



## Planning and Development Services

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**Prepared for: Committee of Adjustment**

**Meeting Date:** November 21, 2024

**Application Number:** A72/24 and A73/24

**Address:** 4 and 6 Hagey Avenue, Fort Erie

**Owner:** 1365853 Ontario Limited

**Applicant:** Upper Canada Consultants, (c/o William Heikoop)

### 1. Title

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Minor Variance Applications A72/24 and A73/24 for lands located at 4 and 6 Hagey Avenue, Fort Erie

### 2. Purpose

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The purpose and effect of the applications is to reduce the Minimum Side Yard(s) and to facilitate a Boundary Adjustment, partial discharge of mortgage and an easement to facilitate demolition, construction and occupancy of a new Nursing Home.

#### **File No. A72/24 (4 Hagey Avenue):**

1. To permit a reduced easterly Minimum Interior Side Yard of 1.2 metres whereas 50 meters is required.

#### **File No. A73/24 (6 Hagey Avenue):**

1. To permit a reduced westerly Minimum Interior Side Yard of 5.0 metres whereas 7.5 metres is required.

### 3. Recommendations

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It is recommended that Minor Variance Application A72/24 be **APPROVED**, subject to the following conditions:

1. That the existing Long Term Care Facility be demolished, to the satisfaction of the Town.
2. The Owner / Applicant shall, to the satisfaction of the Town of Fort Erie, be granted final approval of Consent Application B47/24. This condition shall not be considered fulfilled until said Minor Variance decision to grant the approval is final and binding;

It is recommended that Minor Variance Application A73/24 be **APPROVED**, subject to the following condition:

1. The Owner / Applicant shall, to the satisfaction of the Town of Fort Erie, be granted approval of Consent B47/24. This condition shall not be considered fulfilled until said Consent decision to grant the approval is final and binding.

#### **4. Analysis**

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##### **5.1. Site Context**

The subject lands are located on the south side of Hagey Avenue within the Southend Secondary Plan Area. The lands to be severed and merged (Part 4) from 6 Hagey Avenue and added to 4 Hagey Avenue is approximately 1035.1 square metres. The surrounding land use is a mix of industrial, institutional and residential uses. The subject lands of 4 and 6 Hagey Avenue currently have existing Long Term Care Facilities. The facility located on 4 Hagey Avenue, will be demolished and reconstructed, and the facility located on 6 Hagey Avenue will remain. The surrounding lands uses are as follows:

North: Institutional (Dougless Memorial Hospital)

East: Residential (Single detached Dwellings)

South: Opens Space and QEW Highway

West: Industrial (Rich Products of Canada)

##### **5.2. 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.

### **5.3. 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 supportable:

#### **5.3.1. Is the proposal minor in nature?**

##### *Reduced Easterly Interior Side Yard (4 Hagey Avenue)*

The proposal to reduce the easterly Interior Side Yard setback from 50 metres to 1.2 metres is minor. The current facility is located along the northeastern lot line, resulting in a 0 metre setback. As well, the current facility also has a 1.3 metre from the southeastern lot line. The relocation of the proposed facility will reduce the number of non-conforming setbacks and will require a reduced setback of 1.2 metres along the new proposed easterly interior lot line as a result of the lot addition. The reduction to the interior side yard will maintain adequate space for general maintenance and access to both 4 and 6 Hagey Avenue. Impacts to the facility and property of 6 Hagey Avenue will be limited. Therefore, the proposed variance is considered minor in nature.

##### *Reduced Westerly Interior Side Yard (6 Hagey Avenue)*

The proposal to reduce the westerly Interior Side Yard setback from 7.5 metres to 5.0 metres is minor. The reduction of the westerly interior side yard is a result of the proposed lot addition to 4 Hagey Avenue. The reduction to the interior side yard will maintain adequate spaces for general maintenance and access to both 4 and 6 Hagey Avenue. Impacts to neighboring properties will be limited. Therefore, the proposed variance is considered minor in nature.

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

The subject lands of 4 and 6 Hagey are currently use as Long-Term Care Facilities and will continue to be used as such. The proposed facility will replace the existing facility located on 4 Hagey Avenue. The existing facility, that will be demolished, is approximately 25 metres from the shared property line of the abutting industrial use. The proposed new facility's lobby will have a setback from the westerly property line of 8 metres. The residence units will be located in the portion of the building that will be 19 metres from the shared property line.

Currently both facilities are joined by a common roof structure that allow the two buildings to function as one development. The proposed location of the new facility will no longer share a common roof structure, each facility will now be on separate parcels of land. However, the proposed reduction of the interior side yards of the new facility, existing facility and shared amenity space easement will still allow the properties to function cohesively as one development. It is not anticipated that proposed variances will result in negative impacts to residences of the facility and surrounding land uses.

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

### **5.3.3. Does the proposal meet the general intent and purpose of the Official Plan?**

Schedule 'A' of the Official Plan designates the subject lands as Institutional within the Town's Southend Secondary Plan area. The lands designated on Schedule "S-2" as "Institutional" recognize the existing institutional uses established within the Secondary Plan Area. The designation within the Plan Area shall be reserved for a variety of public and institutional uses. Institutional uses permit the use of residential care and health care facilities, nursing and retirement homes. The proposed lot addition will facilitate the construction of a new Long Term Care Facility with shared amenity spaced with the existing Long Term Care Facility located on 6 Hagey Avenue.

Therefore, it is of the opinion of the Planning Service staff that the proposed boundary adjustment will maintain the general intent and purpose of the Town's Official Plan.

### **5.3.4. Does the proposal meet the general intent and purpose of the Zoning By-law?**

The subject lands are zoned Institutional (I-56) Zone, which permits the use of Long Term Care Facilities. The I-56 Zone permits a maximum of 72 units for Long Term Care Facilities. The proposal is to demolish and construct a new 66 unit (96 beds) Long Term Care Facility on 4 Hagey Avenue. The proposed building on 4 Hagey Avenue is requesting a reduction from 50 metres to 1.2 metres along the eastern property line which is subject to a minor variance application A72/24. The requested 1.2 metre setback will allow the majority of the proposed massing and location of residence units be located further away from the adjacent industrial use. The existing facility is approximately 1.3 metres from the shared interior property line of 4 and 6 Hagey. The proposed facility will meet the additional requirements of lot coverage, landscape open space, height, front yard, rear yard and westerly interior side yard setbacks. The proposed 1.2 metre setback will provide adequate space for general maintenance and access to the proposed facility.

As a result of the lot addition and the proposed new lot line, the existing Long Term Care Facility located on 6 Hagey Avenue is also subject to minor variance application A73/24, to reduce the westerly minimum interior side yard setback from 7.5 metres to 5.0 metres. The northern portion of the existing facility on 6 Hagey Avenue, currently has an existing non-conforming setback of 2.48 metres to the westerly lot line. The reduction to 5.0 metres will provide adequate space for general maintenance and access to the existing facility. Furthermore, the reduction of both interior side yard setbacks of 4 and 6 Hagey Avenue will allow the new facility and existing facility to function as one development and will provide greater access and use to the proposed shared amenity space easement.

Therefore, it is of the opinion of Planning Services that the proposed minor variances for 4 and 6 Hagey Avenue will maintain the general and intent and purpose of the Town's Zoning By-law 129-90, as amended.

## **5. Comments from Departments, Community and Corporate Partners**

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### **Staff and Agency Comments**

#### 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 or impacted these conditions may 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 objection. The subject lands are within areas of archeological potential and that a Stage 1 Archaeological Assessment at minimum will be required.

The PPS and NOP state that major facilities (e.g. transportation infrastructure and corridors) and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise, and other contaminants. Staff acknowledge the current application is for a CS and MV, with a future Site Plan application needed to facilitate the construction of the long-term care facility. As such, staff highlight, at future Planning Act applications, staff require the submission of a Noise Impact Brief to assess transportation (QEW) and stationary noise sources (i.e. Rich Products of Canada) and recommend any site and building design mitigative measures, as outlined in the pre-consultation comments (dated April 27, 2023). The study shall be completed in accordance with the Ministry of the Environment, Conservation, and Parks (MECP) Environmental Noise Guideline NPC-300.

## **6. Conclusion**

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Based on the above analysis, Planning Staff recommend that Minor Variance Applications A72/24 and 73/24 be **APPROVED** subject to recommended conditions.

## **7. Report Approval**

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Prepared by:  
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Supervisor of Development Approvals

## **8. Attachments**

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Appendix 1 – Sketch Plan