



COMMITTEE OF ADJUSTMENT

Planning and Development Services Department
3540 Schmon Parkway, P.O. Box 1044
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March 12, 2021

TO: Chairperson and Members of the Committee of Adjustment

SUBJECT: Minor Variance Application D13-07-2021
13330 Lundy's Lane, Thorold, Ontario

PLAN M28 LOT 30
273100002614200

RECOMMENDATION:

That the minor variances requested in application D13-07-2021 be approved.

PROPOSAL:

Figure 1: Location of Subject Property

The applicant proposes to construct a new accessory building on the subject property. The following variances are requested to facilitate the development:

- To increase maximum height of an accessory building or structure from 4.5 m to 5.24 m;
- To decrease the rear yard setback from 3 m to 1.5 m; and
- To increase maximum lot coverage for accessory buildings and structures from 25 m² to 226 m².



The property is located in the northwest corner of Lundy's Lane (Highway 20) and Centre Street (see Figure 1). To the west of the property is the Welland Canal. There is an existing mixed-use building with a restaurant and residential uses located on the property. There is a covered patio structure on the property as well. Two other accessory buildings on the property are either proposed for removal, or are already removed.

CITY OF THOROLD OFFICIAL PLAN:

The subject property is designated as 'Urban Living Area' in the City's Official Plan (OP). The existing mixed-use building predates the current OP. However, restaurant uses and residential apartments can be considered subject to certain requirements in the Urban Living Area designation. The OP does not specifically regulate accessory buildings and structures in the Urban Living Area designation, as they are regulated by the zoning by-law.

COMPREHENSIVE ZONING BY-LAW 2140 (97):

The subject property is zoned 'NC' (Neighbourhood Commercial) in accordance with Zoning By-law 2140 (97). Restaurants, existing residential dwelling units, and accessory buildings are permitted in the 'NC' zone.

PLANNING REVIEW:

1. Are the variances minor from the provisions of the By-law?

Despite the disparity between the applicable lot coverage regulation and the variance request, staff believe the variances would not negatively impact the subject property or surrounding area.

The proposed building would be screened by the existing mixed-use building and covered patio structure, and would be set back substantially from both street lines. The building would pose no impact on the Welland Canal lands to the west. Furthermore, the proposed building would abut another large accessory building on the residential property to the north, mitigating any substantial impact to this property.

Staff are of the opinion that the requested variances are minor in nature.

2. Are the variances appropriate for the development of the land?

The application would facilitate a compatible size and location for the proposed accessory building, which would support the existing mixed-use building on the property.

Staff are of the opinion that the requested variances are appropriate for the development of the land.

3. Is the general intent and purpose of the By-law maintained?

Lot coverage and height regulations for accessory buildings in the 'NC' zone are intended to limit the prominence and function of these buildings, in comparison to buildings containing principal uses.

The requested height variance would not substantially increase the prominence or function of the building, which would be used for storage only. The principal building on the property would remain significantly taller and larger in terms of floor area. The

proposed location of the building in the back corner of the property would also mitigate the height increase.

Lot coverage permissions for accessory buildings and structures in the 'NC' zone are notably limited. While total coverage of 226 m² for proposed building and existing patio structure would substantially exceed the zoning by-law regulation, the intent of the by-law can still be achieved. The coverage of accessory buildings and structures would amount to approximately 16% of the total lot area, with 4.9% devoted to the patio, which is an open structure with a lessened impact in terms of its function and massing; the remaining 11.1% would be allocated to the proposed building. Staff opine that this is reasonable in the context of the proposal. The building would be screened by existing structures, and the property's surroundings also mitigate visual impacts to the area.

Side yard setback regulations for accessory buildings are intended to achieve appropriate separation from surrounding uses. The 'NC' regulations require an enhanced setback where an accessory building abuts a residential use. There would be no substantial impact of the requested setback reduction on the adjacent residential property to the north, which already contains a large accessory building that would abut the proposed building. The separation from the north lot line would be appropriate in this context.

Staff are of the opinion that the requested variances would maintain the general intent and purpose of the zoning by-law.

4. Is the general intent and purpose of the Official Plan maintained?

Section B1.1.8.4.1 of the OP sets out policies for neighbourhood commercial uses in the Urban Living Area designation. It is appropriate to assess the requested variances against Section B1.1.8.4.1 d), which requires that *the scale, massing and siting of the development is compatible and consistent with development on adjoining lands*.

This section of the OP would normally apply when assessing a Zoning By-law Amendment application for a new neighbourhood commercial use, but it can also be utilized to assess the subject application. The scale, massing, and siting of the proposed building have already been discussed in this report. The location and size of the building would allow for compatibility and consistency with development on adjoining lands.

Staff are of the opinion that the requested variances would maintain the general intent and purpose of the Official Plan.

CIRCULATION COMMENTS:

The following comments on the application were received from internal departments and external agencies.

Hydro One

No issues.

Cogeco

Cogeco has no concerns with this application.

Finance Department

No outstanding tax balance.

MTO

The MTO has no concerns, as the property is located outside the MTO permit control area.

Engineering Department

All drainage on the property shall not negatively affect adjacent properties.

Drainage will be dealt with through the site plan review process and the building permit process.

Building Department

A building permit is required for the proposed accessory building.

Niagara Region

The current Road width along the frontage of Regional Road 20 (Highway 20) does not meet the required policy road width of 35 m. At this time we cannot request a widening but if a future site plan is needed there will be a request for a 2.25 m widening along Regional Road 20 as well as a 6 m by 6 m daylight triangle at the corner of Regional Road 20 and Centre Street.

In reference to the Region's comments, staff note that a Signed Site Plan application for the proposed building is being processed concurrently with this Minor Variance application. Pre-consultation with Region occurred for this development in 2020, and it was noted that circulation of the Signed Site Plan application to the Region was not necessary. A road widening will not be taken through the Signed Site Plan application. If future development or redevelopment of the subject property is proposed and a standard Site Plan application is required, the Region will have the opportunity to implement road widening and daylight triangle requirements.

NPCA

There are no regulated features on the property, therefore the NPCA has no objections.

CONCLUSION:

It is the opinion of Planning staff that the proposed variances meet the prescribed tests set out in the Planning Act, being that:

1. The variances are minor in nature from the provisions of the By-law;
2. The variances are appropriate for the development of the land;
3. The general intent and purpose of the By-law is maintained; and
4. The general intent and purpose of the Official Plan is maintained.

Prepared by:

Respectfully submitted by:

ELECTRONICALLY SIGNED

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ELECTRONICALLY SIGNED

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