purpose of the By-law.

4. Do the requested variances maintain the general intent and purpose of the Official Plan?

The subject lands are designated “Delineated Built-up Area” in the Niagara Official Plan, 2022 (“NOP”), as well as “Established Residential” and “Built-up Area” in the Town of Niagara-on-the-Lake Official Plan, 2017 Consolidation, as amended (“Town OP”).

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 Town OP 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.

Section 6A(4.4) of the Town OP establishes 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 OP. These criteria direct 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. 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 proposed addition conforms with the goals and objectives of the Established Residential designation by proposing a massing that is compatible with adjacent properties and has been designed to limit any potential land use compatibility conflicts. The garage addition would allow for the homeowner to have a sheltered area for their vehicles, and above the garage is a proposed residential unit that would further contribute to the housing stock of Old Town.

With respect to urban design policies in the Town OP, the garage is proposed to be substantially setback from the front face of the dwelling by approximately 12 metres and the proposed garage doors do not exceed 50% of the overall width of the dwelling with the inclusion of the additions.

Staff do not anticipate adverse or negative impacts to the surrounding neighbourhood and streetscape, as the proposed development is consistent with its surrounding context and has been conditionally approved by the Town’s Municipal Heritage Committee. As such, Staff are of the opinion that the requested variances maintain the general intent and purpose of the NOP and Town OP.

4.2 Town, Agency and Public Comments

The application was circulated to all appropriate Town departments, 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 & Emergency Services – No objections.

Heritage – The subject lands are designated under Part IV of the *Ontario Heritage Act*. The applicant has already applied for the heritage-related approvals associated with this proposed development, and Heritage Staff is awaiting final drawings to issue a Notice of Council Decision. The lands are also mapped as having archaeological potential and are required to be cleared before any ground disturbing activities occur. Clearing the lands of archaeological potential is captured as a condition of the associated Heritage Permit for the proposed works.

Public Works & Infrastructure – No objections.

Urban Forestry – Tree-related matters will be addressed as part of the existing Development Agreement.

External Agencies

No external agencies were circulated as part of the proposed application.

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

There are no financial implications resulting from the proposed variances.

8. ENVIRONMENTAL IMPLICATIONS

The applicant is required to fulfil the tree-related conditions of the registered development agreement prior to any construction. Tree protection measures will be required for the duration of the construction of the addition.

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-02/26, 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

- **CDS-24-065** – Information Report – Public Meeting – 187 Queen Street (ZBA-05-2024) (May 7, 2024)
- **CDS-24-066** – Municipal Heritage Committee Review of Heritage Impact Assessment – 187 Queen Street (HER-13-2024) (May 1, 2024)
- **CDS-24-104** – 187 Queen Street – Recommendation Report (ZBA-05-2024) (July 16, 2024)
- **CDS-24-141** – 187 Queen Street – Consent Application B-09/24 (August 15, 2024)
- **CDS-24-156** – Town Representation at the Ontario Land Tribunal – 187 Queen Street (ZBA-05-2024 & B-09/24) (September 24, 2024)
- **CDS-26-010** – 187 Queen Street – Heritage Permit Application – Garage Addition (HER-01-2026) (January 14, 2026)
- **CDS-26-037** – 187 Queen Street – Heritage Permit Application – Revised Garage Addition (HER-01-2026) (March 4, 2026)

12. APPENDICES

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

Respectfully submitted:

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