



## Planning and Development Services

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**Prepared for:** Committee of Adjustment

**Meeting Date:** May 15, 2025

**Application Number:** A14/25

**Address:** 393 Oakwood Avenue, Fort Erie

**Applicant / Owner:** Gabriel Barbu Mihai and Marina Sochirca

### 1. Title

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Minor Variance Application A14/25 for land located at 393 Oakwood Avenue, Fort Erie.

### 2. Purpose

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The purpose and effect of this application is to reduce the minimum driveway width and interior side yard setback requirement to recognize one legal vehicular parking space on the subject land.

The applicant is requesting the following variances to Sections 12B.3 and 6.20.J(i) of the Town of Fort Erie's comprehensive Zoning By-law 129-1990, as amended:

1. To permit a reduced interior side yard setback of 2.8 meters, whereas 3.0 meters is required.
2. To permit a reduced parking space width of 2.8 meters, whereas 3.0 meters is required for one side obstructed parking space.

### 3. Recommendations

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Planning staff recommend **APPROVAL** of Minor Variance application A14/25, subject to the following condition:

1. That the Owner / Applicant shall remove the existing southerly concrete walkway leading to the rear yard to the satisfaction of the Director of Planning, Building and By-law Services.

### 4. Analysis

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#### 4.1. Site Context

The subject land is located within the Town's Urban Boundary in the Crystal Beach Secondary Plan Area on the west side of Oakwood Avenue. The subject land contains a single detached

dwelling. The surrounding land use is predominately residential comprised of single detached dwellings and includes the following:

**North:** Residential (Single detached dwellings)

**South:** Residential and Commercial (Erie Road, Single detached dwellings)

**East:** Residential (Oakwood Avenue, Single detached dwellings)

**West:** Residential (Astwood Avenue, Single detached dwellings)

## **4.2. Environmentally Sensitive Areas**

The Town's Environmental Planner notes that the subject land is not within the Natural heritage System and no Natural Heritage features are present.

The Niagara Peninsula Conservation Authority (NPCA) has confirmed that there are no NPCA Regulated features on or impacting the site.

## **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?**

#### *Reduced Interior Side Yard Setback*

The proposed variance to permit a reduced interior side yard setback of 2.8 meters is minor in nature. The relief requested is related to an existing situation that, to the best of Staff's knowledge, operates without conflict. Planning staff are satisfied the requested variance will not result in negative impacts to abutting properties. Furthermore, enough space will remain in the interior side yard for maintenance and access among other things.

#### *Reduced Parking Space Width*

The proposed variance to permit a reduced parking space width of 2.8 metres is minor in nature. The relief requested is related to an existing situation that, to the best of Staff's knowledge, operates without conflict. Furthermore, the reduced parking space width does not impede the functionality of the parking space or negatively impact neighboring properties or the surrounding area.

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

The proposed variances to permit a reduced interior side yard setback and a reduced parking space width for the recognition of legal vehicular parking are considered appropriate and desirable. The requested relief supports the functionality and usability of the subject land without negatively impacting neighboring properties or the surrounding area. The continued use of the subject property for residential purposes, with recognition of existing conditions through the requested relief, is compatible with and well-integrated into the surrounding context.

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

Official Plan Designation: Low Density Residential

The subject land is designated Low Density Residential within the Crystal Beach Secondary Plan. The Low-Density Residential designation permits single detached dwellings and accessory uses.

Therefore, Planning Staff is of the opinion 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

##### *Reduced Interior Side Yard Setback*

The general intent of regulations for interior side yard setbacks is to ensure there is sufficient space for maintenance, access and drainage, among other things. The requested variance to reduce the side yard to 2.8 metres represents a minor departure from the requirements of the Zoning By-law. It is noted that the 2.8 metre interior side yard setback is an existing situation. To the best of Staff's knowledge, there are no conflicts related to maintenance, access or drainage.

Therefore, Planning staff is of the opinion that the requested variance maintains the general intent and purpose of the Town's Zoning By-law 129-90, as amended.

##### *Reduced Parking Space*

The general intent of regulations for minimum parking space width is to ensure safe, functional and accessible parking that can accommodate a vehicle without negatively impacting neighboring properties, among other things. As this is an existing situation, that, to the best of Staff's knowledge, operates without conflict, Planning staff is of the opinion that the requested variance maintains the general 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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#### Niagara Peninsula Conservation Authority

The NPCA has reviewed the Minor Variance Application for the subject property. Based on the NPCA mapping the subject property does not contain and is not impacted by NPCA Regulated Features. Therefore, the NPCA has no objections.

#### Development Engineering

Development Engineering Staff have no comments or conditions for the proposed minor variance application.

#### Environmental Planning Staff

The subject property is located within the Town's Urban Boundary but not within 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 over 30 cm DBH 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 does not require tree removal, nor are there any effected trees on site.

#### Building and Landscape Architect

No objections.

#### Zoning

The walkway must be removed in the area designated for parking.

*Staff Response: This has been included as a condition of approval.*

#### Public comments

At the time of writing this report, one written comment was submitted in support of the application.

### **6. Conclusion**

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Based on the above analysis, the Planning staff recommend **APPROVAL** of Minor Variance Application A14/25 subject to the recommended condition.

### **7. Report Approval**

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Prepared by:  
Helie Upadhyay  
Planning Technician

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

### **8. Attachments**

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Appendix 1 – Site Plan  
Appendix 2 – Comments