



August 10, 2022

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

Dear Ms. Thomson

RE: NPG File #22957: 727-733 King Street – Applications for Consent & Minor Variance

NPG Planning Solutions Inc. has been retained by Josh Bice of Butler's Gardens Development to provide independent professional planning advice regarding Consent and Minor Variance applications to facilitate boundary adjustments at 727-733 King Street in Old Town Niagara-on-the-Lake. Please see Consent Sketch provided with the applications.

The boundary adjustment applications propose to sever the rear yard of 727 King Street (Part 1) (767.2 m²) and the rear yard of 733 King Street (Part 6) (987.76 m²), to be merged with Part 3 (1,486.42 m²), which is part of the existing vacant parcel between 727 King Street and 733 King Street. The purpose of the applications is to consolidate vacant, underutilized land for possible future development. The residential dwelling at 727 King Street will be retained on Part 2 (761 m²), and a road widening (Part 7) along the frontage of the property will be provided to the Town. The residential dwelling at 733 King Street will be retained on Part 6 (1,045.74 m²).

To affect the merging of Parts 1, 3 and 5, Part 4 (3 m²) is proposed to be severed from Part 3 and merged with Part 2 (761 m²). This is required as Parts 3 and 4, the vacant residential parcel, was the subject parcel of a previous application for consent (B-05/21). At the Pre-consultation meeting, Town staff pointed out that the Planning Act was recently amended (subsection 53(45)) to allow an application for the cancellation of a previous consent. Staff were not aware of a specific application form or applicable fee that would be relevant to this type of request. Instead of utilizing this subsection of the Act, in the interest of time, the boundary adjustment of Part 4 from Part 3 is being requested.

Please see the tables below for a description of the land holdings before and after the boundary adjustment:

Current Configuration:

Lands	Part(s)	Land Area (m ²).
727 King Street	1, 2 & 7	1,558 m ²
Vacant Central Parcel	3 & 4	1,490 m ²
733 King Street	5 & 6	2,040 m ²

Proposed Configuration following the Boundary Adjustments:

Lands	Part(s)	Land Area (m²).
727 King Street	2 & 4	764 m ²
Vacant Central Parcel	1, 3, & 5	3,212 m ²
733 King Street	6	1,073 m ²
Road Widening	7	29 m ²

Three boundary adjustment applications are proposed to facilitate the above configuration. Two applications for minor variances are required as a result. The Minor Variance Applications proposed the following:

1. Permit an increased maximum lot area from 780 m² to 3,212 m² for the vacant central (Parts 1, 3, & 5)
2. Permit an increased maximum lot area from 780 m² to 1,073 m² for 733 King Street (Part 6)

Included as part of this submission are as follows:

1. Consent Application form for 727 King Street (Part 1 to be severed);
2. Consent Application form for the Vacant Central Parcel (Part 4 to be severed);
3. Consent Application form for 733 King Street (Part 5 to be severed);
4. Minor Variance Application form the newly created Vacant Central Parcel (Parts 1, 3 and 5);
5. Minor Variance Application form for 733 King Street (retained Part 6);
6. Consent Sketch prepared by Kirkup Mascoe Ure Surveying;
7. Town of Niagara-on-the-Lake Combined Consent and Minor Variance Application Fee (2) and Consent Application Fee (1): \$10,395

Section 1.0 of this Planning Justification Letter provides a brief policy analysis of provincial and municipal policies in relation to the applications.

Section 2.0 of this Planning Justification Letter analyzes the application in relation to the four tests for a minor variance.

1.0 Policy Review

The purpose of this section is to evaluate the appropriateness of the proposed minor boundary adjustment and minor variance applications within the context of provincial and municipal policies.

1.1 Planning Act (1990)

The proposed minor boundary adjustments will be facilitated via three consent applications. Subsection 53 (12) of the Ontario Planning Act mandates that the approval of a Consent shall have regard to matters under Section 51 (24) of the Act. Table 1 below assesses the criteria outlined in Section 51(24) in relation to the proposed Consent.

Table 1. Analysis of Consent Criteria in the Ontario Planning Act

Criteria	Proposed Consent
a. the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;	The proposal facilitates opportunity for future infill development at an appropriate location for growth and development, contributes to the orderly development of communities and does not remove any natural areas and agricultural resources of the Province.
b. whether the proposed subdivision is premature or in the public interest;	The proposal is in the public interest as it facilitates a potential future infill scenario while retaining two existing dwellings. There will be no new lots created as a result of the boundary adjustments.
c. whether the plan conforms to the official plan and adjacent plans of subdivision, if any;	Both the Niagara Region Official Plan and the Town of Niagara-on-the-Lake Official Plan support compatible infill development opportunities. The proposal is an example of assembly which provides opportunity for future development which is in conformity with the Regional Official Plan and Town Official Plan, and supports growth and residential intensification within the Urban and Built-up Area of which the Subject Lands are located.
d. the suitability of the land for the purposes for which it is to be subdivided;	The Subject Lands feature three existing lots; one vacant and two with existing residential dwellings. The lands are surrounded by low density residential development; the proposed boundary adjustments consolidates vacant land to create opportunity for future infill development. This is consistent with the established development pattern in this area of the Town. The boundary adjustments would also bring the retained parcels (with existing dwellings) more into conformity with the existing lot fabric of the neighbourhood.
e. the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;	King Street is an established road with an established grade. There are existing driveways from the existing lots to King Street.
f. the dimensions and shapes of the proposed lots;	The retained parcels with existing dwellings (727 King Street and 733 King Street) will be similar to the existing lots in the areas and are suitable for their residential use. The resulting

	central parcel is suitable for future residential development. on the south side of King Street.
g. the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;	There are no restrictions on the land.
h. conservation of natural resources and flood control;	This is not applicable as there are no natural resources or streams on or adjacent to the subject lands.
i. the adequacy of utilities and municipal services;	All Parts are serviced by public water and public wastewater and stormwater services in the King Street road allowance.
j. the adequacy of school sites;	The school sites in the community have adequate capacity for students from this housing. At this time no new lots are being created.
k. the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;	The Town has requested a road widening from the 727 King Street parcel, shown on the Consent Sketch as Part 7.
l. the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and	The dimensions of the proposed boundary adjustment was determined based on the location of the existing dwellings, to be retained.
m. the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006.	The proposed consents would not be subject to Site Plan Control at this time; this is not applicable.

As demonstrated, the proposed development conforms with the criteria outlined in Section 51(24) of the Ontario Planning Act.

1.2 Provincial Policy Statement (PPS), A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan), Niagara Region Official Plan (NROP)

The Subject Lands are within a Settlement Area as defined by the PPS (2020). Section 1.1.3.1 states that settlement areas shall be the focus of growth and development. The proposed development conforms with Section 1.1.1 and 1.1.3.2 of the PPS by facilitating infill that efficiently uses land, resources and existing municipal infrastructure. This is an appropriate location for this form of infill given the available land resources, infrastructure, public facilities, and nearby community infrastructure.

The Subject Lands are located within the delineated built-up area as defined by the Growth Plan (2020). The proposal is consistent with the Growth Plan's mandate for growth to be concentrated in delineated built-up area (Policies 2.2.1.2.a and 2.2.2.3.c) with existing public service facilities (Policy 2.2.1.2.c). The proposed boundary adjustments conform with the Growth Plan as it responds to the priority for intensifying existing residential areas and optimizing existing infrastructure by consolidating land to provide for a possible infill development opportunity in the future.

Regarding the Niagara Region Official Plan, the proposed boundary adjustments facilitate growth within existing Urban Areas in the Region as addressed in Objective 4.A.1.1, optimizes existing municipal sewage and water services as addressed in Objective 4.A.1.12, and helps facilitate compact communities as addressed in Objective 4.A.1.6.

Based on the foregoing, the proposed development is consistent with the PPS and conforms with to the general intent and policies of the Growth Plan and NROP.

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

The Town of Niagara-on-the-Lake Official Plan provides policy direction for the future development of the Town. The Subject Lands are designated Low Density Residential under Schedule B: Land Use Plan – Niagara/Old Town and Built-up Area under Schedule I-1 in the Town of Niagara-On-The-Lake's Official Plan.

1.3.1 - Part 2, Section 6 – General Development Policies

Section 6.11 – Frontage on a Public Street

The proposed boundary adjustments would not significantly alter the frontage of any parts of the Subject Lands.

Section 6.17 – Lot Sizes

All Parts conform to the lot frontage provision of the Zoning By-law. As the lot areas for the newly merged unaddressed parcel and the retained parcel at 733 King Street are larger than the Zoning By-law provision for maximum lot area, minor variances are needed. See Section 2.0 for minor variance analysis.

This policy of the Town OP is to keep lots created by consent or plan of subdivision as small as possible to ensure efficient use of land resources. The proposed land consolidation will result in a lot size larger than the surrounding lands but will provide opportunity for a future infill development. The land consolidation will also have the effect reducing the lot sizes of 727 King Street and 733 King Street bringing the lots more into conformity with the existing lot fabric of the area and the Zoning By-law.

1.3.2 - Part 2, Section 6.A – Growth Management Policies

Under the Town OP's Schedule I-1, The Subject Lands are located in the Built-up Area within the Old Town Urban Area.

Section 6A of the Town Official Plan provides direction for growth management within the Town. The proposal meets the growth strategy objectives set out by the Town in policy 6.A.3.2 because the proposed development:

- does not require adjustment to the current delineation of the urban area boundary (Policy 3.2 (a))
- is within the Town's existing Urban Areas (Policy 3.2 (d));
- optimizes existing infrastructure (Policy 3.2 (g));
- meets the "Residential" objectives and policies of the Official Plan (Policy 3.2 (j)) which are discussed below;
- contributes to the development of compact communities by providing future residential infill opportunities (Policy 3.2 (l)).

The proposal helps achieve the Town's growth strategy objectives as it ensures growth will be within the Town's existing Urban Area and within the present-day urban boundary, as desired by Growth Objective (a) and (d), and Intensification Objective (c). The proposal assists in the development of compact complete communities as the Subject Lands are located within a residential area close to commercial and recreational uses as desired by Growth Objective (l).

1.3.3 - Part 3, Section 9 – Residential

The proposed development provides an opportunity to facilitate residential infill and growth within the present-day urban boundary. The Subject Lands are located in Old Town Niagara-on-the-Lake where growth should be directed as there is existing servicing infrastructure as outlined in Section 9.1 of the Official Plan. The proposed development will not negatively impact the existing housing stock and no land use compatibility issues are anticipated as a result of the boundary adjustments, as directed by Residential Objectives (5) and (8).

The proposed boundary adjustments are appropriate as there will be no changes to the streetscape of King Street. King Street is an exclusively residential street and as the frontage of the parcels will remain largely unchanged the proposed boundary adjustment will not have an impact on the neighbouring residential dwellings. Any future infill development is anticipated to be residential and would be subject to future Planning Act processes.

1.3.4 - Part 4, Section 21 – General Consent Policies

In accordance with Section 21.2 of the Town Official Plan, the proposed Consent on the Subject Lands front onto a public road maintained year-round and contains existing municipal services. The proposed lot lines for 727 King Street and 733 King Street are suitable for the neighbourhood and resemble the existing lot lines at 722 King Street and 720 King Street. As

mentioned, the proposed boundary adjustment via Consent has the effect of infilling the existing urban area and expansion of the urban areas is not needed, as required by Policy 21.2.5.

The lot frontages of the new parcels of 727 King Street and 733 King Street are not less than the requirements under the relevant implementing by-law. The proposed new lot lines do not cause any non-compliances with the required yard and setback provisions of the Zoning By-law for the existing dwellings. Although the lot areas of the unaddressed central parcel and 733 King Street exceed the maximum lot area permitted under the relevant Zoning By-law, the proposal has made optimal utilization of the Subject Lands' frontage on King Street. Further, the proposed boundary adjustments will not create any traffic hazard nor limit sight lines on King Street, as required by Policy 21.2.7. The proposed new lot line creates typical shaped lots for 727 King Street and 733 King Street and fits with the existing pattern of the surrounding lands, as required by Policy 21.2.9. The irregular unaddressed lot will have sufficient area to provide for future infill development opportunities.

2.0 Minor Variances

Section 45(1) of the *Planning Act* provides that:

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).

Minor variances required for the vacant central parcel (Parts 1, 3, and 5), and 733 King Street (Part 6) are outlined in the table below.

	Variance	Required	Proposed	Relief
Vacant Central Parcel (Parts 1, 3, & 5)	Maximum Lot Area	780 m ²	3,212 m ²	2,432 m ²
733 King Street (Part 6)	Maximum Lot Area	780 m ²	1,073 m ²	293 m ²

The following is an analysis of the applications for minor variance in relation to the four tests for minor variance:

Variance No. 1: Increase maximum lot area from 780 m² to 3,212 m² for the Vacant Central Parcel (Parts 1, 3, & 5)

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 is considered minor in nature because it does not generate any significant adverse impacts to the neighbouring properties and the immediate neighbourhood. The lot areas of each of the three existing parcels involved in the boundary adjustment are currently greater than the required maximum as set out in the Zoning By-law. The proposed boundary adjustments reduce two of the lot areas (bringing one into conformity with the By-law) while increasing one. The requested variance to increase the maximum lot area, which facilitate the consolidation of vacant land, is considered minor as it is not anticipated to generate any significant adverse impacts.</p>
2. Is the requested variance desirable for the appropriate development or use of the land, building, or structure?	<p>The site consists of vacant, underutilized land within a residential area of the Old Town Urban Area. The requested minor variance for lot area facilitates an appropriate residential infill opportunity for the Subject Lands. The Subject Lands are currently developed at a lower density (approximately 4 units per hectare)¹ than the Surrounding Neighbourhood's average (approximately 10 units per hectare)² and the recommended maximum density of 14 units per hectare for low density lands under the Town OP. The proposed minor variance is desirable and appropriate for the land as it enables future residential infill opportunities within the Urban Area.</p>
3. Does the requested variance maintain the general intent and purposes of the By-law?	<p>The required minor variance conforms with the intent and purpose of the Zoning By-law as it facilitates a development that does not cause adverse impacts on neighbouring properties and is respectful of the surrounding neighbourhood's established character. The requested variance will maintain the intent of the By-law as the increased lot area will not cause any adverse impacts on adjacent lands.</p> <p>It is also the intent of the By-law to ensure compatible development occurs in the area. The land assembly by minor boundary adjustment is intended to provide sufficient area for a future infill development. Should the owner pursue future development opportunities, a subsequent Planning Act process will be followed at that time.</p>

¹ Source: Niagara Navigator

² Source: Niagara Navigator

	<p>The maximum lot area provision is also intended to ensure land is used efficiently. The proposed boundary adjustment facilitates the efficient assembly of land. It is noted that there is the possibility of a single detached residential dwelling being constructed on the vacant lot. Although unlikely, should this occur, a total of three dwellings will exist on the lands as permitted presently. If a residential dwelling is constructed, it is anticipated to comply with all other requirements of the By-law. The current configuration of the lands restricts development to only a single detached dwelling. Approval of the variance, and thereby the land assembly, increases the development potential of the lot, providing infill opportunity within the Town's Urban Area.</p>
<p>4. Does the requested variance maintain the general intent and purpose of the Official Plan?</p>	<p>An intent of the Town Official Plan is to facilitate appropriate development and intensification. The requested variance will permit an increased lot area to facilitate land assembly. Approval of the variance aligns with this intent of the Official Plan.</p> <p>Section 6.A.3 of the Town OP states that future urban growth shall be directed to the Towns existing Urban Area to optimize existing infrastructure.</p> <p>An intent of the Town's Official Plan is to ensure that streetscapes within the municipality are preserved. The larger lot areas of both the unaddressed parcel are a result of their substantial lot depth and therefore this minor variance will not have adverse impacts on the streetscape character which are more influenced by other parameters such as lot frontage.</p>

Variance No. 2: Increase maximum lot area from 780 m² to 1,073 m² for 733 King Street (Part 6)

Test	Analysis
<p>1. Is the requested variance minor in nature?</p>	<p>The requested variance is considered minor in nature because it does not generate any significant adverse impacts to the neighbouring properties and the immediate neighbourhood. The current lot area of 733 King Street is 2,030 m², which is 1,250 m² larger than the 780 m² requirement. The new lot area is proposed to be 1,073 m², 293 m² greater than the maximum. The lot is being brought more into conformity with the Zoning By-law requirement and will facilitate a more typical configuration for 733 King Street with significantly less lot depth. Further, the lot frontage and building setbacks, factors that are influential in determining streetscape character, are existing and compatible with the surrounding properties.</p>
<p>2. Is the requested variance desirable for the appropriate development or use</p>	<p>The variance is appropriate as it facilitates land assembly in the Urban Area and brings 733 King Street more into conformity with the Zoning By-law.</p>

of the land, building, or structure?	
3. Does the requested variance maintain the general intent and purposes of the By-law?	<p>The required minor variance conforms with the intent and purpose of the Zoning By-law as it does not cause adverse impacts on neighbouring properties and is respectful of the surrounding neighbourhood's established characters. The requested variance will maintain the intent of the by-law as the lot will not have any impacts on adjacent lands. The resulting lot is a typical size and configuration.</p> <p>The requested variance brings the lot more into conformity with the Residential 1 (R1) Zone.</p>
4. Does the requested variance maintain the general intent and purpose of the Official Plan?	<p>An intent of the Official Plan is to facilitate residential development that is compatible with the existing neighbourhood. The minor variance for 733 King Street will result in a lot area more similar to the existing lots on King Street.</p>

3.0 Conclusion

It is our opinion that the proposed Consent and Minor Variance applications represent good land use planning, are in the public interest and should be supported by the approval authority for the following reasons:

- The proposed development is consistent with the Provincial Planning Policy Statement (2020), and is in conformance with the Growth Plan, Region of Niagara-on-the-Lake Official Plan, and the Town of Niagara-on-the-Lake's Official Plan;
- The proposed development provides an opportunity for future residential infill development in the Built-Up Area;
- The minor boundary adjustment does not result in the creation of a new lot;
- The proposed development makes efficient use of land resources and existing services and infrastructure;
- The proposed development is compatible with surrounding areas from an urban design and land use compatibility perspective;
- The requested minor variances are minor in nature, appropriate for the development or use of the land and maintain the general intent and purpose of the Town OP and Zoning By-law.

Prepared by:

A handwritten signature in black ink, appearing to be 'MF' with a long horizontal stroke extending to the right.

Max Fedchyshak
Planner
NPG Planning Solutions Inc.

Reviewed & approved by:

A handwritten signature in black ink, clearly legible as 'A Butler'.

Aaron Butler, MCIP, RPP
Development Principal
NPG Planning Solutions Inc.