



## Town of Niagara-on-the-Lake

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**REPORT #:** PBDS-26-016 **COMMITTEE DATE:** 2026-04-16  
**DUE IN COUNCIL:** N/A  
**REPORT TO:** Committee of Adjustment  
**SUBJECT:** Consent Application B-04/26 and Minor Variance Application A-06/26 – 28  
Clarence Street and 4 Queenston Street

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Consent Application B-04/26 be approved, subject to the following conditions:
  - 1.1.1 That the owner/applicant provides a legal description of Part 3, acceptable to the Registrar, together with 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 Director of Planning, Building, and Development Services, 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 parcels of lands (Part 3); that Part 3 is merged in title with Part 2 and they become one parcel of land; and that the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Planning, Building and Development Services, that Part 3 shall be conveyed to the owner of Part 2 and to prepare and register the application(s) to consolidate the lands and forward a copy of receipted application(s) within two years of issuance of the consent certificates;
  - 1.1.3 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. transfer of Part 3, has been carried out, the documentation to be provided within two years of issuance of the consent certificates, or prior to the issuance of a building permit, whichever occurs first; and
  - 1.1.4 That Minor Variance Application A-06/26 be approved.
- 1.2 Minor Variance Application A-06/26 be approved.

### 2. EXECUTIVE SUMMARY

Staff have received a Consent Application submitted pursuant to Section 53(12) of the *Planning Act* proposing to convey a portion of land (Part 2) from lands known municipally as 28

Clarence Street (Part 1) to the adjacent parcel known municipally as 4 Queenston Street (Part 3). Part 2 is to be used to improve buffering between adjacent parcels.

Minor Variance Application (A-06/26) has been submitted under Section 45 of the *Planning Act* and is required to permit the existing vegetation to serve as the required screening in lieu of a 1.5 metres tall wood privacy fence between residential and commercial properties.

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

### **3. PURPOSE**

The applicant is proposing to convey a portion of land from 28 Clarence Street to 4 Queenston Street to improve the formal frontage of 4 Queenston Street and associated landscaping to permit ownership and long term-term maintenance of the buffer. The existing dwelling on 28 Clarence Street will remain, as will the existing residential and commercial uses on 4 Queenston Street.

In order to facilitate the severance as proposed, the following variance from the provisions of the Town By-law 4316-09, as amended, is required for 4 Queenston Street (Part 3):

1. To permit the existing vegetation to serve as the required screening in lieu of a 1.5-metre-high wood screen privacy fence required at the interface between residential and commercial properties as required under Zoning By-law 4316-09.

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 28 Clarence Street and 4 Queenston Street. 28 Clarence Street is located on the northeast corner of Clarence Street and Queenston Street. 4 Queenston Street is located directly north of 28 Clarence Street on the east side of Queenston Street.

28 Clarence Street (Part 1) has an area of 762.83 square metres, and 23.48 metres of frontage on Clarence Street, and 30.47 metres of flankage on Queenston Street. The property will remain in its existing residential condition with no changes proposed to the dwelling as a part of this application.

4 Queenston Street (Part 3) has an area of 765.22 square metres and 18.3 square metres of frontage on Queenston Street. The property will continue to accommodate the existing residential and commercial (Canada Post) uses and are not proposed to change as a part of this application.

Part 2 is to be severed from Part 1 and merged with Part 3 and has an area of 161.07 square metres, and no new lots will be created as a part of this application.

The surrounding lands consist primarily of residential dwellings with limited commercial uses to the north. The lands to the southwest include the Mackenzie Printery and Newspaper Museum.

## **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 with a “Settlement Area.” The subject lands are within the Niagara Escarpment Plan (“NEP”) area and are designated as a Minor Urban Centre (Queenston). The subject lands are designated “Delineated Built-up Area” in the Niagara Official Plan (2022). 28 Clarence Street is designated as “Established Residential” in the Town of Niagara-on-the-Lake Official Plan (2017 Consolidation, as amended), whereas 4 Queenston Street is designated as “General Commercial”.

The proposed boundary adjustment seeks to convey a 6-metre-wide strip of land (Part 2) from 28 Clarence Street to 4 Queenston Street. This adjustment will provide a larger buffer between the two properties and improve the frontage for 4 Queenston Street. The existing vegetation on Part 2, located between the two properties, will become associated with 4 Queenston Street.

No new lots are being created through the proposed boundary adjustment, and no redevelopment is proposed. Both reconfigured lots will maintain sufficient area and frontage to accommodate their respective uses. No existing trees will be impacted as a result of this application.

Staff note that no rezoning or redesignation is proposed as part of this boundary adjustment. As such, any future development on 4 Queenston Street will require additional planning applications to ensure the entire parcel is appropriately designated. Part 2 will function as a natural buffer between the two properties.

### **5.2 Minor Variance Tests – Subsection 45(1), Planning Act, R.S.O 1990, C.P.13**

#### **1. Are the requested variance minors in nature?**

The existing vegetation is well established and provides adequate visual screening between the respective properties. The variance requests to forgo the fence between the commercial and residential properties, and is being mitigated by the use of the established existing vegetation. Recognizing that no new construction or building alterations are being proposed as a part of the applications, Town staff are of the opinion that requested variance is minor in nature.

#### **2. Are the requested variances desirable for the appropriate development or use of the**

### **land, building or structure?**

The requested variance is desirable for the appropriate use of the lands, as the boundary adjustment will allow the existing vegetation to be formally recognized. Given that the variance primarily recognizes the existing condition, staff are of the opinion that it is appropriate and desirable for the continued use of the lands.

### **3. Does the requested variance maintain the general intent and purpose of the By-law?**

The requested variance is a result of the proposed boundary adjustment. Section 8.5.3 of the Zoning By-law requires that, at the interface between commercial and residential properties, the commercial property provide a landscape buffer consisting of a wooden privacy fence and a 1.5-metre-deep landscaped strip.

The variance requests permission to utilize the existing vegetated condition as the buffer between the respective properties. Staff note that, aside from the conveyance of land, no physical changes are proposed. The strip of land being conveyed will act as a larger buffer between the properties and will help ensure continued compatibility. As Part 2 will not be rezoned, commercial uses will not be permitted on this portion of the lands, further ensuring adequate buffering between the two properties.

Town staff are of the opinion that the requested variance maintains the intent of the Zoning By-law.

### **4. Does the requested variance maintain the general intent and purpose of the Official Plan?**

4 Queenston Street is designated "Delineated Built-up Area" in the Niagara Official Plan (the "NOP") and "General Commercial" in the Town Official Plan (2017). 28 Clarence Street is designated "Delineated Built-up Area" in the NOP and "Established Residential" in the Town Official Plan.

The proposed boundary adjustment does not seek to redesignate the lands being conveyed from 28 Clarence Street, and these lands will remain within the Established Residential designation. The requested variance will allow the existing vegetated buffer to be formalized as part of the commercial property at 4 Queenston Street.

Town staff are of the opinion that the proposal maintains the general intent and purpose of the Official Plan.

## **5.3 Town, Agency and Public Comments**

These applications were circulated to all appropriate Town department and external agencies, and public notice of the applications was provided as required by the Planning Act. The following responses were received:

### Town Departments

Building – No objection.

Finance – No objection.

Fire – No objection.

Heritage - No objection.

Public Works – No objections.

Agencies

Enbridge – No objection.

Hydro One – No objection.

Niagara Escarpment Commission - No objection.

Public

No public comments were received at the time of preparing this report.

## **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 or Minor Variance(s) and/or conditions.

## **8. FINANCIAL IMPLICATIONS**

The owner/applicant is responsible for any fees and costs associated with clearing conditions, including payment.

## **9. ENVIRONMENTAL IMPLICATIONS**

There are no anticipated environmental impacts. No vegetation is being removed as a part of the boundary adjustment.

## **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-04/26 and Minor Variance Application A-06/26 for 28 Clarence Street and 4 Queenston Street, subject to the recommended conditions, as the applications meet the *Planning Act* requirements, are consistent with the PPS, and conform with the 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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