



Town of Niagara-on-the-Lake

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REPORT #: PBDS-26-014 **COMMITTEE DATE:** 2026-04-16
REPORT TO: Committee of Adjustment **DUE IN COUNCIL:** N/A
SUBJECT: B-03/26 & A-04/26 – 765 Four Mile Creek Road

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-03/26 be approved subject to the following 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 the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Planning, Building, and Development Services, to forward a copy of documentation confirming the transaction, i.e. merging of Part 2 with 916 Line 7 Road, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
 - 1.1.3 That the location of the existing driveway on Part 1 of the proposed severance be confirmed by survey and be moved northward if necessary to ensure a minimum 1.0 metre interior side yard setback from the property line between 761 and 765 Four Mile Creek Road;
 - 1.1.4 That the owner/applicant apply to the Town's Public Works Department for the installation of a new water service for Part 1 of the proposed severance and the disconnection and capping of the existing water service at the property line;
 - 1.1.5 That the Owner/applicant have the septic tank servicing Part 1 pumped out and the system be reinspected to confirm proper operation under normal conditions to the satisfaction of Niagara Regional staff; and
 - 1.1.6 That Minor Variance A-04/26 be approved to recognize the lot frontage deficiency.
- 1.2 Minor Variance Application A-04/26 be approved.

2. EXECUTIVE SUMMARY

Staff have received a Consent Application (B-03/26) submitted under Section 53(12) of the *Planning Act* proposing to sever the existing dwelling at 765 Four Mile Creek Road as a residence surplus to an agricultural operation. A Minor Variance Application (A-04/26) is required to address the lot frontage deficiency of Part 1, and to recognize the maximum height for an existing accessory structure (garage).

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

3. PURPOSE

The consent application proposes to sever the residential portion of the property (Part 1) from the agricultural lands (Part 2) and merge the agricultural lands (Part 2) with the abutting farm known municipally as 916 Line 7 Road. A Minor Variance Application is required to address the lot frontage of Part 1 and to recognize the maximum height of an accessory structure for the existing garage as a result of the Severance.

The following variances from the provision of Town Zoning By-law 500A-74, as amended, are requested:

1. Minimum lot frontage of 60.96 metres, as required in the Zoning By-law, to 45.6 metres for the proposed new lot; and
2. Maximum height of an accessory structure of 4.5 metres, as required in the Zoning By-law, to 5.3 metres for the existing garage.

The Severance Sketch 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 765 Four Mile Creek Road, located on the northeastern corner of the intersection of Four Mile Creek Road and Line 7 Road, and are serviced by municipal water and a private septic system.

Part 1 has an area of 6,364 square metres and has 45.6 metres of frontage on Four Mile Creek Road and includes an existing single-detached dwelling and two accessory buildings (labelled garage and shed on **Appendix I**).

Part 2 has an area of 72, 285.4 square metres (17.8 acres) and has a combined frontage of approximately 209 metres on Four Mile Creek Road and a combined frontage of approximately 138.5 metres on Line 7 Road. Part 2 is fragmented by the residential parcels known municipally as 892 Line 7 Road and 761 Four Mile Creek Road.

The surrounding lands are characterized by rural residential and agricultural uses.

5. DISCUSSION / ANALYSIS

Analysis of both the Consent Application and Minor Variance Application are included below.

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 the "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).

Section 4.3.3 of the PPS, Section 4.6.1(f) of the Greenbelt Plan, Section 4.1.5.2 of the Niagara Official Plan ("NOP"), and Section 7.4(4)(e) of the Town's Official Plan permit the severance of a residence surplus to a farming operation as a result of a farm consolidation, subject to criteria identified within the respective planning documents.

Subsequently, Section 4.1.5.2 of the NOP includes additional detail on the criteria required for consents for a residence surplus to a farm operation, which include:

- a. The proposed lot contains a habitable residence which existed as of December 16, 2004, that is rendered surplus as a result of farm consolidation;
- b. The size of any new lot shall be an area of 0.4 hectares except to the extent of any additional area deemed necessary to support an on-site private water and private sewage disposal system, to a maximum of one hectare;
 - i. Proposals that exceed one hectare may require an amendment to this plan.
- c. To reduce fragmentation of the agricultural land base, the retained lot shall be merged with an abutting parcel. Where merging of two lots is not possible, the retained farm parcel shall be zoned to preclude its use for residential purposes.

The NOP also has general lot creation policies (Section 4.1.4) for proposed residential lots, in addition to the above-noted policies, which include:

- Any new lot has sufficient frontage on an existing publicly-maintained road;
- Where possible, joint use should be made of the existing road access to the farm operation;
- Road access to any new lot does not create a traffic hazard because of limited sight lines on curves or grades or proximities to intersections; and,
- Proposed lots shall be located and configured to minimize impacts on surrounding farming operations.

The Town Official Plan contains requirements for surplus farm dwelling severances, as set out in Section 7.4(4)(e) which require:

- That zoning prohibits in perpetuity any new residential use on the retained parcel of farmland created by the severance, and that the zoning ensures the parcel will continue to be used for agricultural purposes;
- That farms are both within the Town of Niagara-on-the-Lake;
- That the new lot is located to minimize the impact on the remaining farm operation; and,
- That the new lot complies with the Minimum Distance Separation Formula I.

The residential dwelling proposed to be severed has existed long before the date the Greenbelt Plan came into effect (December 15, 2004). The size of the residential lot is 6,364 square metres or 1.57 acres. While this is slightly larger than the standard one (1) acre, the proposed lot is laid out to capture the existing septic bed, proposed replacement area and all buildings on site, and remains well below the one (1) hectare (2.47 acre) limit.

Town Staff received comments from the Niagara Region Private Sewage System staff confirming that proposed residential lot contains sufficient usable spare area for a replacement system and offered no object with the lot configuration. Regional staff noted that the tank had elevated levels and a pump-out and reverification be required to assess the long-term function of the system. A condition has been included to this effect.

Staff note that the remnant farm parcel is bisected by 761 Four Mile Creek Road and 892 Line 7 Road, resulting in a portion of the farm parcel being accessed by a narrow strip of land approximately 4 metres in width. While this layout is unconventional, the proposed severance will not worsen this condition.

Recognizing that the remnant agricultural land (Part 2) will be merged with the adjacent farm known municipally as 916 Line 7 Road, Town staff are satisfied that no additional residential uses will be allowed as a part of the severance and that the lands will continue to be used for Agriculture. Given the lands will be merged, rezoning of Part 2 to Agricultural Production Only is not required.

Town Staff have not identified any livestock facilities within proximity of the subject lands. Staff are satisfied that the MDS I calculation is not applicable to the proposed severance of Part 1.

The proposed residential lot does not meet the required minimum lot frontage of 60.96 metres, or the permitted maximum accessory structure height as permitted in the Zoning By-law, subsequent variances are requested to address these deficiencies, this is addressed under the following Minor Variance analysis in Section 5.2 of this report.

Town Staff recommend conditional approval of the surplus farm dwelling severance, subject to the recommended conditions, and are satisfied the application has regard to Section 51(24) of the *Planning Act*.

5.2 Minor Variance Analysis 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 requested variances will not change the existing streetscape, pose adverse impacts to surrounding lands, nor hinder the existing agricultural potential on the subject or adjacent lands. The requested variance in lot frontage allows for a deeper lot to adequately capture all existing buildings on site. The maximum accessory structure height will allow for an existing building to be used as an accessory building to the rural residential use.

Therefore, Staff consider the variances to be minor in nature.

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

Staff are of the opinion that the proposed reduction in lot frontage and requested increase in maximum height for an accessory structure are desirable for the appropriate use of the lands. Despite having a reduced lot frontage, the residential portion (Part 1) has sufficient area to accommodate the rural residential use and associated private servicing. Additionally, the variance for the maximum accessory building for the garage will recognize an existing condition of the structure.

Town staff consider the requested variances desirable for the appropriate use of the lands.

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 one of the accessory buildings/structures on the subject property meets the required setbacks and other provisions of the Rural (A) Zone. The requested variances will recognize the existing accessory building (garage) and allow for a reduced lot frontage.

The intent of the lot frontage provision is to ensure sufficient area for the rural residential uses and maintain the rural character of the area. The reduced lot frontage will allow for sufficient turn around area for crops and ensure the lot configuration adequately captures the existing dwelling, accessory structures, and sufficient area for the septic.

The garage is measured as 5.3 metres in height to the midpoint of the roof, whereas the By-law permits a maximum of 4.5 metres. The garage has existed long before the in effect by-law and has functioned with no known issues.

Town staff maintain that the variances will help facilitate the surplus farm dwelling severance and allow for continued support for agriculture and will not adversely impact land use compatibility issues; therefore, staff consider the variances 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 By-law?

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 variances do not conflict with the goals and objectives of the Agricultural designation identified in the Official Plan. The lot maintains sufficient area to accommodate private services, as confirmed by Regional Private Sewage System Staff. The lot configuration is not anticipated to have any impact on the viability of surrounding agricultural uses. Despite the exceedance in height, the existing accessory structure (garage) will remain secondary to the residential use. Town Staff consider the variances 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 applications were 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 – No objection, requested that the driveway location of the proposed severance be confirmed by a survey and be moved northward if necessary to ensure a minimum 1 metre interior side yard setback from the property line. The shifting of the driveway northward will warrant the installation of a new water line to ensure the line is not underneath the driveway.

Agencies

Niagara Region – No objection, a condition requesting the applicant/owner have the tank pumped out and an additional inspection take place to confirm the long-term functionality of the septic system was noted and included. Niagara Region staff were satisfied that the proposed lot size is sufficient to accommodate the existing residential dwelling. Any changes to the entrance will require an entrance permit.

Hydro One – No objection.

Niagara Region – No objection.

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 Applications

8. FINANCIAL IMPLICATIONS

Not applicable.

9. ENVIRONMENTAL IMPLICATIONS

No vegetation will be impacted by the Consent and Minor Variance applications.

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

Planning, Building, and Development Services Staff recommend approval of Consent Application B-03/26 and Minor Variance Application A-04/26 for 765 Four Mile Creek Road, subject to the recommended conditions, as the applications meet the *Planning Act* requirements, are consistent with the PPS, and conform with the Greenbelt Plan, Niagara Official Plan, and the Town Official Plan.

12. APPENDICES

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

Respectfully submitted:

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Recommended by:



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