



## Planning and Development Services

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**Prepared for:** Committee of Adjustment

**Meeting Date:** December 19, 2024

**Application Number:** A79/24

**Address:** 1716 Rebecca Street, Fort Erie

**Owner:** Brad Brewster

**Applicant:** Brad Brewster

### 1. Title

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Minor Variance Application A79/24 for lands located at 1716 Rebecca Street, Fort Erie

### 2. Purpose

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The purpose and effect of this application is to increase the height of a building or structure accessory to a residential use to facilitate construction of a pool shed.

1. To permit a Residential Accessory Structure (Pool Shed) with a Maximum Height of 8.5 metres whereas 4.5 metres is required.

### 3. Recommendations

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That Minor Variance Application A79/24 be **APPROVED**, as submitted.

### 4. Analysis

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#### 4.1. Site Context

The subject lands are located outside the Urban Boundary. The subject lands are approximately 0.69 hectares in size with a lot frontage of approximately 45.0 metres. The subject lands contain an existing single detached dwelling and accessory structure. The predominate surrounding

land use is residential comprised of single detached dwellings and lands for rural residential purposes.

- North: Residential (Single detached dwellings)
- South: Residential (Single detached dwellings)
- East: Residential (Vacant)
- West: Residential (Single detached dwellings)

#### **4.2. 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:

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

The proposed increase in height is not anticipated to create shadowing or privacy concerns as the structure is located in the rear of the yard and is currently not surrounded by other residential development, at this time. The lands to the north and east are currently vacant so there will not be any negative impacts on the surrounding lands. As well, the subject lands are located at the east end of Rebecca Street, which does not extend past the subject lands at this time, thus limiting negative impacts to the street scape and neighbouring properties.

Therefore, the proposed variance is considered minor in nature.

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

The subject lands are zoned and designated for residential purposes and accessory structures. The subject property has an existing single detached dwelling approximately 9.6 metres in height whereas the proposed maximum accessory building height is 8.5 metres. The proposed height will maintain the intent of being ancillary to the main dwelling unit. The proposed accessory structure is located approximately 29 metres behind the main dwelling and 14 metres from the easterly interior lot line. As such, the proposed accessory structure will not impose any privacy or shadowing concerns to the neighbouring property to the east. Furthermore, due to the irregular shape of the subject lands, the main dwelling and proposed accessory structure are located in the rear of the property thus maintaining the character of the of the street scape as it will not be visible from the public realm.

Therefore, the proposal is considered desirable for the appropriate development and use of the land and building.

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

The subject lands are designated "Rural Residential". The "Rural Residential" designation supports single detached dwellings and accessory buildings.

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

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

The subject lands are zoned Rural Residential which permits the use of single detached

dwelling and accessory structures. The general intent of Maximum Height regulations is to appear and function ancillary to the main use, among other things. The proposed increase in height will not result in the accessory structure being taller than the existing single detached dwelling unit and is set back from the main dwelling unit in the rear of the subject lands. The intended use of the of the accessory structure is to accommodate the existing pool and not for habitable living space. The requested increase in height is not anticipated to negatively impact privacy or shadow concerns.

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

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

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### Environmental Planning

The subject property is not located within the Town's Urban Boundary but is within the Natural Heritage system. There are Natural Heritage features present. There is a small portion of 'other woodland' at the west end of the property. 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).

Based on the drawing provided by the applicant it appears that the proposed work is in close proximity to regulated trees. A Tree Protection Plan is requested to ensure the trees are not negatively affected by the proposed work.

### *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. Staff have been notified the proposed structure is existing and that no further trees are to be removed.

### Niagara Peninsula Conservation Authority (NPCA)

No objection. There are no regulated areas present on the subject lands.

### Niagara Region

The proposed development is expanding an existing residential use by building an accessory structure on lands that are privately serviced by a septic system and are surrounded by similar rural residential uses. Staff note the property does not occupy an active agriculture use and will not impact or reduce the viability of any nearby agricultural lands. The requested variance to facilitate the proposed accessory structure is therefore, consistent with and in conformity to Provincial and Regional policies subject to consideration of the following.

The subject property is impacted by the Region's Natural Environment System consisting of Other Woodland. NOP policies required the complete of an Environmental Impact Assessment when development or site alternation is proposed within 50 meters of Other Woodland. The proposed development is within the outlined setback; however staff note it is separate from the

feature by existing development. As such, staff offer no objection to the minor variance from a natural heritage perspective.

### *Staff Response*

Planning Staff note that a portion of 'Other woodland' is located on the very west corner of the subject lands where the development is not taking place. The location of the proposed structure is on the north east side of the property located behind the existing main dwelling unit and accessory structure. Staff have confirmed with Niagara Region staff that no Environmental Impact Assessment is required.

## **6. Conclusion**

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Based on the above analysis, Planning Staff recommend that Minor Variance Application A79/24 be **APPROVED**, as submitted

## **7. Report Approval**

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Prepared by:  
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Reviewed and Submitted by:  
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## **8. Attachments**

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Appendix 1 – Sketch Plan  
Appendix 2 – Elevations