



April 12, 2024

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

**SUBJECT:** Minor Variance Application D13-09-2024  
12 Kaye Avenue, Thorold, Ontario  
PT TWP LOT 50  
Thorold ON

**PROPOSAL:** An application has been submitted to facilitate the construction of a new single detached dwelling in approximately the same location of the existing dwelling (to be removed) on lands zoned Residential First Density (R1C) in accordance with the City's Comprehensive Zoning Bylaw 2140 (97). In order to facilitate the development, the following variances are being requested:

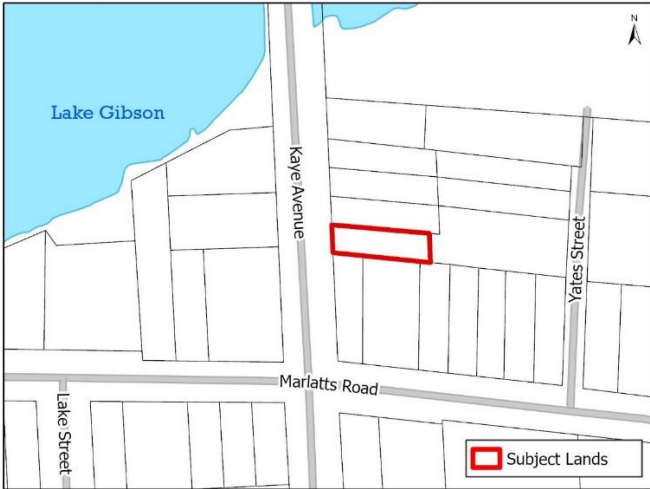
- Relief from Bylaw 2140 (97), Part 9 – Residential First Density R1C Zone: Section 9.2 (c) – To permit a minimum front yard setback of from 3.6 metres whereas the bylaw requires a minimum front yard setback of 6.0 metres; and
- Relief from Bylaw 2140 (97), Part 9 – Residential First Density R1C Zone: Section 9.2 (e) – To permit a minimum interior side yard setback of 0.9 metres whereas the bylaw requires a minimum interior yard setback of 1.2 metres.

**RECOMMENDATION:**

That Minor Variance Application (D13-09-2024) to reduce the minimum required front yard setback from 6.0 metres to 3.6 metres, and to reduce the minimum required interior side yard setback from 1.2 metres to 0.9 metres for the purpose of the construction of a single detached dwelling **BE APPROVED**.

Site Description

The subject lands are located on the east side of Kaye Avenue between Beaverdams Road to the north, and Marlatts Road Street East to the south, west of the Welland Canal as shown in **Figure 1**. The land is currently developed with a single detached dwelling, which is proposed to be demolished in order to facilitate the construction of a new single detached dwelling in approximately the same location of the existing dwelling, as shown on the proposed Site Plan (**Appendix 1**).



**Figure 1: Location Map**

Background Review

The subject property is zoned Residential First Density (R1C) in the City of Thorold’s Zoning Bylaw 2140 (97), as amended. While the existing single detached dwelling, constructed in 1920, is not required to comply with the provisions of the R1C zone under Bylaw 2140 (97) based on the date of construction, the new single detached dwelling is required to comply with all relevant provisions of the R1C zone. A review of the existing single detached dwelling (to be demolished) as well as the proposed single detached dwelling, in comparison with the applicable provisions of the City’s zoning bylaws is provided in the table below.

**Table 1: Bylaw 2140(97) – Residential First Density (R1C) Requirements**

Provisions	R1C Requirement	Existing Dwelling (To be Demolished)	Proposed Dwelling
Minimum Lot Area	330 m <sup>2</sup>	382.3 m <sup>2</sup> (existing lot)	382.3 m <sup>2</sup> (existing lot)
Minimum Lot Frontage	12.0 m	10.36 m (existing lot)	10.36 m (existing lot)
Minimum Front Yard Setback	6.0 m	<b>2.69 m*</b>	<b>3.6 m*</b>
Minimum Rear Yard Setback	7.5 m	18.12 m	13.5 m
Minimum Interior Side Yard Setback	1.2 m	<b>0.94 m*</b>	<b>0.9 m*</b>

Provisions	R1C Requirement	Existing Dwelling (To be Demolished)	Proposed Dwelling
Minimum Exterior Side Yard Setback	4.5 m	N/A	N/A
Maximum Lot Coverage	45%	26%	35%
Maximum Height	11 m	7.3 m	10 m

**\*Denotes zoning deficiency**

**MINOR VARIANCE PLANNING ANALYSIS:**

The Committee of Adjustment, in accordance with Section 45 (1) of the Planning Act, may authorize a minor variance from the provisions of the bylaw, subject to the following considerations:

- The variance maintains the general intent and purpose of the Zoning Bylaw.
- The variance maintains the general intent and purpose of the Official Plan.
- The variance is appropriate for the development or use of the land.
- The variance is minor in nature.

A summary of planning staff’s review of the proposed variances with respect to each of these considerations is provided below.

**Is the general intent and purpose of the Zoning Bylaw maintained?**

**Variances 1** – The purpose of the minimum front yard setback is to ensure a relatively uniform setback along the street, as well as to ensure adequate space for amenity space and parking. The proposed front yard setback is in keeping with the existing building envelope and the setbacks established within the neighbourhood. It is staff’s opinion that the requested reduction in the required front yard is not anticipated to impact the surrounding residential properties, and still provides for adequate amenity space, mainly in the rear yard as well as parking.

As such, the variance requested to reduce the minimum required front yard setback from 6.0 metres to 3.6 metres maintains the general intent and purpose of the zoning bylaw.

**Variance 2** – The purpose of the minimum interior side yard setback is to ensure adequate spatial separation between dwellings and no negative impacts on drainage. The proposed interior front yard setback is in keeping with the existing building envelope and the setbacks established within the neighbourhood. It is staff’s opinion that the proposed reduction in the required interior yard is not anticipated to impact the surrounding

residential properties, and still provides for adequate separation between dwellings and space for drainage.

As such, the variance requested to reduce the minimum required interior side yard setback from 1.2 metres to 0.9 metres maintains the general intent and purpose of the zoning bylaw.

**Is the general intent and purpose of the Official Plan maintained?**

The subject property is located in the Urban Area Boundary, designated Urban Living Area and are subject to the Centre Community Improvement Area and Built Boundary overlays in the City of Thorold Official Plan.

The Built-Up Area comprises all lands within the Urban Area Boundaries of Thorold that have been developed into urban uses as of June 2006. Lands designated Urban Living Area are the site of existing and planned residential development and complementary uses on full municipal services.

According to the City's Official Plan, secondary dwelling units are considered to be an appropriate form of residential intensification and such housing will also contribute to the supply of affordable housing in the City. On this basis, according to the Official Plan, secondary dwelling units are permitted in the Urban Living Area designation and are also permitted as-of-right in the City's implementing Zoning Bylaw within the Urban Living Area designation.

Section B.1.1.4.2 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.

It is staff's opinion that the requested variances would not negatively impact the character of the area as variances would allow established conditions to continue and facilitate compatible residential redevelopment.

Therefore, the requested variances would maintain the general intent and purpose of the Official Plan.

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

This is not a subjective test as to whether the variance is appropriate to the Applicant or to neighbouring property owners. Rather, the test examines whether the variance is desirable from the standpoint of permitting appropriate development as a public interest.

The variances for a reduced front yard and interior side yard setback would facilitate safe and harmonious development of a property that is subject to space constraints. The reduction in the required yards is appropriate as it will not impact the surrounding residential properties and there is still adequate amenity space in the rear yard and exterior side yard, and maintains the existing separation between buildings.

As such, staff is of the opinion the requested variances are appropriate for the development of the land.

### **Are the variances minor?**

In making a determination of whether a variance is minor as required, Committee will have more regard for the degree of impact which could result from the relief and less regard to the magnitude of numeric or absolute relief sought by the applicant.

In staff's opinion, the impact on the streetscape and neighbouring properties as a result of the proposed reductions in front and interior rear yards will not be discernable, given the established setback of the existing dwelling.

As such, the the variances requested are minor.

### **COMMENTS:**

#### **Agency & Department Comments**

The application was circulated to internal departments and external agencies for comments, which are summarized below. A copy of the agency and department comments received are provided in **Appendix 2**.

The following Departments/Agencies provided comments noting no concerns with the proposal: Niagara Region, Ministry of Transportation Ontario, Cogeco, City of Thorold Heritage Advisory Committee (LACAC), Thorold Fire and Emergency Services, GIO Rail, Niagara Peninsula Conservation Authority (NPCA), Hydro One, and TransCanada Pipelines Limited.

The following Departments/Agencies did not provide comments on the proposal: Bell Canada, City Engineering Division, Niagara Escarpment Commission, Ontario Power Generation, Trillium Railway, Canada Post, Canadian National Railway, District School Board of Niagara, and Niagara Catholic District School Board.

### City Building Department

- Spatial separation to comply with Ontario Building Code (OBC) Section 9.10.

### City Tax Department

- Taxes outstanding due April 30, 2024.

### Public Comments

The application was also circulated in accordance with the requirements of the Planning Act to property owners within 60 metres of the subject lands.

At the time of writing of this report, one public comment was received via email. Below is a summary of the concerns raised by the property owner, while a copy of the comment is provided in **Appendix 3**.

- Concern regarding the impact of varied setbacks and minimum lot sizes encroaching on owner's property potentially and therefore affecting neighbouring property quality and value.

### Response to Public Comment

As highlighted by **Table 1**, the existing lot and proposed structure does conform to some provisions of Zoning Bylaw 2140(97). Staff notes that the front yard setback of the proposed single detached dwelling is to be setback further the existing front yard setback (3.6 metres vs. the existing 2.69 metres provided). The proposed interior side yard setback is to be 0.04 metres smaller than the existing dwelling (0.9 metres vs 0.94 metres).

Staff notes that the proposed setbacks are in keeping with the established neighbourhood, and existing dwelling. As such, it is staff's opinion that the minor variances sought will not have no impact on the neighbouring lots.

### **CONCLUSION:**

In conclusion, it is the recommendation of Planning staff that minor variance application D13-09-2024 requesting relief to the City of Thorold Comprehensive Zoning Bylaw to reduce the minimum required front yard setback from 6.0 metres to 3.6 metres, and to reduce the minimum required interior side yard setback from 1.2 metres to 0.9 metres for the purpose of the construction of a single detached dwelling be approved without conditions for the reasons as described within this report.

It is noted that while Staff is supportive of the reduced side yard setback, the applicant should be aware that the cost of construction would likely increase as the southerly setback would require additional fire rating under S. 9.10 of the Building Code.

Prepared by:

ORIGINAL SIGNED

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Connor Maclsaac  
Planner, Development Services

Respectfully Submitted By:

ORIGINAL SIGNED

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Marc Davidson  
Senior Development Planner,  
Development Services



## **Appendix 1: Site Plan**





## **Appendix 2: Agency Comments**



# **CITY OF THOROLD BUILDING COMMENTS**

## Angela Nesbitt

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**From:** Ben Hiebert  
**Sent:** Tuesday, April 9, 2024 2:44 PM  
**To:** Angela Nesbitt  
**Cc:** Marc Davidson; Connor Maclsaac  
**Subject:** RE: Follow up/Reminder FW: Request for comments - Committee of Adjustment - April 2024 - Due by April 5th

Hi Angi,  
Spatial separation to comply with OBC 9.10.  
Thanks



**Ben Hiebert** C. Tech

Building Inspector, Plans Examiner  
Planning and Development Services

**City of Thorold**

905-227-6613 x257

P.O. Box 1044, 3540 Schmon Parkway, Thorold, ON., L2V 4A7

[www.thorold.ca](http://www.thorold.ca)

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**From:** Angela Nesbitt <Angela.Nesbitt@thorold.ca>  
**Sent:** Tuesday, April 9, 2024 2:35 PM  
**To:** Ben Hiebert <Ben.Hiebert@thorold.ca>  
**Subject:** FW: Follow up/Reminder FW: Request for comments - Committee of Adjustment - April 2024 - Due by April 5th  
**Importance:** High

Hi Ben,

As per Connor's direction, below is the reminder request for comments. Attached please find a copy of the submitted sketch for the proposed new dwelling.

Respectfully,



**Angela Nesbitt** ACST-A

Planning Clerk  
Development Services

**City of Thorold**

905-227-6613 x259

P.O. Box 1044, 3540 Schmon Parkway, Thorold, ON., L2V 4A7

[www.thorold.ca](http://www.thorold.ca)

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**From:** Angela Nesbitt  
**Sent:** Wednesday, April 3, 2024 1:46 PM  
**To:** Abu Rashed <[Abu.Rashed@thorold.ca](mailto:Abu.Rashed@thorold.ca)>; Ben Hiebert <[Ben.Hiebert@thorold.com](mailto:Ben.Hiebert@thorold.com)>; FPO <[FPO@thorold.ca](mailto:FPO@thorold.ca)>; Jason Simpson <[Jason.Simpson@thorold.ca](mailto:Jason.Simpson@thorold.ca)>; Justin Letourneau <[Justin.Letourneau@thorold.ca](mailto:Justin.Letourneau@thorold.ca)>; Lucy Sacco



## **Appendix 3: Public Comment**

**Ashley D'Amico**

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**From:** [REDACTED] >  
**Sent:** April 11, 2024 3:23 PM  
**To:** Angela Nesbitt  
**Subject:** Variance application D13-09-2024 12 Kay Ave Thorold

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern

I am writing in regards to the application for a variance to 12 Kaye Ave. The setbacks and minimum lot sizes were created for a reason, to ensure a clear and concise distant between each of them. The property to the left of me has already encroached on the property line, now the property behind me wishes to do the same. What will be next?

I want it understood, I do not approve, nor do I endorse these oversized homes being built on small properties, especially when it affects me, my property and the quality and potentially the value of my land.

I own the property at [REDACTED].

Thank you for your attention to this matter.

I can be reached at [REDACTED]  
Christine Daly