



The Town of Niagara-On-The-Lake

Department of Community
& Development Services
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1593 Four Mile Creek Road
P.O. Box 100
Virgil, Ontario
L0S 1T0

Report:	CDS-18-018	Committee Date:	April 09, 2018
		Due in Council:	April 16, 2018

Report To:	Community & Development Advisory Committee
Subject:	402 Johnson Street - Zoning By-law Amendment

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 The application for Zoning By-law Amendment for 402 Johnson Street be approved; and
- 1.2 The draft Zoning By-law Amendment for 402 Johnson Street, attached as **Appendix B** to this report, be forwarded to Council for adoption.

2. PURPOSE / PROPOSAL

An application for Zoning By-law Amendment for reduction in lot frontage has been made for lands municipally known as 402 Johnson Street. The Zoning By-law Amendment is required to facilitate a future consent application for the creation of a new lot.

3. BACKGROUND

Site Description and Surrounding Land Uses

The subject lands are a corner lot on the north-west corner of the intersection of Johnson Street and Nassau Street in the Built-up Area of Old Town. The subject lands are connected to municipal water and waste water and have public road access. The location of the subject lands is shown in **Map 1** in **Appendix A**. The owner proposes to demolish the existing two-storey residential dwelling and attached garage and sever a portion of the property. The construction of a new single-family dwelling is proposed on each lot. The proposal is shown in **Map 4** in **Appendix A**.

Part 1, the proposed corner lot, has 21.34 metres of frontage on Johnson Street and a depth of approximately 44.75 metres. The total area of Part 1 is 954 square metres. Part 2, the proposed interior lot, has 23.72 metres of frontage on Johnson Street and a depth of approximately 44.74 metres. The total area of Part 2 is 1,061 square metres.

Existing uses on the subject lands are shown in **Figure 1**. Surrounding lands are characterized by low density residential uses.



Figure 1: Existing dwelling on subject lands.

4. DISCUSSION / ANALYSIS

The Zoning By-law Amendment application has been reviewed in consideration of Provincial and Regional planning policies, the Town's Official Plan and the Town's Zoning By-law.

4.1 Provincial and Regional Planning Policy and Legislative Review

The subject land is in the Built-Up area of Old Town and identified as a settlement area within the Town of Niagara-on-the-Lake as per the definition of a *settlement area* in the Provincial Policy Statement.

The Provincial Policy Statement, Part IV, speaks to the use of efficient development patterns that optimize the use of land, resources and public investment in infrastructure and public services that promote a mix of housing. Section 1.1.3.1 states settlement areas shall be the focus of growth and development, and their vitality and regeneration shall be promoted. Further, Section 1.1.3.2 states that land use patterns within settlement areas shall be based on densities and a mix of land use which efficiently use land and resources; are appropriate for, and efficiently use, the infrastructure and public facilities that are planned or available; and support a

range of uses and opportunities for intensification and redevelopment. Section 2.6.2 states that development and site alteration is not permitted on lands containing archaeological resources. A Stage 1-2 Archaeological Assessment was completed and concluded that no archaeological resources were identified. A clearance letter from the Ministry of Tourism, Culture and Sport (MTCS) has confirmed this.

Section 1.2.1 of the Growth Plan for the Greater Golden Horseshoe speaks to prioritizing intensification and higher densities to make efficient use of land and infrastructure. Section 2.2.1.2(a) of the Growth Plan for the Greater Golden Horseshoe states that the vast majority of growth will be directed to settlement areas that have existing municipal water and waste water systems. Further, Old Town is identified as a delineated built-up area in the Growth Plan. Section 2.2.1.2(c) states that in settlement areas, growth will be focused in delineated built-up areas.

The Niagara Region Official Plan speaks to the management of growth in existing Urban and Built-up Areas. Policy states that growth should be directed to existing Urban Areas and Built-up Areas through intensification that promotes efficient use of existing municipal sewage and water services. Section 4.G.8.1 states that Built-up Areas will be the focus of residential intensification and redevelopment within the Region over the long term.

The Zoning By-law Amendment would facilitate infilling and promote the efficient use of land, infrastructure and utilization of existing municipal sewer and water services. Therefore, the application conforms to Provincial and Regional policies.

4.2 Town of Niagara-on-the-Lake Official Plan

The subject lands are currently designated Established Residential on Schedule “B” to the Town’s Official Plan. **Map 2 in Appendix A**, shows the designation of the subject lands.

4.2.1 Established Residential Policies

Section 9.3.3(1) of the Official Plan states the permitted uses in Established Residential designated areas. Low Density Residential uses, such as single-detached dwellings, are permitted. Due to the variety of lot sizes, frontages, setbacks, and depths in Established Residential designation areas, Section 9.3.3 states the following policies that apply to lands within the Established Residential Zones in Old Town: section 9.3.3(A) states that changes to lot frontage may be permitted subject to a Zoning By-law Amendment; and section 9.3.3(B) states that the required Zoning By-law Amendment shall be processed prior to the acceptance of an Application for Consent to Sever Land; and section 9.3.3(C) states in the analysis of any application to amend the Zoning By-law proposing changes to lot frontage consider the following:

- i) *The average lot frontage and lot depth of the existing parcels on the block face;*

The average lot frontage of existing parcels on the block face on Johnson Street (410 to 450 Johnson Street) range between 18.3 m to 24.2 m. The depth of the lots range from 44.75 m to 72.8 m. A large estate lot with 64.6 m of frontage and a depth of 128.6 m is located at 454 Johnson, however a proposal has been submitted to sever the property into six lots with 21.5 m of frontage and a depth of 54.6 m. The additional two properties on the block face to the west have a lot frontage of 31.1 m (478 Johnson) and 31.1m (490 Johnson) and a depth of 48.7 m.

- ii) *In the case of corner lots, average lot frontages and lot depths shall be calculated on both block faces;*

Due to the property being a corner lot, the average lot frontage and depth of the block face along the west side of Nassau Street, between Johnson Street and Gage Street, must also be considered. The average lot frontage of existing parcels on the block face of Nassau Street (279 to 295 Nassau Street) range between 18.6 m and 22.9 m. The depth of the lots range from 36.9 m to 63.36 m. The proposed lot frontage for the corner lot at 402 Johnson Street is 21.34 m with a depth of 44.75 m. The proposed lot frontage for the interior lot at 402 Johnson is 23.72 with a depth of 44.75 m. The lot frontage and depth of the proposed lots are consistent with surrounding lots on the block faces of Johnson Street and Nassau Street.

- iii) *The relevant intensification policies of the Official Plan;*

The subject land is identified as a Built-up Area in the Old Town as shown on schedule I-1 in the Official Plan. Section 6A.4.4 speaks to the intensification policies in the Built-up Area. Specifically, Section 6A.4.4(a) states that intensification is to be accommodated within the Built-up Area. Further, Section 6A.4.4(b) states that the predominant built form for intensification within the residential areas of the built-up areas will be single-detached dwellings. Section 6A.4.4(g) states that the Region and Town will ensure adequate supply of water and sanitary services and that the infrastructure for the collection of wastewater can support the increased load from intensification. Further, Section and 6A.4.4(i) states that consideration will be given with respect to capacity of existing infrastructure which may be necessary to service the Built-up Area. The Region is in the process of commissioning a new sewage treatment plant for the Town that will provide increased capacity for current and future development. Until the new plant is online, new infill lots require the approval of Council for the purposes of sanitary allocation. Sufficient capacity exists in the existing plant for the proposed lot, subject to the owners request for allocation. Section 6A.4.4(h) states that the Town will ensure intensification and redevelopment is consistent with the heritage and character of the Built-up Area. As mentioned in Section 4.2.1(i) and 4.2.1(ii) of this report, the proposed lot sizes are consistent with the surrounding characteristics of the streetscape and the block faces.

- iv) *A streetscape study;*

The Official Plan describes a streetscape study as a view or vista of a specific street with distinguishing characteristics made up of streetscape elements such as the potential use of plant materials, setback, mass proportion, and scale of those buildings which enclose the street. A streetscape study was submitted that supports the application and was analyzed by Town Staff. As mentioned in section 4.2.1(i) and 4.2.1(ii), eight properties, located along the block face of Johnson Street, and four properties, located along the block face of Nassau Street, were analyzed and found to have similar low-density residential uses and an average lot depth and frontage that is consistent with the proposed new dwellings. Properties on both block faces have mature trees with well-kept yards and gardens. A tree study was completed and indicated that twenty-two mature trees will be preserved on the site. Town Staff have reviewed the Streetscape Study and are satisfied that the proposed lots will be consistent with the streetscape of both block faces.

v) *A Planning Justification study;*

A Planning Justification Report analyzes the proposed development against relevant Provincial, Regional, and local planning documents and policies. A Planning Justification Report was submitted that supports the application. The report concludes that the proposed rezoning of the property and severing into two lots is consistent with Provincial, Regional and Town planning policies. The report also concludes that existing water, sewer and stormwater servicing are adequate for the proposed severed lot. Further, the report states that the proposed single-family residences are consistent with the streetscape of the surrounding neighbourhood and that there will be no impact to significant tree species resulting from the removal of trees required for the construction of the dwellings. Town Staff have reviewed the Planning Justification Report and accept the conclusions.

vi) *An Arborist report which shall consider the potential impacts on all trees and addresses Carolinian Canadian species;*

An Arborist report was submitted that identified and assessed all trees on the property. The study indicates twenty-two mature and healthy trees are to be preserved that surround the perimeter of the property. The trees to be preserved are a diverse range of coniferous and deciduous trees. Notably, eight Sweet Cherry (*Prunus avium*) are to be preserved that front onto Johnson Street and Nassau Street. Eight mature trees, as well as an additional twenty-one trees, within the proposed building envelopes, are to be removed. The study concluded that no rare, provincially significant, or trees considered to be species-at-risk were identified during the study.

vii) *Estate Lots and relevant policies;*

Among other requirements in section 6.9 of the Official Plan, the dwelling on an estate lot must be of historical or architectural significance. The dwelling on the subject lands is not considered to be of historical or architectural significance, and

accordingly the lot is not considered to meet the definition of an estate lot. Consequently, the estate lot policies in section 6.9 do not apply.

- viii) *Existing and proposed land uses on the subject lands and surrounding lands.*

The proposed low-density residential use of the subject lands is considered to be compatible with the surrounding low-density residential land use.

Section 9.3.3(D) states that any Zoning By-law application proposing changes to lot frontage may be approved if the above-noted considerations in clause (C) adequately demonstrate that the proposed new lot(s) will maintain or improve the character of the block face. Town Staff have reviewed the noted considerations in clause (C) and anticipate that the proposed changes to lot frontage will maintain the character of the block face.

4.2.2 Archaeological Assessment

Section 6.1 states that a condition of a planning application for the development or redevelopment of land may require the proponent to undertake an Archaeological Survey. The subject lands fall within the area of archaeological potential and are subject to the requirement for an archaeological study. A Stage 1-2 Archaeological Assessment was completed and concluded that no archaeological resources were identified. A clearance letter from the Ministry of Tourism, Culture and Sport (MTCS) has confirmed this.

4.3 Zoning By-Law

The subject lands are currently zoned Established Residential (ER). **Map 3** in **Appendix A** to this report shows the current zoning of the subject lands.

Under “Established Residential (ER)” in the Zoning By-law, Section 7.1.2 states that the required lot frontage and lot depth is “as existing”. To address the proposed reduction of lot frontage, the Zoning By-law Amendment will rezone the property to an “Established Residential – Site Specific” Zone.

4.4 Town Department and Agency Circulation Comments

The application has been circulated to Town Departments and agencies. The following is a summary of the comments that have been received to date:

Town of Niagara-on-the-Lake

Building Services – No comments or concerns.

Corporate Services – No comments or concerns.

Fire & Emergency – No comments or concerns.

Heritage – No comments or concerns.

Urban Design – No comments or concerns.

Operations – No comments or concerns.

Agencies

Enbridge – No comments or concerns.

4.5 Public Consultation

A written comment was received on January 29, 2018 from the resident of 410 Johnson Street indicating a concern regarding the loss of sunlight on their property due to the location of the new dwellings. The resident suggested that the new dwellings front onto Nassau Street with backyards adjacent to the property line of 410 Johnson. The written comment is attached as **Appendix C**. At the public meeting, held on March 5, 2018, the same resident indicated concern regarding the loss of sunlight and offered suggestions for orientation of the new dwellings.

A written response was received on March 26, 2018 from the applicant addressing the comments made by the resident of 410 Johnson Street. The applicant response is attached as **Appendix D**.

Planning Staff have considered the comments of the neighbouring resident and the applicant response. Staff consider that there are no existing windows on the neighbouring residence along the adjacent property boundary and that existing vegetation likely blocks some portion of sunlight that might otherwise be available to the relatively small uncovered portion of the neighbour's veranda adjacent to the subject lands. Additionally, there is no sanitary sewage connection available along Nassau Street adjacent to the subject lands. The orientation of the new dwellings off Johnson Street is required to facilitate a sanitary sewage connection. Staff are accordingly not recommending that the proposed orientation of the lots be changed.

5. STRATEGIC PLAN

Not applicable.

6. OPTIONS

Not applicable.

7. FINANCIAL IMPLICATIONS

There are no cost or revenue implications for the Town arising from this application. The costs of processing the application are incurred solely by the applicant.

8. COMMUNICATIONS

Should the draft Zoning By-law Amendment be adopted, as recommended by Town

Staff, notice of passing will be circulated as set out in the Planning Act. There is then a 20-day appeal period, after which, if no appeals are received, the decision is final.

9. CONCLUSION

The Zoning By-law Amendment application is required prior to the acceptance of an application for consent to sever land. The proposed reduction in lot frontage and future severance will permit the development of single-detached residential dwellings within the Built-up Area of Old Town, which is considered to be consistent with and conform to applicable Provincial, Regional and Town Policies.

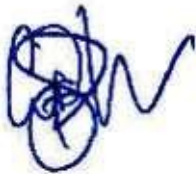
Respectfully submitted,



Liam Murphy
Student Planner



Eric Withers, MCIP, RPP
Manager of Planning (A)



Craig Larmour
Director of Community
& Development Services



Holly Dowd
Chief Administrative Officer

ATTACHMENTS



Appendix A.pdf



Appendix B - Draft Zoning By-law.pdf



Appendix C.pdf



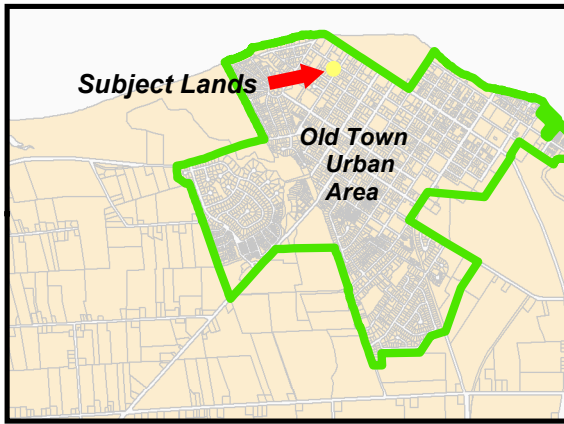
Appendix D .pdf

WEB ATTACHMENTS

ATTACHMENTS FOR LINK

First Capital of Upper Canada - 1792

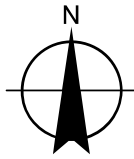
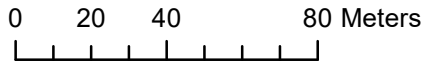
Key Map



MAP 1: LOCATION MAP
File: 402 Johnson Street
ZBA-05-2018

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1:850

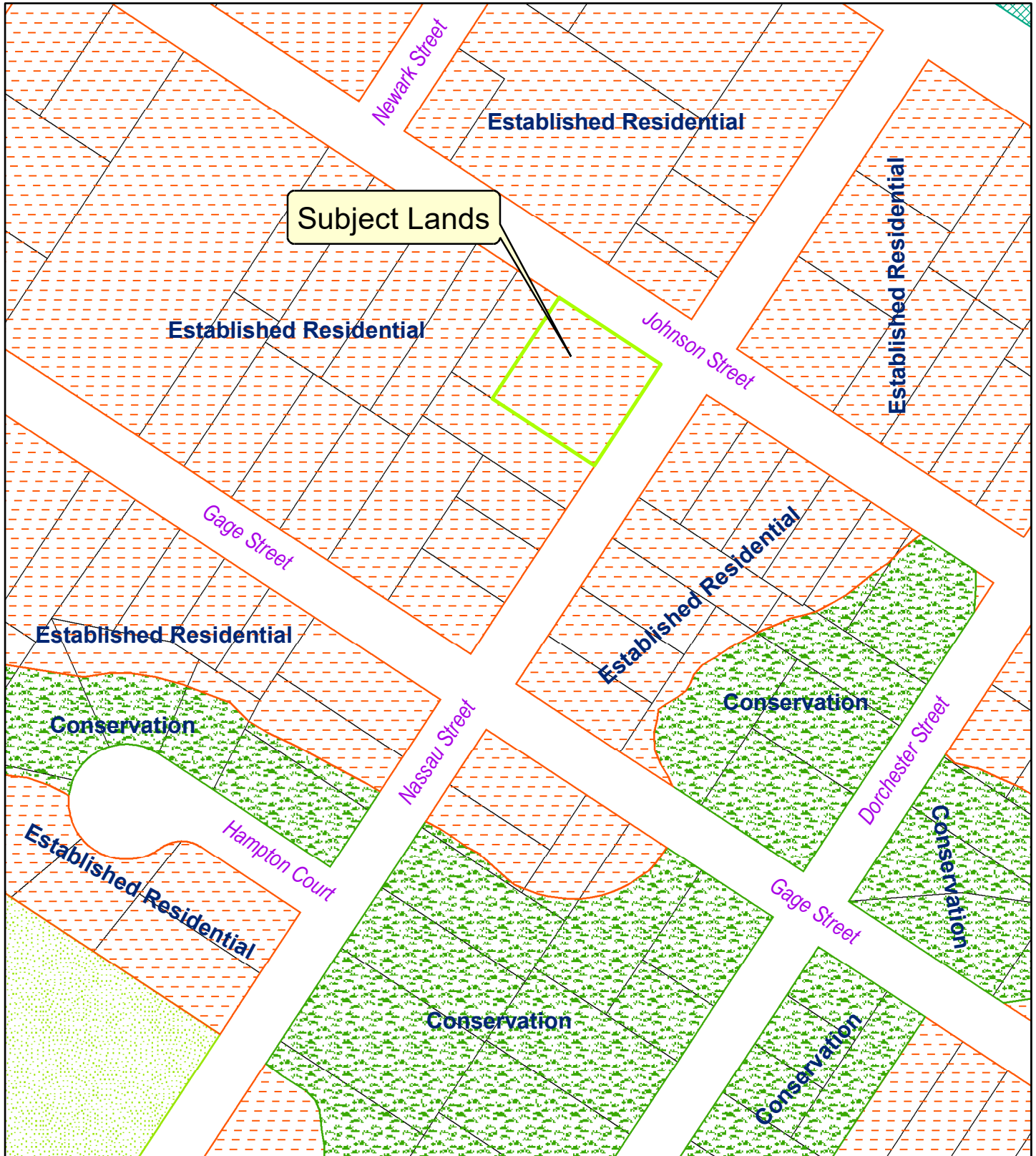


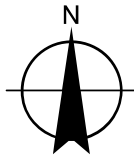
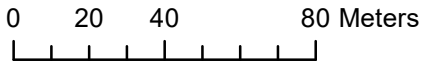


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MAP 2: OFFICIAL PLAN
Land Use Designations

File: 402 Johnson Street
ZBA-05-2018



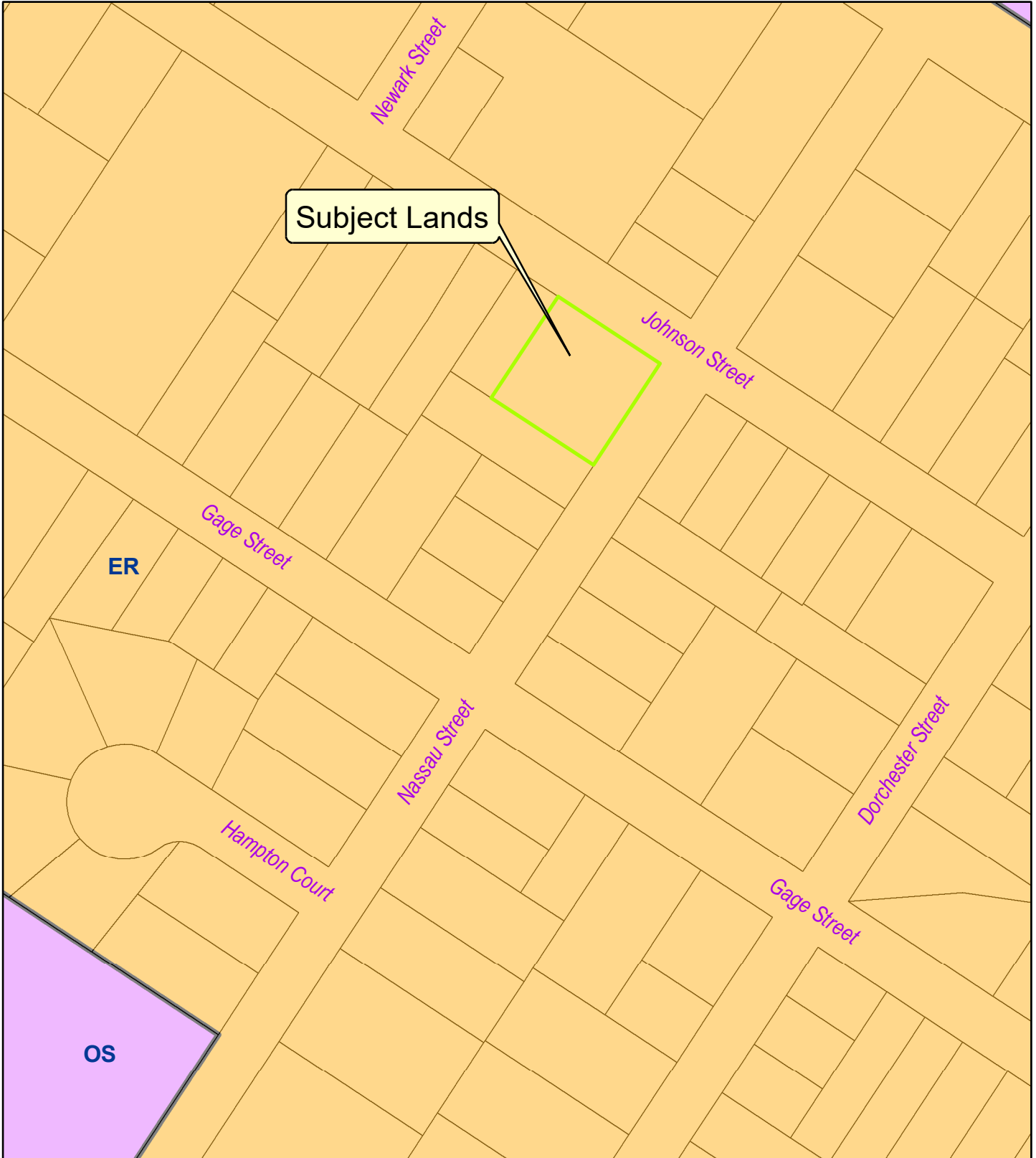


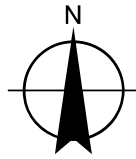
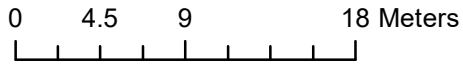
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MAP 3: ZONING

As per Zoning By-law 4316-09, as amended

File: 402 Johnson Street
ZBA-05-2018



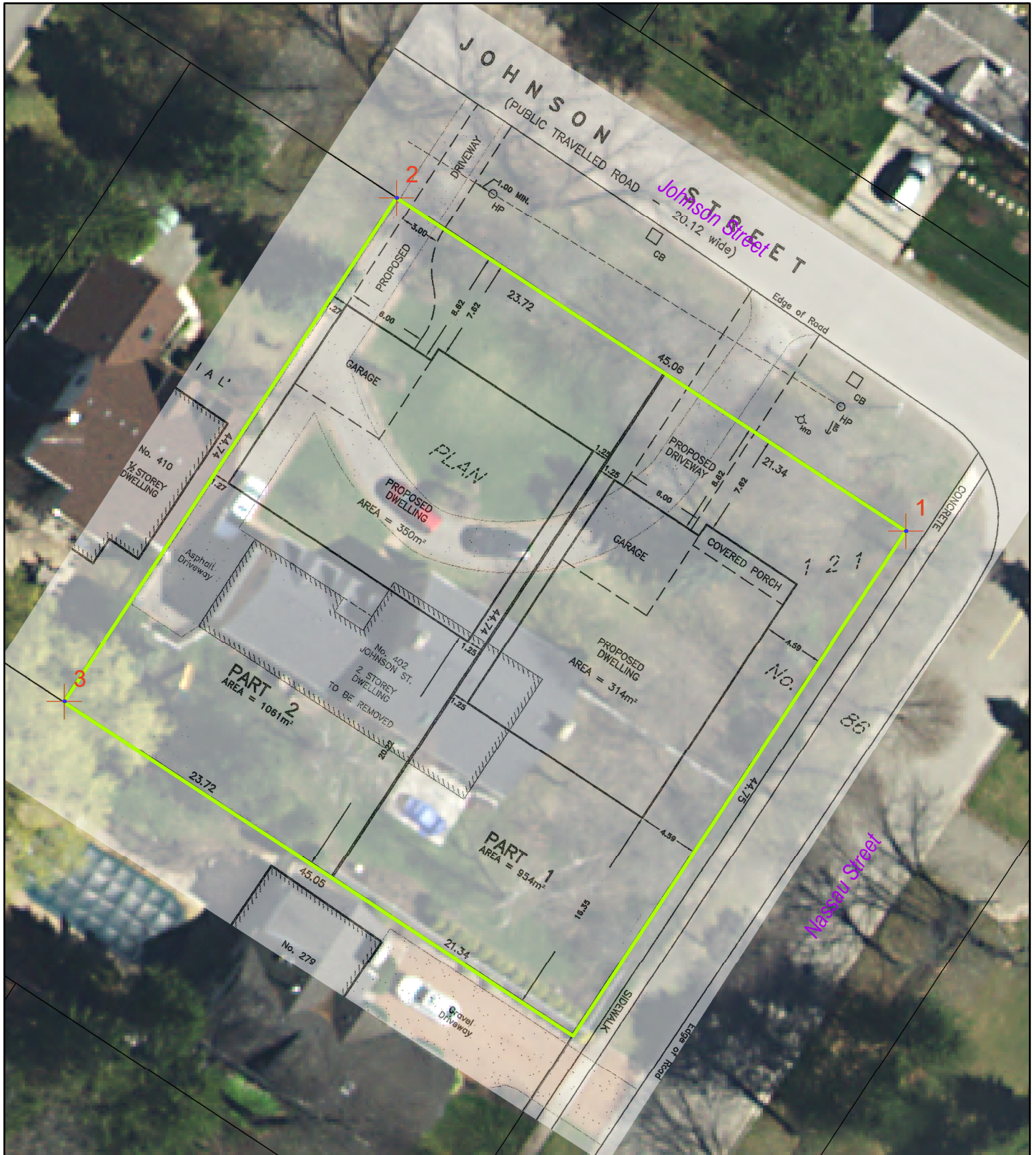


1:400

MAP 4: PROPOSAL

File: 402 Johnson Street
ZBA-05-2018

As



**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 4316XX - 17**

402 Johnson Street Roll 010006017000000

A BY-LAW TO AMEND BY-LAW NO. 4316-09, AS AMENDED, ENTITLED A BY-LAW TO REGULATE THE USE OF LANDS AND THE ERECTION, USE, BULK, HEIGHT, LOCATION, AND SPACING OF BUILDINGS AND STRUCTURES WITHIN THE TOWN OF NIAGARA-ON-THE-LAKE.

WHEREAS the Town of Niagara-on-the-Lake Council is empowered to enact this By-law by virtue of the provisions of Section 34 of the Planning Act, R.S.O. 1990, c.P.13, as amended;

AND WHEREAS this By-law conforms to the Town of Niagara-on-the-Lake Official Plan.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE enacts as follows:

1. Schedule "A-3" of By-law 4316-09, as amended, is further amended by changing the zoning of the subject lands identified on Map A (attached to and forming part of this By-law) from "Established Residential (ER) Zone" to "Established Residential (ER-84) Site Specific Zone".
2. That Subsection 7.14, Site Specific Exceptions is hereby further amended by adding the following:

7.14.84 402 Johnson Street – See Schedule 'A-3' (ER-84)

7.14.84 ER-84 Zone Requirements:

In lieu of the corresponding provisions of Subsection 7.1.2, the following provision shall apply on the lands identified as ER-84:

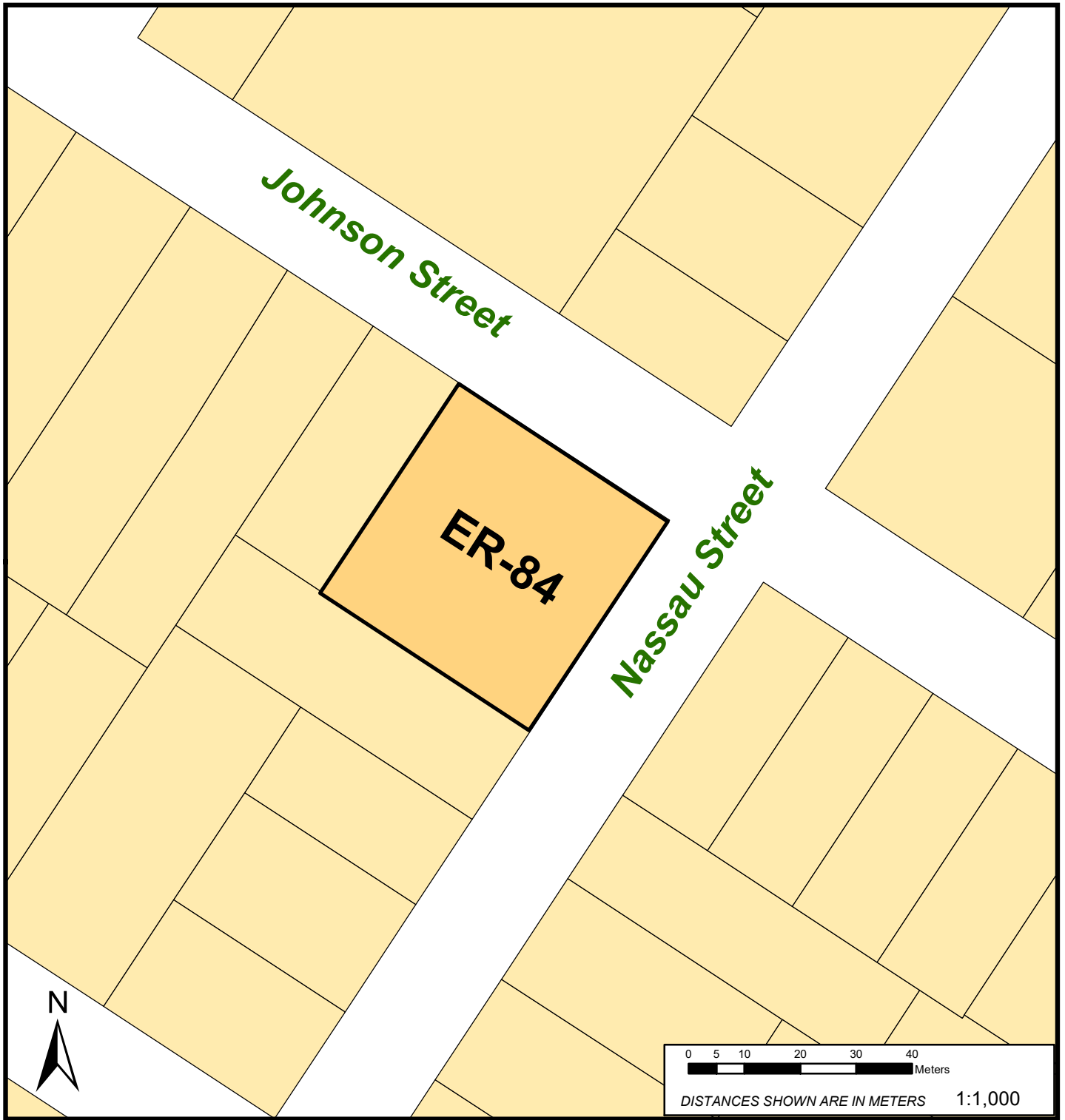
(a)	Minimum <i>lot frontage</i>	21.34 metres
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3. That the effective date of this By-law shall be the date of final passage thereof.

READ A FIRST, SECOND AND THIRD TIME THIS _____ DAY OF _____, 2018.

LORD MAYOR PAT DARTE

TOWN CLERK PETER TODD



MAP 'A' ATTACHED TO BY-LAW 4316xx-18, BEING AN AMENDMENT TO SCHEDULE "A-2" OF ZONING BY-LAW 4316-09, AS AMENDED, OF THE TOWN OF NIAGARA-ON-THE-LAKE AS PASSED ON THIS xxTH DAY OF MONTH, 2018.

LORD MAYOR
PAT DARTE

TOWN CLERK
PETER TODD



402 Johnson St.
[REDACTED]

to:

dhorne

01/29/2018 01:57 PM

Hide Details

From: "[REDACTED]" >

To: dhorne@notl.org

History: This message has been replied to and forwarded.

I have the **Notice of Complete Application and Open House** for 402 Johnson St. for January 31.

Regretfully I am unable to attend.

The Property is to the East of my home at 410 Johnson St. immediately adjacent to it. .Because of the much reduced front setback the proposed new two-story house closest to 410 will shade my property from the morning sunlight.

There are five existing homes (including 410) facing North and running West on Johnson Street with my house, being immediately adjacent to the lot line of 402, They all have varied and larger setbacks than those proposed for the new lots on 402.

Possible alternatives:

Increase the setback on the proposed new house closest to 410 so it does not block the sunlight, or re-orient the proposed two new houses so their frontage is on Nassau Street (facing East) and the new backyards would be adjacent to the property line of 410 mitigating the shading problem since they will not have the elevation of the proposed houses.

Thank you for your attention and help.

[REDACTED], Owner
410 Johnson St.
Niagara on the Lake

March 26, 2018
Project No. 17205

Ms. Denise Horne M.A
Planner 1
Town of Niagara-on-the-Lake
1593 Four Mile Creek Road
P.O. Box 100
Virgil, ON
L0S 1T0

Dear Ms. Horne:

**Re: Zoning By-law Amendment Application – ZBA-05-2018
402 Johnson Street, Niagara-on-the-Lake
Response to Comment from Neighbour**

The owner of 402 Johnson Street, Niagara-on-the-Lake submitted a request for a Zoning By-Law Amendment (ZBA) in support of a request to sever the property to create an additional lot. A letter was received by the Town from the adjacent landowner at 410 Johnson Street, with comments on the ZBA application. The adjacent property owner also presented his comments at the Public Meeting on March 5, 2018. The submission provided by the proponent for presentation at the Public Meeting addressed the neighbours comments and has previously been provided to Town Staff.

The main concern identified by the adjacent property owner is the new residence will shade their property from morning sunlight. Possible alternatives were presented by the adjacent landowner in the letter. The adjacent landowner did not indicate in their letter or at the public meeting that they were opposed to the ZBA. The following presents a response to the concern and alternatives.

1. Consideration to Comments

(i) Shading

As noted on the attached photographs the adjacent residence has no windows along the property line. The orientation of the proposed new residence will not impact sunlight on the backyard of the adjacent property. Therefore, the only potential impact is to the front veranda. As seen on the attached photographs, the front veranda is also covered, and there is considerable vegetation along the property line, which currently minimizes sunlight on the veranda. There is only a very small part of the veranda that is uncovered and extends into the setback from the property line.

It should be noted that even if the proponents were not seeking to sever the property, they could construct a 2 metre high fence along the property line or plant vegetation. Further they could also apply to reconstruct a single residence on the property that could be located with a minimum 7.5 metre setback from the front property line. This could all have similar impact and be done without consideration to the adjacent property owners concerns.

(ii) North-South Orientation

It was indicated by the property owner at the Public Meeting that the orientation of the properties and residences are north-south and therefore the sun would be blocked from the east. As shown on

the attached figure, which was part of the ZBA application, the orientation is closer to a northeast-southwest orientation. As such there is less impact than if it was actually a north-south orientation and the intent of the concern is less.

(iii) Setback of Adjacent Residences

The adjacent property owner commented that the five adjacent properties along Johnson Street have deeper setbacks than that proposed by the proponent. The reason that the adjacent properties have deeper setbacks is that the lots are deeper, so that the residences are proportionally centred on the lot. The rationale for the proponent's orientation of the proposed residences on the properties is to create a more proportioned layout with more useable backyard space, yet still meeting all the setback requirements of the Zoning By-law. The proponent is not seeking any variance from the setback requirements in the Zoning By-law. It should be noted that the supporting documentation for the proposed severance at 454 Johnson Street shows a 7.5 metre setback for residences on the three new lots being created along Johnson Street.

2. Consideration of Alternatives

(i) Increase Setback of Residence on Lot Adjacent to Adjacent Property

The proponent wishes to maximize useable backyard space for both lots. The proponent has oriented the residences on each lot so that they comply with all setback requirements of the Zoning By-law. Further, regardless of the set back, the proponent can still construct a 2 metre high fence between the properties which would impact most of the small portion of the veranda that is along the property line.

(ii) Front Lots and Residences onto Nassau Street

At the preconsultation meeting, it was indicated that the lots must continue to front onto Johnson Street, due to the location of services. Further, even if the lots and residences fronted on Nassau Street, it is likely that the proponent would construct a 2 metre high fence and plant vegetation along the rear property line, which would be the property line with the adjacent property.

We trust that the information as the presentation materials provided for the Public Meeting address the comments from the neighbouring property owner. If you have any questions, or require further information, please contact me at (905) 371-9764 (ext. 225) or by email at gтарas@uemconsulting.com.

Yours very truly,

URBAN & ENVIRONMENTAL MANAGEMENT INC.



Greg Taras, RPP
Senior Planner





02.22.2018

02.22.2018





Figure 1-1 Site Location

