

DATE: August 28, 2024

REPORT NO: COA-31-2024

SUBJECT: **Application for Minor Variance – 5324 Canborough Road
Mark and Lauren Vandenberg**

CONTACT: Stephanie Pouliot, Secretary Treasurer of the Committee of Adjustment

OVERVIEW:

- A Minor Variance application has been applied for in conjunction with consent application B05/2024WL, by property owners Mark and Lauren Vandenberg.
- Relief is being requested for the existing dwelling on Part 1 of the attached severance sketch (attachment 1) to have a minimum front yard setback of 4.5 metres whereas 7.5 metres is required. Relief is also being requested for the existing accessory garage to allow a minimum interior side yard setback of 1.1 metres where 1.2 metres is required. A third variance has been requested to recognize a total lot frontage of 43.89 metres whereas 45 metres is required.
- Relief from the Township’s Zoning Bylaw 2017-70 is also being requested for Part 2 of the attached severance sketch which will require a variance to the minimum lot frontage within a Residential Low Density Zone (R1A), the proposed lot frontage is 12.88 metres where 45 metres is required.
- This application has been reviewed against the four tests of a Minor Variance and can be recommended for approval.

RECOMMENDATION:

That, the application for Minor Variance, submitted by Mark and Lauren Vandenberg, as outlined in Report COA-31-2024, to permit a consent application at 5324 Canborough Road, BE APPROVED.

BACKGROUND:

The subject lands are located on the south side of Canborough Road, east of Baldwin Road and west of Wellandport Road, being legally described as Concession 1, Part Lot 13, in the former Township of Gainsborough, now in the Township of West Lincoln, Regional Municipality of Niagara. The subject property is municipally known as 5324 Canborough Road. Please see attachment 1 for a site sketch.

The subject property is currently 2.80 acres (1.13 hectares) in size. Following the consent application Part 1 is proposed to be 1 acre in size, and Part 2 is proposed to be 1.80 acres in size. The property is designated as within the Hamlet Settlement Area of Wellandport and Natural Heritage System in the Townships Official Plan and is zoned Low Density Residential 'R1A' in the Townships Zoning By-law. The properties surrounding the subject lands are also small residential holdings within the Hamlet.

Planning Staff have completed an analysis of the proposed Minor Variance application and can provide the following evaluation:

Does the Proposal Maintain the General Intent of the Official Plan? Yes

The property is designated as within the Hamlet Settlement Area of Wellandport, as well as Natural Heritage System in the Township's Official Plan. The purpose of the Townships Hamlet Settlement areas are to provide residential and associated commercial, institutional, and open space land uses within an existing and established hamlet settlement area of the Township. All recognized hamlet areas are designated as Hamlets in the Township Official Plan are consistent with the Niagara Official Plan. Residential uses and accessory residential uses are permitted within the Hamlet Settlement Areas.

The subject property also contains a small portion of Natural Heritage System. The specific portion of the Natural Heritage System that exists on this subject property is Environmental Conservation Area (Valley Shoreline and Significant Woodlands)

Township planning staff are of the opinion that the requested minor variances for Part 1 of the attached severance sketch meets the general intent and purpose of the Official Plan. as the dwelling has been existing with this established front yard setback since 1950's, and continues to fit the character of the surrounding agricultural area, the existing accessory building has been established in the current location since the dwelling was constructed as well.

Township staff are also of the opinion that the requested variance for the minimum frontage of Part 2 of the attached severance sketch meets the intent and purpose of the Official Plan. The intent of the Hamlet Settlement Area designation is to recognize and encourage further development within the defined Hamlet communities that provides both residential accommodation and a service function to the larger agricultural and rural community. This application also will provide an alternate place for residential uses to be accommodated outside of the Urban Area of Smithville and the Agricultural Area.

Although a 'flag' shaped property where there is minimal frontage for the driveway is not ideal, the lot is of a sufficient size to accommodate another lot and dwelling and the minimum lot frontage cannot be achieved for both lots.

Does the proposal maintain the general intent and purpose of the Zoning Bylaw?

Yes

The subject property is currently zoned Low Density Residential 'R1A' in the Township's

Zoning Bylaw. Following this consent application, the two parcels will remain zoned Low Density Residential 'R1A'. The applicant has applied for a Minor Variance application as a condition of consent. The Minor Variance application will recognize deficiencies on both Part 1 and Part 2 of the attached severance sketch.

Below are the proposed variance requests for Part 1 of the attached severance sketch in relation to the existing single detached dwelling.

Regulation 'R1A'	Requirement	Proposed
Min Front Yard Setback	7.5 metres	4.5 metres
Min Lot Frontage	45 metres	43.89
Min Interior Side Yard Setback	3 metres	4.6 metres
Min Rear Yard Setback	10 metres	+10 metres
Maximum Height	10 metres	-10 metres

Part 1 will recognize a deficient front yard setback to the existing house of 4.7 metres where 7.5 metres is required as well as a deficient lot frontage of 43.89 metres where 45 metres is required. As the existing single detached dwelling was constructed in the 1950's and its building footprint has not been altered or touched since, planning staff believe that this is considered legal non-conforming as the application is not looking to further increase the degree to which the front yard setback will be diverting from the Township's Zoning By-law 2017-70, as amended, staff feel that these variances can be supported.

Both lot frontages are deficient in size, however staff feel that the visibility on both parcels entrances satisfy the policies outlined in the Townships Zoning Bylaw.

Below are the proposed variance requests for Part 1 of the attached severance sketch in relation to the existing accessory building.

Regulation 'R1A' Accessory Building	Requirement	
Maximum Ground Floor Area	120 metres squared	120 metres squared
Interior Side Yard Setback	1.2 metres	1.1 metres
Rear Yard Setback	1.2 metres	+100 metres
Maximum Height	5 metres	5 metres
Minimum Setback from main building	1.5 metres	+1.5 metres

The second proposed variance on Part 1 is to recognize the existing accessory buildings side yard setback. This accessory building has existed on the property since 1947, a new accessory building was constructed and replaced in the same location in 2023. Planning staff had approved the interior side yard setback of 1.2 metres in 2023. However, the applicants site plan submitted with their Minor Variance application contained a 1.1 metre setback. Therefore, staff want to recognize the 0.1 metre deficiency.

Below are the proposed variance requests for Part 2 of the attached severance sketch:

Regulation 'R1A'	Requirement	Proposed
Min lot frontage	45 metres	12.88 metres

The applicant plans to eventually build a single detached dwelling on the newly created lot for his growing family and plans to eventually sell the existing dwelling. Based on staff's review, other than the required variances, the application outlined conforms to the Township's Zoning Bylaw 2017-70.

Is the Proposal desirable for the appropriate development or use of the land? Yes

The applicants are proposing a lot creation within the Hamlet Settlement Area of Wellandport, through this lot creation a variance application was required to recognize some existing deficiencies for the existing buildings and address new deficiencies as a result of the severance. The subject lands are currently being used for residential purposes and will continue to be used for residential purposes in the future as the applicant wishes to build a new dwelling on Parcel 2 in the next few years.

As this will continue expanding the hamlet settlement area and encourage growth within the hamlets with a newly created lot, staff feel that this is appropriate development and use of the land.

Is the proposal minor in nature? Yes

The subject application has been submitted in conjunction with Severance application B02024WL which is proposing to create two 1 acre lots in the Hamlet Settlement Area of Wellandport.

There are three requested variances on Parcel 1 of the attached severance sketch. The first variance is requesting a 3-meter reduction of the front yard setback to the existing dwelling. The proposed setback is 4.5 metres and 7.5 metres is required. The second variance is regarding the setback to the existing accessory building. Staff want to recognize a 0.1 metre deficiency in the interior side yard setback. The required interior side yard setback is 1.2 metres and the existing accessory building is about 1.1 metres. The third variance is to recognize the deficient lot frontage of 43.89 metres where 45 metres is required.

The requested variance on Part 2 of the attached severance sketch is requesting a 32.12 metre reduction in the required lot frontage from 45 metres to 12.88 metres, for a newly created lot in a Low Density Residential Zone (R1B). The proposed lot frontage continues to be wide enough to obtain an entrance permit from the regional road and provide safe access. As this proposal is creating a new lot, and recognizing and encouraging future development within the Hamlet Settlement Area staff feel that this proposal is minor in nature.

INTER-DEPARTMENTAL & AGENCY COMMENTS:

Notification was mailed to all applicable agencies and departments on August 6th 2024. A yellow sign was also posted on the property a minimum of 10 days before the hearing.

The Niagara Peninsula Conservation Authority provided comments on August 14th 2024. These comments stated that they have no objections to the proposed Minor Variances, however the subject properties are within the NPCA regulated areas, and any future development will require an NPCA review, approval and permits prior to the commencement of any works on site. Please see attachment 4 for full agency comments.

The Niagara Region had provided comments on August 15th 2024 as part of the consent application, and stated that they had no objections to the proposed minor variance application. See attachment 4 for full comments.

Township Public Works Department had provided comments on August 2nd and have stated that they have no objections to this application.

The Township Septic System Inspector had provided comments on August 15th 2024 relating to the proposed consent application. The Township Septic System Inspector has no objections to the proposed Minor Variance application.

PUBLIC COMMENTS:

Notification was mailed to all neighbouring properties within a 60 m radius of the subject lands on August 2nd 2024. A notice was posted to the Township's website on the same day and a yellow sign was posted on the property a minimum of 10 days before the hearing.

Administration staff have received no public comments regarding this Minor Variance Application.

CONCLUSION:

Based on the above analysis, Planning Staff recommend APPROVAL of the proposed Minor Variance as outlined in Report COA-31-2024, submitted by Mark and Lauren Vandenberg, property owners at 5324 Canborough Road. This variance will permit an existing single detached dwelling with a front yard setback of 4.5 metres whereas 7.5 metres is required, an interior side yard setback to the existing accessory building of 1.1 metres where 1.2 metres is required, a lot frontage on Parcel 1 of 43.89 metres where 45 metres is required and a proposed lot frontage on Parcel 2 of 12.88 metres where 45 metres is required on Part 2.

ATTACHMENTS:

1. Severance Sketch
2. Hydrogeological Study
3. Archaeological Study
4. Agency Comments

Prepared & Submitted by:

Approved by:



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Senior Planner



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