



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

April 12, 2024

TO: Chairperson and Members of the Committee of Adjustment

SUBJECT: Minor Variance Application D13-08-2024
5 Cunningham Street, Thorold, Ontario
PLAN SHRINER FARM PT LOT 15 PT LOT 16 NP897

PROPOSAL: An application has been submitted for the construction of a second story addition to an existing accessory structure for the purpose of a second dwelling unit on lands zoned Residential Second Density Special (R2S) in accordance with the City's Comprehensive Zoning Bylaw 2140 (97). Regulations relating to second dwelling units are however governed by the City of Thorold Comprehensive Zoning Bylaw 60-2019.

In 2023, a minor variance application (D13-19-2023) was made to facilitate a proposed second story addition to an existing accessory structure for the purpose of a second dwelling unit. Relief was granted from the following provisions of Bylaw 60-2019:

- Part 3 – General Regulations, Table 3.1: Accessory Buildings and Structures – To permit a maximum height for an accessory structure within the residential zone of 5.5 metres, whereas the previous variance to the bylaw permits a maximum height of 4.5 metres; and
- Part 3 – General Regulations, Table 3.1: Accessory Buildings and Structures – To increase the permitted lot coverage for accessory buildings from 10% to 15%.

In the original submission (D13-19-2023), a request for relief related to the gross floor area of the second dwelling unit in comparison to the principal dwelling unit was inadvertently excluded in the original decision. This omission and an increase in the proposed height of the accessory structure, is included in this application made for relief from the following provisions of Bylaw 60-2019:

- Relief from Part 3 – General Regulations, Table 3.1: Accessory Building or Structure Requirements – To permit a maximum height for an accessory structure within the residential zone of 6.2 metres whereas the original variance to the bylaw received permits a maximum of 5.5 metres;
- Relief from Part 3 – General Regulations, Table 3.1: Accessory Building or Structure Requirements – To permit a minimum front yard setback for an accessory structure within the residential zone of 4.2 metres, whereas the bylaw requires a minimum front yard setback 6.0 metres;
- Relief from Part 3 – General Regulations, Section 3.21: Second Dwelling Units – To permit a second dwelling unit with a gross floor area of 47% of the principal dwelling unit gross floor area whereas the bylaw permits a second dwelling unit

with a gross floor area of a maximum of 40% of the principal dwelling unit gross floor area.

RECOMMENDATION:

That Minor Variance Application (D13-08-2024) to increase the maximum permitted height for an accessory structure within the residential zone from 4.5 metres to 6.2 metres, to reduce the minimum required front yard setback for an accessory structure within the residential zone to 4.2 metres from 6.0 metres, and to increase the maximum permitted gross floor area of a second dwelling unit from a maximum of 40% of the principal dwelling unit to 47% of the principal dwelling unit gross floor area, for the purpose of a second dwelling unit within an accessory structure **BE APPROVED**.

Site Description

The subject lands are located on the west side of Cunningham Street at the intersection of Garden Street, east of the Welland Canal as shown in **Figure 1**. The land is currently developed with a single detached dwelling with an attached garage, and an additional accessory structure currently utilized for storage. The existing accessory structure currently utilized for storage is proposed to be further developed through a second story addition for the purpose of a second dwelling unit, as shown in concept drawing in **Figure 2**, as well as the proposed Site Plan (**Appendix 1**).



Figure 1: Location Map



Figure 2: Concept Drawing

Background Review

The subject property is zoned Residential Second Density (R2S) in the City of Thorold's Zoning Bylaw 2140 (97), as amended. The property meets the lot width, lot area, coverage, setback, and all other requirements of the R2S zone. The R2S zone permits single detached dwellings and their associated accessory buildings. Per *Bill 23, More Homes Built Faster Act, 2022*, as of right, zoning must permit up to three residential units per lot, with no minimum unit sizes, and no more than one additional parking space can be required.

While the existing single detached dwelling and proposed second dwelling unit within an accessory structure comply with all provisions of the R2S zone, additional provisions as set out by Section 3.1 - Accessory Buildings and Structures and Section 3.21 – Second Dwelling Units of the City's Comprehensive Zoning Bylaw 60-2019 apply.

A review of the proposed second dwelling unit (SDU) within an accessory structure, in comparison with the applicable provisions of Bylaw 60-2019 is provided in the table below.

Table 1: Bylaw 60-2019 – Section 3.1 – Accessory Buildings and Structure Requirements & Section 3.21 – Second Dwelling Units (SDU)

Section 3.1 – Accessory Buildings and Structures Requirements		
Provisions	Residential Second Density (R2S) Requirement	Provided
Maximum Lot Coverage of Accessory Building(s) or Structure(s)	15% of total lot coverage permitted (varied from 10% of total lot coverage permitted per D13-19-2023)	6.6%
Minimum Front Yard Setback	6.0 m, but in no case closer to the street than the front wall of the dwelling	4.2 m*
Minimum Rear Yard Setback	0.9 m	1.13 m
Minimum Interior Side Yard Setback	0.9 m	1.0 m
Minimum Exterior Side Yard Setback	3 m	32.38 m
Maximum Height	5.5 m (varied from 4.5 m per D13-19-2023)	6.2 m*

***Denotes zoning deficiency**

Section 3.21 – Second Dwelling Unit Requirements		
Provisions	Second Dwelling Units Requirement	Provided
Maximum number of Second Dwelling Units on a Lot	1	1
Maximum Gross Floor Area of SDU	40% of the principal dwelling unit gross floor area	47%* of the principal dwelling unit gross floor area.
Required Parking Spaces	1 Additional Parking Space	1 Additional Parking Space

***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?

Variance 1 – The intent of the maximum height for accessory structures is to ensure that accessory buildings do not impact neighbouring properties, and to ensure their accessory nature to the primary dwelling. The proposed additional height will permit a two (2) story second dwelling unit, allowing for a low density housing option, and will remain a lesser height than the primary two (2) story dwelling. It is staff's opinion that no negative impacts to the subject lands or adjacent properties are anticipated as a result of the requested increase in height.

As such, the variance requested to permit an increase in the maximum permitted height of an accessory structure from 5.5 metres to 6.2 metres maintains the general intent and purpose of the bylaw.

Variance 2 – The purpose of the front yard setback for an accessory structure is to maintain appropriate front yard setbacks, not impact the character of the neighbourhood, allow for screening from the street, and to ensure their accessory nature to the primary dwelling. The distance to the base of existing accessory structure will be maintained, however the second story will be built approximately 1.5 meters closer to the roadway in comparison to the existing structure. It is staff's opinion that the new structure will continue to set back appropriately from the street and will not have any impact on the character of the neighbourhood or on surrounding properties.

As such, the variance requested to permit a reduction in the minimum front yard setback for an accessory structure within the residential zone from 6.0 metres to 4.2 metres maintains the general intent and purpose of the bylaw.

Variance 3 – The purpose of the maximum gross floor area of a secondary dwelling unit being 40% of the principal dwelling unit gross floor area is to ensure the accessory nature to the primary dwelling, avoid over development of lots, and to maintain adequate space for amenities, parking, landscaping, and storm water management. It is staff's opinion that the proposed setback and location of the accessory structure will maintain the accessory nature of the structure, and will not result in overdevelopment of the subject lot.

As such, the the variance requested to increase the permitted maximum gross floor area for a second dwelling unit of 40% of the principal dwelling unit to 47% of the principal dwelling unit 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.

The proposed variances would allow for an additional dwelling unit within the permitted accessory structure, in the side yard of the existing dwelling on the subject lands. The existing established neighbourhood contains a variety of low rise residential dwellings. With the introduction of an additional dwelling unit, no negative impacts to the existing neighbourhood are anticipated as the scale and character of the neighbourhood has been maintained.

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

Are the variance 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.

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. Secondary dwelling units within accessory structures are permitted on the lands, and are compatible with the existing development of the neighbourhood in scale and built form. The requested variances are required to facilitate the construction of a second dwelling unit to the side of the existing single detached dwelling. In staff's opinion, the development is compatible with the existing neighbourhood in scale and built form.

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.

Variance 1 – In staff's opinion, the impact on the streetscape and neighbouring properties as a result of the proposed increase in height will not be discernable. Furthermore, it is staff's opinion that given the setback from the existing dwelling on the property to the east, as well as the existing landscaping and fencing, the increase in height to the existing structure would not compromise the privacy of the adjacent lands.

As such, the variance requested to permit an increase in the maximum permitted height of an accessory structure from 5.5 metres to 6.2 metres is minor.

Variance 2 – The distance to the base of existing accessory structure will be maintained, however the second story will be built approximately 1.5 meters to the roadway in comparison to the existing structure. It is staff's opinion that the new structure will continue to set back appropriately from the street and will not have any impact on the character of the neighbourhood or on surrounding properties.

As such, the variance requested to permit a reduction in the minimum front yard setback for an accessory structure within the residential zone from 6.0 metres to 4.2 metres is minor.

Variance 3 – In staff's opinion, the increase in gross floor area of a second dwelling unit as a percentage of the principal dwelling unit will have little to no impact on the adjacent

properties. Due to the proposed location and orientation of the proposed accessory building, it is staff's opinion that the proposed building will maintain its accessory nature to the main residential use.

As such, the the variance requested to increase the permitted maximum gross floor area for a second dwelling unit of 40% of the principal dwelling unit to 47% of the principal dwelling unit is 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: Ministry of Transportation Ontario, Cogeco, City of Thorold Heritage Advisory Committee (LACAC), GIO Railway, City Tax Department, Thorold Fire and Emergency Services, 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, City Building Department, Niagara Escarpment Commission, Ontario Power Generation, Trillium Railway, Canada Post, Canadian National Railway, District School Board of Niagara, and Niagara Catholic District School Board.

Niagara Region

- Regional staff noted that they have no additional comments, as the previous comments regarding City File D13-19-2023 are still applicable.
- Regional staff comments on the previous D13-19-2023 application noted that the Region does not object to the proposed Minor Variance Application, in principle, as the proposal is consistent with the PPS and conforms to Provincial and Regional policies.
- Regional staff noted that the subject property is mapped as having archaeological potential and that future development subject to a Planning Act Application may require an archaeological assessment, and that the standard archaeological warning clause be observed.

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, no public comments have been received.

CONCLUSION:

In conclusion, it is the recommendation of Planning staff that minor variance application D13-08-2024 requesting minor variances to the City of Thorold Comprehensive Zoning Bylaw 60-2019 in order to increase the maximum permitted height for an accessory structure within the residential zone from 4.5 metres to 6.2 metres, to reduce the minimum required front yard setback for an accessory structure within the residential zone to 4.2 metres from 6.0 metres, and to increase the maximum permitted gross floor area of a second dwelling unit from a maximum of 40% of the principal dwelling unit to 47% of the principal dwelling unit gross floor area, be approved without conditions for the reasons as described within this report.

Prepared by:

ORIGINAL SIGNED

Connor MacIsaac
Planner, Development Services

Respectfully Submitted By:

ORIGINAL SIGNED

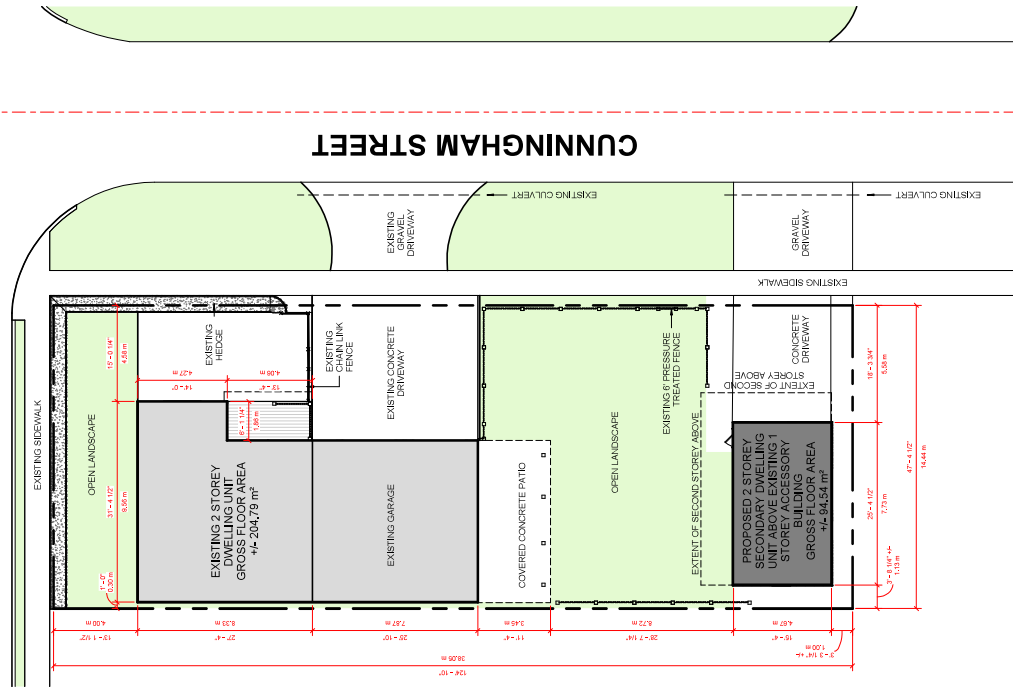
Marc Davidson
Senior Development Planner,
Development Services



Appendix 1: Site Plan

GARDEN STREET

CUNNINGHAM STREET



SITE STATISTICS		
5 CUNNINGHAM STREET THOROLD ONTARIO		
Lot Area	6862.56 (ft ²) / 549.44 (m ²)	
Existing Dwelling Gross Area	2204.34 (ft ²) / 204.79 (m ²)	
Proposed Accessory Building Gross Area	1017.62 (ft ²) / 94.54 (m ²)	
Lot Coverage	30.7 %	
ZONING MATRIX		
ACCESSORY BUILDING OR STRUCTURE REQUIREMENTS -R1B RESIDENTIAL ZONE		
REGULATIONS	(R1B) ZONE REQ.	PROPOSED
Permitted Uses	A Maximum of (1) Secondary Dwelling Unit is Permitted on a Lot	One (1) Second Above Existing Accessory Building
Maximum Lot Coverage of Accessory Building(s) or Structure(s)	10 % of total lot coverage permitted	6.6 %
Maximum Gross Floor Area of Secondary Dwelling Unit	40 % of the principal dwelling unit Gross Floor Area	47 % RELIEF NEEDED
Minimum Front Yard Setback	6.0 m, but in no case closer to the street than the front wall of the existing	6.28 m
Minimum Rear Yard Setback	0.9 m	+/- 1.00 m EXISTING
Minimum Interior Side Yard Setback	0.9 m	+/- 1.13 m EXISTING
Minimum Exterior Side Yard Setback	3 m	N/A
Maximum Height	4.5 m	6.2m (2 Storey) RELIEF NEEDED
Parking Requirements for Second Dwelling Units in Accessory Buildings	3,21 -One (1) additional parking space shall be provided on the lot and is permitted to be in tandem	One (1) space



Appendix 2: Agency Comments



NIAGARA REGION COMMENTS

Growth Strategy and Economic Development

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
(905) 980-6000 Toll-free:1-800-263-7215

Via Email

August 4, 2023

Region File: D.17.09.MV-23-0075
Angela Nesbitt
Secretary Treasurer
City of Thorold
3540 Schmon Parkway
Thorold, ON L2V 4A7

Dear Ms. Nesbitt:

**Re: Regional and Provincial Comments
Minor Variance Application
City File: D13-19-2023
5 Cunningham Street
City of Thorold**

Regional Growth Strategy and Economic Development staff has reviewed the Minor Variance Application for 5 Cunningham Street located in the City of Thorold. The Applicant is seeking a Minor Variance for the proposed construction of a second storey addition to an existing accessory building for the purpose of a second dwelling unit. In order to facilitate the development, as per Comprehensive Zoning Bylaw 60-2019, the following variances from Part 3 – General Regulations are being requested:

- Part 3, Section 3.1, Table 3.1 – Accessory Buildings and Structures – Minimum Rear yard Setback of existing accessory building – To recognize the reduced minimum rear yard setback from 0.9 metres to 0.21 metres; and
- Part 3, Section 3.1, Table 3.1 – Accessory Buildings and Structures – Minimum Interior Side Yard Setback of existing accessory building – To recognize the reduced minimum interior side yard setback (south side) from 0.9 metres to 0.13 metres; and
- Part 3, Section 3.1, Table 3.1 – Accessory Buildings and Structures - Maximum Lot Coverage of Accessory Structures – To increase the permitted lot coverage for accessory buildings from 10% to 15%; and
- Part 3, Section 3.1, Table 3.1 – Accessory Buildings and Structures – Accessory Buildings and Structures – Maximum Height – To increase the maximum height from 4.5 metres to 5.5 metres.

The following comments are provided to assist the City of Thorold with their review of the proposed Minor Variance Application.

Provincial and Regional Policies

The subject lands are within a “Settlement Area” in accordance with the *Provincial Policy Statement, 2020* (“PPS”) and designated as “Delineated ‘Built-Up’ Area” in *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 Consolidation* (“Growth Plan”). The Growth Plan contains policies that call for infill and intensification within the built-up area to support the achievement of complete communities, access to multimodal and active transportation networks, and connections to transit services and other public amenities.

The subject lands are within the Urban Area and designated “Built-Up Area” in the *Niagara Official Plan* (“NOP”). A full range of residential, commercial and employment uses are generally permitted within the urban area designation, subject to the availability of adequate municipal services and infrastructure. The NOP promotes development in its urban areas and supports growth that contributes to the overall goal of providing a sufficient supply of housing that is affordable, accessible, and suited to the needs of a variety of households and income groups in Niagara.

Section 2.2.1.1 of the NOP encourages opportunities for the integration of gentle density and a mix and range of housing options that consider the character of established residential neighbourhoods. City staff should be satisfied that the interface of the established residential uses has been addressed.

As such, Regional Staff does not object to the proposed development, subject to the comments below.

Archaeological Potential

The PPS and NOP provide direction for the conservation of significant cultural heritage and archaeological resources. Specifically, Section 2.6.2 of the PPS and Policy 6.4.2.1 of the NOP state that development and site alteration is not permitted on lands containing archaeological resources or areas of archaeological potential, unless significant archaeological resources have been conserved.

The subject property is located within the Niagara Region’s mapped Area of Archaeological Potential on Schedule K of the NOP, indicating there is potential for the discovery of archaeological resources. As the proposed development includes the addition of a second floor to an existing accessory structure, an archaeological assessment will not be required in this instance. Should future development take place and require a Planning Act application that includes ground disturbance a Stage 1 Archaeological Assessment may be required.

Further, Regional staff notes that the plan included with the Notice appears to indicate that the proposed addition may extend beyond the footprint of the existing structure. As it is unclear if any ground disturbance is to occur to support the addition, Regional staff has included an archaeological advisory clause below for information purposes.

Conclusion

In conclusion, Regional Growth Strategy and Economic Development staff does not object to the proposed Minor Variance Application, in principle, as the proposal is consistent with the PPS and conforms to Provincial and Regional policies, subject to the conditions below.

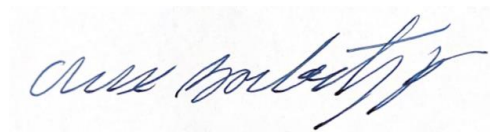
1. That the Owner be advised of the following advisory clause:

“Should deeply buried archaeological remains/resources be found during construction activities, all activities impacting archaeological resources must cease immediately, and the proponent must notify the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism and contact a licensed archaeologist to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Public and Business Services Delivery (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the Ministry of Citizenship and Multiculturalism should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

Should you have any questions related to the above comments, please contact the undersigned at Alex.Boekestyn@niagararegion.ca, or Pat Busnello, Manager of Development Planning at Pat.Busnello@niagararegion.ca.

Best regards,



Alex Boekestyn, M.Sc.
Development Planner, Niagara Region

cc: Pat Busnello, MCIP, RPP, Manager of Development Planning, Niagara Region