



Planning and Development Services

Prepared for: Committee of Adjustment

Meeting Date: November 21, 2024

Application Number: A74/24

Address: 3914 Alexandra Road, Fort Erie (Crystal Beach)

Owner/Applicant: Ceyda Kandemir

Agent: Lou Melone

1. Title

Minor Variance Application A74/24 for lands located at 3914 Alexandra Road, Fort Erie (Crystal Beach)

2. Purpose

The purpose and effect of this application is to increase the Maximum Lot Coverage and Maximum Building Height and to reduce the Minimum Interior Side Yard and Minimum Rear Yard to facilitate construction of an addition to the existing single detached dwelling.

The application seeks the following variances to Section 12B of the Town of Fort Erie Comprehensive Zoning By-law 129-90, as amended:

1. To permit Maximum Lot Coverage of 41% whereas 40% is required;
2. To permit a Minimum Interior Side Yard of 0.7 metres whereas 1.5 metres is required;
3. To permit a Minimum Rear Yard of 6.2 metres whereas 7.0 metres is required;
4. To permit a Maximum Building Height of two storeys whereas 1.5 storeys is required.

3. Recommendations

Planning staff recommend Consent Application A74-24 be **APPROVED** subject to the following conditions:

1. That the Owner / Applicant submit a Tree Preservation Plan prepared by a qualified arborist in accordance with the Town's Tree By-law 33-2024, as amended, to the satisfaction of the Town.
2. In the event of any Tree removal on the subject lands, the Owner / Applicant submit an Arborist Report and Landscape Plan prepared by a qualified person demonstrating the re-planting using compensation ratios per Table B.1 of Tree By-law 33-2024, or payment of

cash-in-lieu at the prevailing rate, to the satisfaction of the Town.

4. Analysis

4.1. Site Context

The subject lands are located on the north side of Alexandra Road in the Crystal Beach neighbourhood of the Town of Fort Erie. The subject lands are within the Urban Boundary. The surrounding land uses include:

North: An apartment building and semi-detached dwellings;
South: Alexandra Road and single detached dwellings;
East: Single detached dwellings; and
West: Single detached dwellings.

4.2. Environmentally Sensitive Areas

Town Environmental Planning staff have confirmed that there are no environmentally sensitive areas on the subject lands as identified in the Town's Official Plan Schedule C - Natural Heritage Features or Schedule C1 – Natural Hazards and Fish Habitat.

The Niagara Peninsula Conservation Authority (NPCA) has confirmed that the subject lands are outside of NPCA regulated area. At the time of this writing no comments have been received from Niagara Region; however the subject lands do not appear to be within the Natural Environment System in the Niagara Official Plan.

Tree removal shall be in accordance with the requirements of the Town's Tree By-law No. 33-2024.

4.3. Four Tests of Minor Variance – Section 45(1) of the Planning Act, R.S.O. 1990, c. P.13

The Planning Act provides that a minor variance must meet the following four tests to be considered minor and supportable.

4.3.1. Is the proposal minor in nature?

Increased Maximum Lot Coverage

The proposed increase in lot coverage is slight. The addition will not overpower the lot and sufficient space will remain for amenity area, parking and servicing. Therefore, the proposed variance is considered minor in nature.

Minimum Interior Side Yard Setback

Planning staff note that the reduced setback is on the east side of the property and merely recognizes the existing setback of the dwelling. The addition to the dwelling will maintain the

minimum interior side yard setback of 1.5 metres for a dwelling over one storey in height. Therefore, the proposed variance is considered minor in nature.

Reduced Rear yard Setback

A sufficient amount of space will be available in the rear yard for amenity space. It is noted that the rear yard setback is deficient in the northeast corner of the subject lands. Due to the irregular shape of the lot the majority of the rear yard meets or exceeds the 7.0 metre minimum rear yard requirement. Therefore, the proposed variance is considered minor in nature.

Increased Maximum Building Height

It is noted that the increased building height only applies to the proposed addition. The existing portion of the single detached dwelling on the subject property will remain one storey in height. The proposed dwelling height will be in character with the neighbourhood. The majority of the surrounding parcels in the area north of Alexandra Road are zoned Residential 2 (R2) Zone in the Zoning By-law, which permits two storey dwellings. Further, the proposed addition will remain within the 7.5 metre maximum building height permitted by the R2B Zone. Therefore, the proposed variance is considered minor in nature.

4.3.2. Is the proposal desirable for the appropriate development or use of the land, building or structure?

The general proposal to construct an addition to an existing single detached dwelling is appropriate and desirable. Planning staff note that parcels with increased lot coverage and reduced setbacks are common in the Crystal Beach area due to the relatively small existing lot sizes. The requested variances are in character with the neighbourhood. The proposed increase in building height is similar to other dwellings in the area.

Therefore, it is the opinion of Planning Services staff that the requested variances represent appropriate development and use of the land, building and structure.

4.3.3. Does the proposal meet the general intent and purpose of the Official Plan?

Official Plan Designation: "Low Density Residential" in the Crystal Beach Secondary Plan in the Town's Official Plan.

Single detached dwellings, including additions to existing dwellings, are a permitted land use in areas that are designated Low Density Residential in the Crystal beach Secondary Plan.

Therefore, it is the opinion of Planning Services staff that the requested variances maintain the general intent and purpose of the Town's Official Plan.

4.3.4. Does the proposal meet the general intent and purpose of the Zoning By-law?

Zoning: "Residential 2B (R2B) Zone" in Comprehensive Zoning By-law No. 129-90, as amended.

Increased Maximum Lot Coverage

The general intent of maximum lot coverage regulations is to ensure there is adequate space

available for a dwelling, amenity areas and parking without overdeveloping the lot, among other things. This intent is maintained. Adequate space will remain on site for the addition, including space for amenity area and parking among other things.

Minimum Interior Side Yard Setback

The general intent of interior side yard setback requirements is to ensure there is sufficient space in a side yard for maintenance, access and drainage among other things. This intent is maintained. The interior side yard setbacks along the proposed addition meet the R2B Zone minimum requirement of 1.5 metres for a dwelling over one storey in height. The reduced interior side yard setback only occurs on the east side along the existing dwelling and recognizes the existing deficient setback. Planning staff are satisfied that there is sufficient space in the side yards for maintenance, access and drainage.

Reduced Rear yard Setback

The general intent of regulations for rear yard setbacks is to ensure there is sufficient area in the rear yard for amenity area among other things. The proposed rear yard setback of 6.2 metres meets this intent. Staff are satisfied that a sufficient amount of amenity area will be available in the rear yard.

Increased Maximum Building Height

The general intent of regulations for maximum building height for dwellings is to ensure that new dwellings (and additions) maintain a consistent streetscape and do not impose undue massing impacts on adjacent properties. This intent is maintained. The zoning of the majority of parcels on the north side of Alexandra Road are zoned Residential 2 (R2) Zone, which permits single detached dwellings up to two storeys in height. The proposal for a two storey addition will not negatively impact the streetscape and is consistent with other parcels in the area. No significant massing impacts are anticipated to result from this proposal. The height of the proposed addition will remain within the 7.5 metre maximum building height permitted by the R2B Zone and interior side yard setbacks of 1.5 metres will be maintained alongside the addition.

Therefore, it is the opinion of Planning Services staff that the proposed variances maintain the general intent and purpose of the Zoning By-law.

5. Comments from Departments, Community and Corporate Partners

Staff and Agency Comments

Development Engineering

No objections, however a Lot Grading and Drainage Plan will be required at the building permit stage to demonstrate that drainage from the subject lands will not negatively impact neighbouring properties. It is noted that the standard minimum width to accommodate side yard swales is typically 0.9 metres.

Staff Response

Planning staff note that the reduced interior side yard setback of 0.7 metres is only applicable to the east side of the subject lands alongside the original dwelling and is an existing situation. The side yard setbacks alongside the proposed addition will maintain a 1.5 metre setback and exceed the 0.90 metre width for swales.

Environmental Planning

The subject property is located within the Town's Urban Boundary but not in the Natural Heritage system. There are no Natural Heritage features present. The lands are subject to the Town's tree By-law 33-2024. If any trees are proposed to be removed from the lands, the subsequent removal application must be accompanied by a Tree Protection Plan, an Arborist report (ISA Certified Arborist or per the Town's definition in the By-law) and a Landscape Plan (OALA in good standing).

Staff Response

Planning staff note that the request for an Arborist Report, Tree Preservation Plan and a Landscape Plan are now common conditions of approval required under the regulations of the Tree By-law. If no trees are being removed these conditions can be waived by Environmental Planning staff. A Landscape Plan would be required if compensation plantings are proposed in lieu of a payment.

Niagara Peninsula Conservation Authority (NPCA)

No objection. The subject lands are not within area under the regulation of the NPCA.

Niagara Region

No comments or objections were received from Niagara Region.

Public Comments

One written comment was submitted by an area resident in objection to the proposed Minor Variance application. Planning staff will address the concerns raised below.

Building Height and Shadowing Impacts

One area resident is concerned that a two storey dwelling will block sunlight to a vegetable garden that is located in the rear yard of their property.

Staff Response

The proposal for a two storey addition on the subject lands is not anticipated to result in significant shadowing impacts on adjacent properties. The proposed addition will remain within the 7.5 metre maximum building height permitted by the R2B Zone. Further, most shadowing impacts, if they occur, happen when the sun is lowest in the sky during winter months.

Reduced Interior Side Yard Setback

An area resident expressed concern that the reduced interior side yard setback of 0.7 metres will interfere with cedar trees located near the front of their property.

Staff Response

Planning staff have reviewed the subject lands and it appears that the cedar trees referenced are located partially on the Town road allowance and on a vacant parcel between the subject lands and the next parcel to the east. For clarification, the Minor Variances proposed as part of this application are only applicable to Lot 329 on Plan 81/NP544. The majority of the cedar trees in question are located on Lot 240 which is not owned by the Owners. The 0.7 metre interior side yard setback only occurs alongside the existing dwelling on the east side of the subject lands and is an existing situation. As the addition will be constructed to the rear of the existing dwelling on Lot 239, none of the trees on Lot 240 or further east will be impacted. Any trees located within the Town road allowance will require permission from the Town to be removed and will be subject to compensation under the Town's Tree By-law.

6. Conclusion

Based on the above, Planning Staff are of the opinion that Variances 1, 2, 3 and 4 meet the four tests of a Minor Variance and recommend **APPROVAL**, subject to the recommended conditions.

7. Report Approval

Prepared by:
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Intermediate Development Planner

Reviewed and Submitted by:
Devon Morton, MCIP, RPP
Supervisor, Development Approvals

8. Attachments

Appendix 1 – Application Sketch