

February 3, 2025

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

Dear Ms. Thomson

**RE: NPG File #241259: 874 Line 1 Road – Application for Minor Variance**

NPG Planning Solutions Inc. has been retained by Douglas Cunningham (“Owner”) to provide professional planning services in support of an application for Minor Variance (“Application”) involving the lands municipally known as 874 Line 1 Road in the Town of Niagara-on-the-Lake (“Subject Lands”). The Application is necessary to facilitate the addition and alteration of an existing single-detached dwelling, and the construction of a one-storey accessory building on the Subject Lands.

In detail, the Owner proposes adding a second storey, an in-ground pool, an uncovered rear deck, a covered rear deck, a new attached garage and a covered front porch to the existing single detached dwelling and constructing a new one-storey accessory building for storage purposes in the westerly interior side yard. The proposal creates deficiencies from the Zoning By-law 500A-74 related to the height of the accessory building and the front yard depth of the main dwelling which necessitate the Minor Variance application.

### 1. Pre-Consultation Summary:

A pre-consultation meeting was held with the Town, Region and relevant Agencies on July 30<sup>th</sup>, 2024. During the pre-consultation meeting several studies were identified to form a complete application.

The property is mapped as having archaeological potential on Schedule K of the Regional Official Plan. As such, an Archaeological Assessment is required. Staff have agreed that the Archaeological Assessment can be addressed as a condition of the Minor Variance approval. A consultant has been engaged and has commenced work on the Archaeological Assessment.

The Region also requested a private servicing review and a replacement septic design, prepared by a qualified septic designer, as part of the Minor Variance Application. The replacement septic design is included as part of this submission.

The Niagara Peninsula Conservation Authority (NPCA) noted the presence of a regulated watercourse along the eastern property line and requested the installation of silt fencing to prevent debris from entering said watercourse. The proposed pool and proposed uncovered eastern deck are the only additions with potential conflicts with the NPCA-regulated feature. However, given the applicant's prior no-objection ruling for the pool and the reduction in its size, the NPCA has maintained its no-objection stance on the newly proposed pool.

Included as part of this submission are as follows:

1. Minor Variance Application Form;
2. Site Plan prepared by Jordan Station Design Co., dated January 17, 2025;
3. Architectural Elevations for the dwelling and the new accessory building prepared by Jordan Station Design Co., dated May 22 and May 27, 2024, respectively;
4. Detailed Replacement Septic Design prepared by Chris Attema;
5. PIN Map and Parcel Register dated January 29, 2025;
6. Town Minor Variance Application Fee: \$2,395 (submitted by client);
7. NPCA Minor Variance Application Fee: \$678 (submitted by client);
8. NPCA Permit for Development – Routine Fee: \$678 (submitted by client); and,
9. Regional Private Servicing Review Fee: \$400 (submitted by client).

## 2. Description of Subject Lands and the Proposed Development

The Subject Lands are municipally known as 874 Line 1 Road in the Town of Niagara-on-the-Lake with a lot area of approximately 4,054 m<sup>2</sup>, a lot frontage of 82.4 metres and a lot depth of 49.2 metres. There is an existing one-storey detached dwelling on the Subject Lands. There are also an existing septic tank in the northeast portion of the lands and an existing septic bed in the western portion of the lands.

The area surrounding the Subject Lands are predominantly agricultural lands and residential uses in the form of detached dwellings. The lands are designated Agricultural in the Town's Official Plan and zoned Rural (A) in the Town's Zoning By-Law 500A-74. The Subject Lands were created through Consent Application B-09/21 and the deficient lot depth of 49.2 metres was approved through Minor Variance Application A-19/21.

As mentioned, the Owner proposes addition and alteration works to the existing single detached dwelling on the Subject Lands which include adding a second storey, an in-ground pool, an uncovered rear deck, a covered rear deck, a new attached garage and a covered front porch. The covered front porch reduces the front yard depth from the current 15.24 metres to 14 metres, necessitating a relief from the Zoning By-law 500A-74.

The Owner also proposes a one-storey accessory building for storage purposes in the westerly interior side yard with an approximate floor area of 275 square metres and a

building height of 6.375 metres<sup>1</sup>. The proposed height also requires relief from the Zoning By-law 500A-74 which permits accessory buildings to be of a maximum height of 4.5 metres.

A septic inspection was requested during the pre-consultation meeting. A replacement septic design, prepared by an approved septic designer was prepared and submitted as part of this application. In detail, the proposed development aims to increase the sanitary flows from 1,600 L/day to 2,775 L/day, whereas the current system is designed to accommodate flows up to 2,000 L/day. The detailed septic design drawings show the existing septic system being replaced by a Norweco NW 3020 Tertiary Treatment Unit System. The existing absorption trenches, installed in June 2022, have a length of 210 metres, which is sufficient to accommodate the new flows associated with the proposal that requires a 194.25-metre absorption trench. As such the existing absorption trench will continue to be used. The location of the existing septic system and the proposed replacement system have been shown on the Site Plan prepared by Jordan Station Design Co.

In summary, the Application requests the following variances:

- Permit an increase in maximum building height of the accessory building from 4.5 metres to 6.375 metres; and
- Permit a reduction in minimum front yard depth from 15.24 metres to 14 metres.

This Planning Justification Brief has been prepared to provide an analysis of the Application in relation to Section 45(1) of the *Planning Act*, as follows:

*45 (1) 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).*

Section 3.0 of this Planning Letter analyzes the Application in relation to the four tests for a Minor Variance.

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<sup>1</sup> Height is vertically measured from grade to the mean height between the eaves and the ridge, as per Zoning By-law No. 500A-74.

### 3. Proposed Variances and Analysis of Four Tests

3.1 Variance: Permit an increase in maximum building height of the accessory building from 4.5 metres to 6.375 metres

Proposed: 6.375 metres

Required: 4.5 metres

*Table 1: 4 Test Analysis – Variance for Maximum Building Height of Accessory Building*

Test	Analysis
<p><b>1. Is the requested variance minor in nature?</b></p>	<p>Whether a requested variance is minor is primarily determined through the degree of potential adverse impact that would occur if the variance were granted. If the variance does not produce an unreasonably adverse impact on the neighbours nor the adjacent streetscape, then it likely meets the test for being minor in nature.</p> <p>Surrounding the Subject Lands are largely farmland while the nearest dwelling is municipally known as 882 Line 1 Road. The accessory building is meant to provide additional storage space for the dwelling on the Subject Lands. As no habitation space is proposed within this building, there will be no visual encroachment nor noise concern. The nature of the intended use is not expected to generate any adverse impacts nor compatibility issues with the surrounding uses.</p> <p>The below table summarizes the approximate separation distances of nearby dwellings as well as Line 1 Road to the proposed Accessory Building. The separation distances from neighbouring buildings are at least 12 times the proposed height of the accessory building and sufficiently large to maintain the rural character of the area.</p>

*Table 2: Approximate Separation Distances from the proposed Accessory Building.*

<b>Nearby Building</b>	<b>Approximate Separation Distance</b>
<b>Dwelling on 882 Line 1 Road</b>	79 metres
<b>Dwelling on 846 Line 1 Road</b>	84 metres
<b>Dwelling on 874 Line 1 Road</b>	14 metres
<b>Line 1 Road</b>	25 metres

The accessory building is located behind the dwelling on the Subject Lands and more than 25 metres away from Line 1 Road. Though not a direct measure, angular planes do communicate the degree of visual impact that a building or structure has on the adjacent streetscape. A larger angular plane indicates the building massing, expressed as a function of building height and front yard setback, is perceived more overwhelming on the streetscape. Figure 1 illustrates an angular plane taken from the front lot line of the Subject Lands towards the top of the roof<sup>2</sup> of the proposed accessory building. Two additional analyses were also performed to evaluate the visual impact of two (2) hypothetical accessory buildings:

- An accessory building at 4.5-metre in height and 3.05-metre front yard setback, illustrated green in Figure 1. This accessory building would comply with the maximum height and minimum front yard depth provisions of the Zoning By-law 500A-74; and
- An accessory building at 4.5-metre in height and 14-metre front yard setback, illustrated orange in Figure 1. This accessory building would comply with the maximum height and minimum front yard depth provisions of the Zoning By-law 500A-74 and not protrude beyond the main face of the main dwelling.

In both hypothetical scenarios, those accessory buildings would have had larger angular planes

Test	Analysis
	<p>compared to the proposed development. In other words, although the proposed building height is more than what is permitted in the Zoning By-law, the substantial front yard setback of 25.39 metres effectively mitigates the visual impact of a taller building.</p> <p>In conclusion, this requested relief is minor in nature as it does not cause adverse impacts on neighbouring uses nor the streetscape on Line 1 Road.</p>
<p><b>2. Is the requested variance desirable for the appropriate development or use of the land, building, or structure?</b></p>	<p>The requested variance is desirable to facilitate the construction of an accessory building for storage purpose. The Owner proposes addition and alteration works to the existing dwelling on the Subject Lands and the new accessory building will complement the residential use. No storage for commercial, industrial or agricultural uses is contemplated.</p> <p>As discussed, the proposed accessory building would not generate adverse impacts on neighbouring uses, especially adjacent farmland. The proposed height, in particular, would not overwhelm the adjacent streetscape nor impact the rural character of the surrounding areas.</p> <p>For these reasons, the increase in building height for the accessory building is desirable for the appropriate development of the land.</p>
<p><b>3. Does the requested variance maintain the general intent and purposes of the By-law?</b></p>	<p>The Rural (A) Zone permits single-detached dwellings and accessory buildings incidental thereto. The intent and purpose of the Town's Zoning By-law with respect to the Rural (A) zone is to preserve farmland and agricultural activities thereon while also permitting surplus farm dwellings that are in keeping with rural character.</p> <p>The proposed variance does not generate any adverse impacts on neighbouring uses and farmland. As</p>

<sup>2</sup> To measure visual impact, the actual top of roof is used as opposed to the building height as measured in accordance with the Zoning By-law 500A-74.

Test	Analysis
	<p>elaborated, the proposed increase in height will not diminish the rural character of the surrounding areas either. The proposed variance would permit an incidental building to the existing dwelling while ensuring no adverse impacts on neighbouring dwellings and farmland nor the rural character of the immediate area. The requested relief, therefore, maintains the general intent and purposes of the Zoning By-law.</p>
<p><b>4. Does the requested variance maintain the general intent and purpose of the Official Plan?</b></p>	<p>The Town OP's general intent and purpose is to preserve the specialty crop lands which the Subject Lands are part of and to minimize any potential impacts on agriculture from development proposals. The OP also permits farm residence and the creation of new lots for surplus farm residence in Agricultural lands. The Committee had previously found the creation of the Subject Lands for residential use to be in conformity with the Town OP.</p> <p>As discussed, the proposed variance facilitates the creation of an accessory building for storage incidental to the existing dwelling on the lands, which is permitted in the Town OP. The proposal does not take away agriculturally active lands. The proposed use and height will not cause any impacts on the adjacent agricultural operations.</p> <p>Therefore, the general intent and purpose of the Official Plan is maintained.</p>

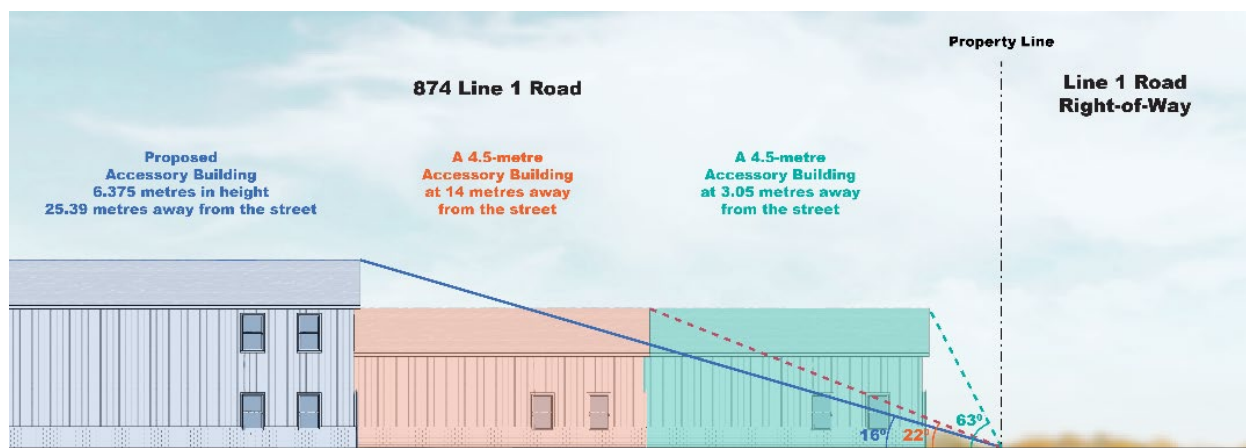


Figure 1. Angular Plane Analysis

3.2 Variance: Permit a decrease in minimum front yard depth from 15.24 metres to 14.0 metres

Proposed: 14.0 metres  
 Required: 15.24 metres

Table 3: 4 Test Analysis – Variance for Minimum Front Yard Depth

Test	Analysis
<p>1. Is the requested variance minor in nature?</p>	<p>The proposed variance is to accommodate a covered but unenclosed porch in front of the existing dwelling which reduces the front yard depth to 14 metres. This represents an 8.1% reduction in the required minimum front yard depth, which is relatively minor. The front yard setback to the nearest part of an enclosed building, i.e. the new garage, is 15.24 metres which complies with the Zoning By-law.</p> <p>Surrounding the Subject Lands are largely farmland while the nearest dwelling is municipally known as 882 Line 1 Road. Importantly, a number of properties in the immediate vicinity of the Subject Lands include front yard setbacks that are less than or equal to what is proposed. Please refer to the table below for a breakdown of the existing front yard setbacks of the lots in the immediate vicinity of the Subject Lands.</p>



Test	Analysis																										
	<p data-bbox="630 258 1317 323"><i>Table 4: Approximate Front Yard Setbacks of nearby properties (obtained from Niagara Navigator)</i></p> <table border="1" data-bbox="630 348 1414 1117"> <thead> <tr> <th data-bbox="638 348 1053 436">Nearby Property</th> <th data-bbox="1053 348 1406 436">Approximate Front Yard Setback</th> </tr> </thead> <tbody> <tr> <td data-bbox="638 436 1053 489">882 Line 1 Road</td> <td data-bbox="1053 436 1406 489">7.6 metres</td> </tr> <tr> <td data-bbox="638 489 1053 541">892 Line 1 Road</td> <td data-bbox="1053 489 1406 541">14.1 metres</td> </tr> <tr> <td data-bbox="638 541 1053 594">839 Line 1 Road</td> <td data-bbox="1053 541 1406 594">14.4 metres</td> </tr> <tr> <td data-bbox="638 594 1053 646">845 Line 1 Road</td> <td data-bbox="1053 594 1406 646">15.2 metres</td> </tr> <tr> <td data-bbox="638 646 1053 699">855 Line 1 Road</td> <td data-bbox="1053 646 1406 699">10.3 metres</td> </tr> <tr> <td data-bbox="638 699 1053 751">899 Line 1 Road</td> <td data-bbox="1053 699 1406 751">14.5 metres</td> </tr> <tr> <td data-bbox="638 751 1053 804">907 Line 1 Road</td> <td data-bbox="1053 751 1406 804">13.5 metres</td> </tr> <tr> <td data-bbox="638 804 1053 856">927 Line 1 Road</td> <td data-bbox="1053 804 1406 856">9.6 metres</td> </tr> <tr> <td data-bbox="638 856 1053 909">846 Line 1 Road</td> <td data-bbox="1053 856 1406 909">16.1 metres</td> </tr> <tr> <td data-bbox="638 909 1053 961">842 Line 1 Road</td> <td data-bbox="1053 909 1406 961">27.1 metres</td> </tr> <tr> <td data-bbox="638 961 1053 1014"><b>Average</b></td> <td data-bbox="1053 961 1406 1014"><b>14.24 metres</b></td> </tr> <tr> <td data-bbox="638 1014 1053 1117"><b>874 Line 1 Road (Subject Lands)</b></td> <td data-bbox="1053 1014 1406 1117">14 metres</td> </tr> </tbody> </table> <p data-bbox="630 1157 1414 1388">As shown in the table above, the average front yard setback of the surrounding neighbourhood is approximately 14.24 metres. The requested variance is consistent with this average and represents only a decrease of 0.24 metres and will not produce an adverse impact on the neighbours or the adjacent streetscape.</p> <p data-bbox="630 1434 1382 1465">The requested variance is, therefore, minor in nature.</p>	Nearby Property	Approximate Front Yard Setback	882 Line 1 Road	7.6 metres	892 Line 1 Road	14.1 metres	839 Line 1 Road	14.4 metres	845 Line 1 Road	15.2 metres	855 Line 1 Road	10.3 metres	899 Line 1 Road	14.5 metres	907 Line 1 Road	13.5 metres	927 Line 1 Road	9.6 metres	846 Line 1 Road	16.1 metres	842 Line 1 Road	27.1 metres	<b>Average</b>	<b>14.24 metres</b>	<b>874 Line 1 Road (Subject Lands)</b>	14 metres
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<p data-bbox="199 1491 610 1717"><b>2. Is the requested variance desirable for the appropriate development or use of the land, building, or structure?</b></p>	<p data-bbox="630 1491 1414 1682">The variance is desirable for the construction of a covered porch that is connected to the front of the existing dwelling. This addition is appropriate and desirable for the enjoyment of the residents on Subject Lands.</p> <p data-bbox="630 1728 1414 1833">As discussed, this reduction represents a small decrease from the required minimum front yard depth and would not generate adverse impacts on adjacent</p>																										

Test	Analysis
	<p>uses, the adjacent streetscape nor the rural character of the neighbourhood.</p> <p>For these reasons, the requested variance is desirable for the appropriate development of the land.</p>
<p><b>3. Does the requested variance maintain the general intent and purposes of the By-law?</b></p>	<p>The Rural (A) Zone permits single-detached dwellings. The intent and purpose of the Town's Zoning By-law with respect to the Rural (A) zone is to preserve farmland and agricultural activities thereon while also permitting surplus farm dwellings that are in keeping with the rural character.</p> <p>As elaborated, the proposed variance facilitates the construction of a covered porch which is necessary for the enjoyment of the dwelling. without. The variance does not negatively impact on neighbouring residential properties, farmland nor the rural character of the neighbourhood.</p> <p>As such, the requested relief maintains the general intent and purpose of the Zoning By-law.</p>
<p><b>4. Does the requested variance maintain the general intent and purpose of the Official Plan?</b></p>	<p>The Town OP's general intent and purpose is to preserve the specialty crop lands, which the Subject Lands are part of and to minimize any potential impacts on agriculture from development proposals. The OP also permits farm residences and the creation of new lots for surplus farm residences in Agricultural lands. The Committee had previously found the creation of the Subject Lands for residential use to be in conformity with the Town OP.</p> <p>As discussed, the proposed variance facilitates the construction of a covered porch at the front of the existing dwelling on the lands. The proposal does not take away agriculturally active lands. This requested variance will not cause any impacts on the adjacent agricultural operations either.</p> <p>As such, the general intent and purpose of the Official Plan is maintained.</p>

#### 4. Conclusion

This letter provides the planning justification to support the variances requested for the Subject Lands, facilitating the construction of an accessory building and a covered front porch. As noted above, the Application meets the four (4) tests outlined in 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 Town OP.

Please provide notice of all meetings and decisions regarding this variance to the undersigned.

Brief prepared by:




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**Dan Banatkiewicz**

Planner

*NPG Planning Solutions Inc.*

Brief reviewed and approved by:



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**Jeremy Tran, MCIP, RPP, MPlan**

Manager of Urban Design & Development Planning

*NPG Planning Solutions Inc.*