



## Planning and Development Services

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**Prepared for:** Committee of Adjustment

**Meeting Date:** December 19, 2024

**Application Number:** A16/24

**Address:** 11 Lewis Street, Fort Erie

**Applicant/ Owner:** 2414920 Ontario Inc. c/o Hayat Latif

### 1. Title

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Minor Variance Application A16/24 for lands located at 11 Lewis Street, Fort Erie (Plan 887 Lot 4 NP364)

### 2. Purpose

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The purpose and effect of this application is to reduce the Minimum Interior Side yard setback, reduce the Parking Stall Length, reduce the Parking Area distance from the lot lines, and reduce the Minimum Planting Strip Width from the Residential zone as illustrated on Appendix 1 attached hereto.

The application requests the following variances to Sections 6.20, 6.21, 15.3 and 15.4 of the Town of Fort Erie Comprehensive Zoning By-law No. 129-1990, as amended:

1. To permit a reduced Minimum Side Yard of 3.6 metres whereas 5.0 metres is required.
2. To permit a reduced Parking Stall Length of 5.8 metres whereas 6.0 metres is required.
3. To permit the Parking Area, other than the driveway, to be located 1.0 metre from the street
4. To permit a reduced Planting Strip Width of 1.0 metre whereas 3.0 metres is required.

### 5. Recommendations

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Planning staff recommend **APPROVAL** of Minor Variance application A16/24 on the following basis.

### 6. Analysis

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#### 4.1. Site Context

The subject lands are located within the urban boundary and in the Bridgeburg Secondary Plan area of the Town of Fort Erie on Lewis Street between Niagara Boulevard and Prow Avenue. The subject property is a vacant lot. The surrounding land uses include:

North: Institutional Use and Municipal Road

South: Multi-Residential dwellings

East: Duplex dwellings

West: Single detached dwellings

#### 4.2. Environmentally Sensitive Areas

As confirmed by the Niagara Peninsula Conservation Authority, the Niagara Region and the Town of Fort Erie's Senior Environmental Planner, the subject lands are not within an environmentally sensitive area.

Per the Town's Junior Environmental Planner, the subject property is located within the Town's Urban Boundary but not 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, 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).

Replacement ratios for any tree removed would be subject to Table B1 in Bylaw 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?

###### *Reduce Minimum Interior Side yard setback*

The proposed variance is considered minor in nature. The lot is zoned Residential Multiple 2 (RM2-422) Zone and permits a maximum height of 4 storeys, maximum density of 25 units per hectare and a minimum lot frontage of 30 metres. The proposed building is limited to 2 storeys (10 metres) in height and therefore, the required interior side yard setback is 5.0 metres whereas the applicant proposed a 3.6 metre interior side yard setback. It is anticipated that with the provided minimum 3.6 metre side yard setback, there will be no privacy or overlook impacts on the neighbouring properties. As such, the proposal is considered minor.

###### *Reduce the Parking Stall Length*

The requested variance to reduce the Parking Stall Length from 6.0 metres to 5.8 metres is minor. The application seeks relief from 6.0 metres to 5.3 metres, however, based on the submitted site plan the proposed Parking Stall Length is 5.85 metres. It appears that there is an error in the application. The proposed 5.85 metre Parking Stall Length will not have any effect on parking the vehicles within the parking stalls. As such, the Parking Stall Length of 5.8 metres

is considered minor in nature.

*Reduce the Parking Area distance from the lot line*

The proposal to permit a reduced Parking Area distance from the lot line from 3.0 metres to 1.0 metre is minor. The applicant is to maintain 1.0 metres from east and west lot lines due to the property width and to maximize the Parking Stall Length. However, a 1.5 metres distance is maintained for the turning head and a 2.4 metre from the rear lot line to the other parts of the parking area. The reduced distance will have adequate space for fencing, drainage or landscaping. Therefore, the proposal is considered minor in nature.

*Reduce Planting Strip Width from a Residential Zone*

The proposal to permit a reduced planting strip width from 3.0 metres to 1 metre is minor. The reduced Planting Strip width is maintained around the majority of the parking area and west of the drive aisle. The reduced planting strip width will have adequate space for fencing to screen and planting of a range of vegetation. Therefore, the proposal 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 proposed zoning relief to reduce the Minimum Interior Side yard setback, reduce the Parking Stall Length, reduce the Parking Area distance from the lot lines, and reduce the Minimum Planting Strip Width from the Residential zone is common in residential neighbourhoods. The property has a smaller width. As such it is difficult to develop the lands without the requested zoning relief. The proposed built form is reflective of the existing neighbourhood. Therefore, the proposal is considered the 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: Medium-High Density Residential

The "Medium-High Density Residential" designation supports multiple-unit residential (apartment) uses. The "Medium-High Density Residential" in the Bridgeburg Secondary Plan permits 25-50 units per gross hectare. The site-specific zoning permits 25 units per hectare and 4 storeys in height. The proposed development is consistent with the official plan, complies with zoning by-laws, and maintains land-use compatibility with surrounding uses. Therefore, the proposal meets the general intent and purpose of the Official Plan.

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

Zoning: Residential Multiple 2 (RM2-422) Zone

*Reduce Minimum Interior Side yard setback*

Section 15.3 of the Zoning By-law requires a minimum of one-half of the building height or 4m, whichever is greater as an interior side yard setback. The intent is to maintain privacy from the neighbouring property and maintain proper amenity space for the proposed building, among other

things. The proposed development will not result in overlook or privacy concerns and maintains an appropriate separation between buildings. As a result, the proposal will maintain a consistent character with the surrounding area while providing adequate space for amenity and privacy impacts.

#### *Reduce the Parking Stall Length*

Per section 6.20 and schedule “D”, the required Parking Stall Length is 6.0 m. The submitted site plan shows that the proposed Parking Stall Length is 5.83 m whereas the applicant requested the relief from 6.0 m to 5.3 m. It appears that the application has an error regarding the Parking Stall Length. However, the proposed Parking Stall Length from 6.0 m to 5.8 m meets the general intent of the Zoning By-law and is sufficient for vehicular parking.

#### *Reduce the Parking Area distance from the lot line*

Section 15.4 requires the parking area distance from the lot lines abutting any Residential Zone minimum of 3.0 metres. The intent is to maintain fencing to screen the parking area and drainage. The proposed 1.0 metre distance is adequate to maintain the drainage and fencing. Therefore, the proposal meets the general intent of the Zoning By-law.

#### *Reduce Planting Strip Width from a Residential Zone*

Section 15.4 (a) and 6.21, require a Driving Lane minimum of 3.0 m from the lot lines abutting any Residential Zone. The intent is to maintain landscaping, and fencing to screen the parking area and drainage. The proposed 1.0 m distance is adequate to maintain the drainage, planting and fencing. The reduced Planting Strip width is maintained around the parking area and west of the driving aisle, elsewhere it is maintained. Therefore, the proposal meets the general intent of the Zoning By-law.

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

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Per the Town’s Junior Environmental Planner, the subject property is located within the Town’s Urban Boundary but not 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 land. In that case, 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).

Replacement ratios for any tree removed would be subject to Table B1 in Bylaw 33-2024.

Conditions:

1. That the Owner / Applicant shall submit an Arborist Report and Tree Preservation Plan prepared by a qualified arborist in accordance with the Town’s (Tree) By-law No. 33-2024, as amended, to the satisfaction of the Town.
2. That the Owner / Applicant shall submit a Landscape Plan prepared by a qualified person, OALA in good standing or equivalent, demonstrating the re-planting using

compensation ratios per Table B.1 of (Tree) By-law No. 33-2024, or payment of cash-in-lieu at the prevailing rate, to the satisfaction of the Town.

## **6. Conclusion**

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Based on the above analysis, Planning Staff recommend **APPROVAL** of Minor Variance Application A16-24, subject to the recommended conditions.

## **7. Report Approval**

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Prepared by:  
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Supervisor, Development Approvals

## **8. Attachments**

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Appendix 1 – Site Plan and Building Elevations