

## COMMITTEE OF ADJUSTMENT

Planning and Development Services Department  
3540 Schmon Parkway, P.O. Box 1044  
Thorold, ON L2V 4A7  
905-227-6613

January 10, 2021

**TO:** Chairperson and Members of the Committee of Adjustment

**SUBJECT:** Minor Variance Application D13-04-2022 (concurrent with D13-05-2022 and D10-03-2022)  
6 York Street, Thorold, ON

PLAN 10816 PT LOT 3 PT LOT 4  
**273100000301500**

### RECOMMENDATION:

That the minor variances requested in application D13-04-2022 be approved.

### PROPOSAL:

The subject lands are designated Urban Living Area in the City of Thorold Official Plan and are zoned Residential Second Density Special (R2S) in accordance with Comprehensive Zoning Bylaw 2140(97). The applicant is proposing the construction of a single detached dwelling on Part 1 (proposed newly created lot through Consent application D10-03-2022) as shown on the drawing submitted. In order to facilitate the development, as per Comprehensive Zoning Bylaw 60-2019, the following variance from Section 3.18 Railway Setbacks provision, and, as per Comprehensive Zoning Bylaw 2140(97), the following variances from R2S zone provisions are being requested:



KEY MAP

1. Section 3.18 Railway Setbacks of Bylaw 60-2019 - To reduce the railway setback from 15 metres to 1.5 metres; and
2. Provision 12.2(b) of Bylaw 2140(97) - To reduce the Minimum Lot Frontage from 15 metres to 12 metres.

### CITY OF THOROLD OFFICIAL PLAN:

The subject property is designated as 'Urban Living Area' within the City's Official Plan. Single-detached dwellings are permitted in the Urban Living Area designation.

### COMPREHENSIVE ZONING BY-LAW 2140 (97):

The subject property is zoned 'R2S' (Residential Second Density Special) in accordance with Zoning By-law 2140 (97). Single detached dwellings are permitted in the 'R2S' zone.

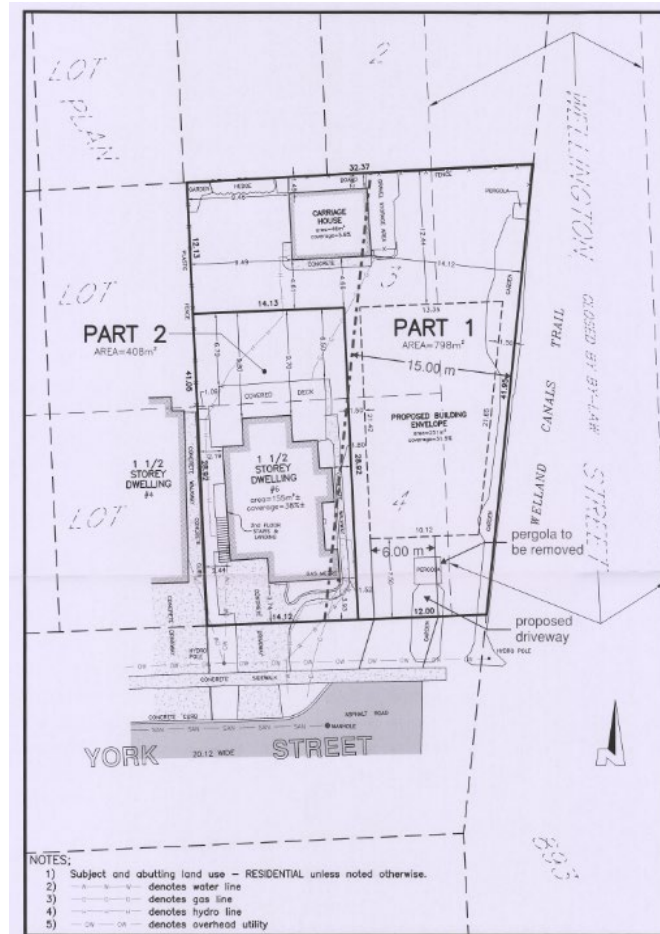


Figure 2 – Proposed Severance Sketch

## PLANNING REVIEW:

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

Variance 1 – The reduced setback to the railway will not create any adverse impacts to the residents. A noise and vibration study was submitted with the application and indicated no concern, additionally the railway operator commented in support of the reduction.

Variance 2 - The variance proposes a compatible reduced minimum lot frontage from 15.0m to 12.0m that would pose no impact on the streetscape or surrounding residential properties. The surrounding neighbourhood contains a variety of lot frontages, both larger and smaller than the proposed 12.0m.

As such, staff are of the opinion that the requested variances are minor in nature.

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

Variance 1 – The variance is required due to proximity to the rail line, however, due to supporting documentation and confirmation from the railway operator the variance poses no concerns, and is appropriate for the development of the land. The land is raised significantly above the railway, and due to the elevation does not cause concern for proximity to the rail line.

Variance 2 - The variance for a reduced minimum lot frontage would facilitate a consent that is compatible with the surrounding neighbourhood, and allow for the efficient use of the new lot on Part 1. The variance will facilitate a good example of residential infill development.

As such, 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?**

Variance 1 – The purpose of the setback is to prevent development that will be negatively impacted by high amounts of noise and vibration from an active rail line, and maintain a safe setback. In order to support any reduction, Staff requested a noise and vibration study that concluded that the noise levels are expected to fall below the Ministry of the Environment, Conservation and Parks limits and therefore noise control measures are not required. It is Staff's opinion, supported by the aforementioned, that the general intent and purpose has been met.

Variance 2 - Minimum lot frontage requirements in residential zones are intended to ensure that there is adequate separation between dwellings and surrounding properties. Side yard setbacks also ensure a consistent separation between adjacent buildings. The proposed reduced lot frontage is appropriate and compatible with surrounding development in this context, and still maintains the appropriate side yard setbacks.

As such, 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 A2.4.2 of the Official Plan outlines objectives for urban character in the City, which include:

- To respect the character of stable residential areas and only support applications for new development that are physically compatible with the character of the surrounding neighbourhood; and

- To maintain and enhance the character and stability of existing and well-established residential neighbourhoods by ensuring that development and redevelopment is compatible with the scale and density of existing development.

The requested variances would not negatively impact the character of the area. The variances would allow established conditions to continue and facilitate compatible residential development.

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:

#### CN Railway

- Safety setback of dwellings from the railway rights-of-way to be a minimum of 15 metres.
- The Owner shall install and maintain a chain link fence of minimum 1.83 metre height along the mutual property line.
- The following clause should be inserted in all development agreements, offers to purchase and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way: "Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."
- Any proposed alterations to the existing drainage pattern affecting railway property must receive prior concurrence from the Railway and be substantiated by a drainage report to the satisfaction of the Railway.
- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.

#### Building Department

- No concerns. Building permits required prior to construction of buildings.

#### Engineering Department

- Railway must approve this minor variance.

#### Cogeco

- No comments or concerns.

#### Hyrdo One

- No comments or concerns.

#### Finance Department

- No comments or concerns.

#### MTO

- No comments or concerns.

#### GIO Railway

- Ground-borne vibration transmission to be evaluated in a report through site testing to determine if dwellings within 75 metres of the railway rights-of-way will be impacted by vibration conditions in excess of 0.14 mm/sec RMS between 4 Hz and 200 Hz. The monitoring system should be capable of measuring frequencies between 4 Hz and 200 Hz,  $\pm 3$  dB with an RMS averaging time constant of 1 second. If in excess, isolation measures will be required to ensure living areas do not exceed 0.14 mm/sec RMS on and above the first floor of the dwelling.
- The Owner shall install and maintain a fence of minimum 1.83 metre height along the mutual property line.
- The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way: "Warning: Canadian National Railway Company or its assigns or successors in interest has or have a rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."
- Any proposed alterations to the existing drainage pattern affecting railway property must receive prior concurrence from the Railway and be substantiated by a drainage report to the satisfaction of the Railway.
- The Owner shall through restrictive covenants to be registered on title and all agreements of purchase and sale or lease provide notice to the public that the safety berm, fencing and vibration isolation measures implemented are not to be

tampered with or altered and further that the Owner shall have sole responsibility for and shall maintain these measures to the satisfaction of CN.

- The Owner shall enter into an Agreement stipulating how CN's concerns will be resolved and will pay CN's reasonable costs in preparing and negotiating the agreement.
- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.

The submitted comments from GIO Railway and CN Railway have been included in the consent application report, with a condition that all requirements be cleared by the railways to their satisfaction before registration of the severance, and therefore will be addressed.

### **CONCLUSION:**

It is the recommendation of Planning staff that minor variance application D13-04-2022 be approved.

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:

Electronically signed \_\_\_\_\_

Mallory Smith, MScPI  
Intermediate Planner, Planning Services

Respectfully submitted by:

Electronically signed \_\_\_\_\_

Denise Landry, MCIP, RPP  
Manager of Planning Services