

June 27, 2022

Natalie Thomson
Secretary-Treasurer
Committee of Adjustment
Town of Niagara-on-the-Lake

Dear Ms. Thompson,

ADDENDUM TO MINOR VARIANCE APPLICATION A-27/22
12 LORRAINE STREET, NIAGARA-ON-THE-LAKE

1.0 Introduction

We are pleased to submit this addendum letter in support of the application for Minor Variance for the above noted property. The purpose of this addendum is to address additional minor variances identified by the Town, for metal sided shed, lean-to, and wooden deck on the retained lot (Part 1). NPG has also identified an additional minor variance for accessory building coverage. The minor variance application is related to consent application B-19/22.

Since our submission on June 16th, 2022, we have received comments from Town Staff, stating that additional minor variances are needed to address the existing accessory structures on the retained lot. By the way of this addendum letter, we are submitting the required analysis for the Four Tests of Minor Variance set forth in Section 45(1) of the *Planning Act*:

The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under section 34 or 38, or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained. R.S.O. 1990, c. P.13, s. 45 (1); 2006, c. 23, s. 18 (1); 2009, c. 33, Sched. 21, s. 10 (11).

2.0 Analysis of Four Tests

The application proposed the following variances:

- Permit an increased lot coverage for accessory structures from 8.0% to 10.4% [section 6.1 (a) (1)]

- Permit a decreased accessory building yard setback from 1.5 m to 0.0 m (north lot line) for the metal sided shed [section 10.1.2 (k)]
- Permit a decreased accessory building yard setback from 1.5 m to 0.0 m (north lot line) and from 1.5 m to 1.06 m (east lot line) for the lean-to [section 10.1.2 (k)]
- Permit a portion of an uncovered deck to encroach 1.4 m into interior side yard whereas 0.6 m is permitted [section 6.44]

The following is an analysis of the Application for Minor Variance in relation to the four tests for Minor Variances

Variance No. 1: Permit an increased lot coverage for accessory structures from 8.0% to 10.4%

Proposed: 8.0%
Required: 10.4%

Table 2.1: 4 Test Analysis Table – Variance No. 1

Test	Analysis
1. Is the requested variance minor in nature?	<p>The main consideration in determining whether a variance application is minor is determining the degree of adverse impact that will occur if the variance is granted. If the variance does not produce an unacceptable adverse impact on the neighbours, then it likely meets the test for minor.</p> <p>The requested variance would permit an increase in 2.4% of lot coverage for the accessory structures. Of note, the increase in lot coverage is for existing structures which have not resulted in any negative impacts on the surrounding lands. Further, the metal sided shed and lean to are located along the northern lot line which abuts commercial uses. The relief being sought would not result in impacts with respect to shadowing or loss of privacy. There are no other anticipated adverse impacts to adjacent dwellings.</p>
2. Is the requested variance desirable for the appropriate development or use of the land, building, or structure?	<p>The accessory structures on the subject lands are existing and there would not be any new accessory structures developed. The existing structures provide amenity space and storage for the residents of the subject lands. Therefore the requested variance is appropriate for the development of the land.</p>
3. Does the requested variance maintain the general intent and purposes of the By-law?	<p>One of the intents and purposes of the Town's Zoning By-law with respect to the R1 zone is to facilitate the development of low-density residential uses such as single-detached dwellings which provide necessary amenity space and storage. The proposed variance would provide storage and amenity space for the residents and permit the development of a single detached dwelling on the newly created lot.</p>

<p>4. Does the requested variance maintain the general intent and purpose of the Official Plan?</p>	<p>The general intent and purpose of the Official Plan is to facilitate the development of low-density residential uses while ensuring that development is compatible with the surrounding area. The proposed development satisfies this intent. Therefore, the general intent and purpose of the Official Plan is maintained.</p>
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Variance No. 2: Permit a decreased accessory building yard setback from 1.5 m to 0.0 m for the metal sided shed (north lot line)

Proposed: 0.0 m

Required: 1.5 m

Test	Analysis
<p>1. Is the requested variance minor in nature?</p>	<p>As mentioned, the main consideration in determining whether a variance is minor is determining the degree of adverse impact that will occur if the variance is granted.</p> <p>The metal sided shed is located on the northern lot line. The northern lot line abuts commercial uses. The proposed setback variance will not result in any negative impacts to the commercial uses.</p>
<p>2. Is the requested variance desirable for the appropriate development or use of the land, building, or structure?</p>	<p>The requested variance is desirable for the development of the land as they permit the use of an existing storage structure and facilitates the creation of a new lot of record.</p>
<p>3. Does the requested variance maintain the general intent and purposes of the By-law?</p>	<p>The intent of the zoning by-law is to permit the appropriate development and use of accessory structures which does not cause adverse impacts on adjacent lands. The requested variances satisfies this intent as the shed is existing has not resulted in any negative impacts to the commercial uses. The shed abuts a wood board fence and a commercial property to the north and so a setback is not needed to achieve compatibility.</p>
<p>4. Does the requested variance maintain the general intent and purpose of the Official Plan?</p>	<p>The requested side yard variance maintains the intent and purpose of the Official Plan as the existing deficiency reflects a non-complying use which has proven to be compatible with the surrounding lands.</p>

Variance No. 3: Permit a decreased accessory building yard setback from 1.5 m to 0.0 m (north lot line) and from 1.5 m to 1.06 m (east lot line) for the lean-to

Proposed: 0.0 m
Required: 1.5 m

Test	Analysis
<p>1. Is the requested variance minor in nature?</p>	<p>As mentioned, the main consideration in determining whether a variance is minor is determining the degree of adverse impact that will occur if the variance is granted.</p> <p>The lean-to is located on the northern lot line. The northern lot line abuts commercial uses. The proposed setback variance will not result in any negative impacts to the commercial uses.</p> <p>The lean-to is located 1.06 metres from the proposed eastern lot line, requiring a variance of 0.44 metres. This setback can be considered minor in nature as it is existing and not intrusive to the newly created lot.</p>
<p>2. Is the requested variance desirable for the appropriate development or use of the land, building, or structure?</p>	<p>The requested variances are desirable for the development of the land as they permit the use of an existing storage structure and facilitates the creation of a new lot.</p>
<p>3. Does the requested variance maintain the general intent and purposes of the By-law?</p>	<p>The requested variances satisfy the intent of the Zoning By-law as the lean-to is existing has not resulted in any negative impacts to the commercial uses to the north. The lean-to abuts a wood board fence and a commercial property to the north and so a setback is not needed to achieve compatibility. No negative impacts are anticipated for the newly created residential parcel to the east. A setback greater than 1 metre from the east lot line from the lean-to is sufficient.</p>
<p>4. Does the requested variance maintain the general intent and purpose of the Official Plan?</p>	<p>The requested side yard variances maintain the intent and purpose of the Official Plan as the existing deficiency reflects a non-complying use along the northerly lot line, which has proven to be compatible with the surrounding lands. No impacts are anticipated on lands to the east.</p>

Variance No. 4: Permit a portion of an uncovered deck to encroach 1.4 m into interior side yard whereas 0.6 m is permitted

Proposed: 1.4 m encroachment
Required: 0.6 m encroachment permitted

Test	Analysis
1. Is the requested variance minor in nature?	The wood deck is an accessory structure, which is permitted to encroach 0.6 m into the required side yard of 1.5 m. The wood deck on-site is at-grade (approximately 5 " above ground level) and acts as a surface patio. The deck encroaches into the required interior side yard along the proposed new lot line, to a pinch point of 0.1 m. No negative impacts are anticipated as a result of this variance. Therefore, the variance is minor in nature.
2. Is the requested variance desirable for the appropriate development or use of the land, building, or structure?	The requested variance is desirable for the development of the land as it would permit the use of the existing at-grade deck on the retained parcel. The deck serves as amenity space for the residential property.
3. Does the requested variance maintain the general intent and purposes of the By-law?	The requested variance satisfies the intent of the By-law as access can be achieved over the deck along the eastern interior side yard. The deck does not block the use of this yard.
4. Does the requested variance maintain the general intent and purpose of the Official Plan?	The requested variance maintains the intent and purpose of the Official Plan as the existing wood deck is not intrusive to adjacent lands and provides amenity space for the residents of the dwelling.

3.0 Conclusion

This letter provides the planning justification for the approval of additional variances (application A-27/22) needed to facilitate consent application B-19/22. As noted above, the Application complies with Section 45(1) of the *Planning Act*, as the variances are minor in nature, are appropriate for the development of the Subject Lands, and maintain the general intent and purpose of both the Zoning By-law and the Official Plan. The variances facilitate the creation of a new residential lot within the Town's urban area.

Letter prepared by:



Max Fedchyshak
Planner

Letter reviewed and approved by:



Aaron Butler, MCIP, RPP
Development Principal