

**THE CORPORATION OF THE TOWN OF GEORGINA**

**REPORT NO. DS-2022-0079**

**FOR THE CONSIDERATION OF  
COMMITTEE OF ADJUSTMENT**

**August 29, 2022**

**SUBJECT: MINOR VARIANCE APPLICATION A20-22  
JENNIFER NORTON  
PART LOT 22 CONCESSION 5**

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**1. RECOMMENDATION:**

1. That the Committee of Adjustment receive Report No. DS-2022-0079 prepared by the Development Planning Division, Development Services Department, dated August 29, 2022, respecting Minor Variance Application A20-22, submitted by Jennifer Norton for the property municipally addressed as 273 Pepperlaw Road.
2. That in the event no public or Committee concerns are raised at the meeting warranting investigation and a further meeting, Staff recommend the following:
  - a. That the Committee of Adjustment approve Minor Variance Application A20-22 to permit relief from the following:
    - i. Section 5.4: To permit the construction of a single family dwelling within 95 metres of Canadian National Railway property; whereas a minimum distance of 120 metres is required.
  - b. That the approval of Minor Variance Application A20-22 be subject to the following term(s):
    - i. That the proposed single family dwelling be constructed in general conformity with Attachment 5 to Report DS-2022-0079, in accordance with the relief recommended to be approved in Recommendation 2(a).
  - c. That the approval of Minor Variance Application A20-22 be subject to the following condition(s):
    - i. Submission to the Secretary-Treasurer of written confirmation from Canadian National Railway that all matters identified in Attachment 6 to Report No. DS-2022-0079 have been addressed to their satisfaction.

- ii. **Submission to the Secretary-Treasurer of written confirmation from the Town of Georgina Development Engineering Division that all matters identified in Attachment 6 to Report No. DS-2022-0079 have been addressed to the Division's satisfaction.**
- iii. **Submission to the Secretary-Treasurer of written confirmation from the Town of Georgina Planning Policy Division that all matters identified in Attachment 6 to Report No. DS-2022-0079 have been addressed to the Division's satisfaction.**
- iv. **That the above noted condition(s) be fulfilled within two (2) years of the date of the Notice of Decision.**

## **2. PURPOSE:**

The purpose of this report is to provide Staff's analysis concerning Minor Variance Application A20-22, submitted by Jennifer Norton, the property owner of 273 Pepperlaw, regarding the construction of a single family dwelling.

## **3. BACKGROUND:**

Owner(s): Jennifer Norton

Agent: N/A

Property Description: (refer to Attachments 1 to 4)  
273 PEPPERLAW ROAD  
PART LOT 22 CONCESSION 5  
Roll #: 053-43400

### **3.1 PROPOSAL**

The owner of the subject property is proposing to construct a single family dwelling.

A minor variance application has been submitted concerning the proposal, requesting the following relief:

- I. Section 5.4: To permit the construction of a single family dwelling within 95 metres of Canadian National Railway property; whereas a minimum distance of 120 metres is required.

A Site Sketch showing the proposed minor variance is included as Attachment 5.

### **3.2 SUBJECT PROPERTY AND THE SURROUNDING AREA:**

The subject property is located at 273 Pepperlaw Road. A summary of the characteristics of the property is as follows:

General Property Information		
Municipal Address	273 Pepperlaw Road	
Zoning	Residential	
Frontage	9.37 Metres	
Area	1062.92 Square Metres	
Official Plan / Secondary Plan Land Use Designation	Commercial	
Regional Official Plan Land Use Designation	Towns and Villages	
Related Applications	None	
Land Use and Environmental Considerations		
Existing Structures	None	
Proposed Structures	Single family dwelling	
Heritage Status	Neither listed nor designated	
Regulated by LSRCA	No	
Key Natural Heritage Features	None	
Natural Hazards	None	
Servicing		
	Existing	Proposed
Water	None	Well
Sanitary	None	Septic
Access	None	Driveway

#### 4. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

##### 4.1 PUBLIC CIRCULATION

In accordance with the provisions of the *Planning Act*, the Notice of Hearing for the subject application was sent by mail on August 15, 2022 to all landowners within 60.0 metres of the subject property.

As of the date of writing this report, Town Staff have not received any submissions from the general public.

##### 4.2 EXTERNAL AGENCY AND TOWN DEPARTMENT COMMENTS

All Town department and external agency comments for Minor Variance Application A20-22 have been consolidated into a chart, which is included as Attachment 6.

The Development Engineering Division has indicated no objection to the application and provided the following conditions:

- The applicant/owner shall provide a detailed lot grading and drainage plan including existing and proposed entrance prepared by a Professional Engineer or Ontario Land Surveyor skilled and competent in such works and all in accordance with the requirements of Part 4 of By-law 2011-0044 (REG-1), as amended. The plan shall show existing conditions including grade elevations of the entire lot, to the satisfaction of the Town's Development Engineering Division.

The Planning Policy Division has indicated no objection to the application and provided the following conditions:

- The applicant/owner shall provide a detailed Arborist Report and Tree Compensation Plan to the Town in accordance with our Tree Preservation and Compensation Policy.

The Canadian National Railway has indicated no objection to the application and provided the following conditions:

- Registration of an environmental easement for operational noise and vibration emissions, in favor of CN
- Implementation of certain basic mitigation measures in the dwelling design and construction in order to limit potential impacts, including:
  - Provision for air-conditioning, allowing occupants to close windows during the warmer months;
  - Exterior cladding facing the railway achieving a minimum STC rating of 54 or equivalent, e.g. masonry;
  - Acoustically upgraded windows facing the railway with appropriate specifications;
  - Locating noise sensitive rooms away from the railway side;

The following Town departments / divisions and external agencies have indicated no objections to the Minor Variance.

- Municipal Law Enforcement Division
- Building Inspector
- Building Division
- Georgina Fire Department
- Economic Development Division

A number of external agencies and Town departments / divisions have not provided comments.

## **5. ANALYSIS:**

The following evaluation of Minor Variance Application A20-22 is based on the four (4) prescribed tests as set out in Section 45(1) of the *Planning Act*:

*i. Is the general intent and purpose of the Official Plan maintained? – Yes*

The subject property is designated Commercial. While the predominant use of this designation is for the purposes of buying, selling, leasing and exchanging of commodities and the supplying, selling and leasing of personal, business and recreational services, permitted land uses may also include institutional, residential and office uses. Consequently, Staff are of the opinion that the proposal complies with the general intent and purpose of the Official Plan.

*ii. Is the general intent and purpose of the Zoning By-law maintained? – Yes*

The subject property is zoned 'Residential' on Map 10 of Schedule 'A' to Zoning By-law No. 500, as amended. A single family dwelling is permitted in the Residential Zone.

a. Canadian National Railway Setback

Residential land uses require a setback of 120 metres from Canadian National (C.N.) Railway property. The purpose of the Canadian National Railway Setback is to ensure that a buffer is maintained that provides a safety barrier, noise mitigation and vibration mitigation. However, many nearby properties have residential uses that are even closer to the CN rail property. Additionally, the application was circulated to CN rail, who did not object to the proposal. Conditions imposed by C.N. would also help mitigate potential noise and vibration externalities from the railway, further reducing any conflicts between these land uses. Consequently, staff are of the opinion that the variance would maintain the general intent and purpose of the Zoning By-law

*iii) Is the Minor Variance desirable for the appropriate development of the property or use of land, building or structure? – Yes*

Staff are of the opinion that the proposed minor variance is desirable and will enable appropriate development on the subject property.

The proposed dwelling is in keeping with the existing physical character of neighbourhood, as several lots near the subject property feature single family dwellings as close as or even closer to the Canadian National Railway property.

Staff are satisfied that the proposal is desirable for the appropriate development of the subject land and surrounding neighborhood.

*iv) Is the relief sought minor in nature? – Yes*

In considering whether the relief sought is minor, Staff note that this test is not simply a question of numerical value. The principal consideration is that of potential impact the variance may have, and whether that impact is minor or acceptable. In light of the above evaluation of the application, Staff are of the opinion that the requested variance is minor in nature.

## **6. CONCLUSION:**

Subject to the recommendations by Staff in Section 1 of this report, Staff are of the opinion that Minor Variance Application A20-22, as it pertains to the proposed single family dwelling, meets the four (4) prescribed tests as set out in Section 45(1) of the Planning Act, R.S.O. 1990 and represents good planning.

## **APPROVALS:**

Prepared by:

Brittany Dobrindt  
Planner I

Approved By:

Janet Porter, MCIP, RPP  
Manager of Development Planning

### ***Attachments:***

*Attachment 1 – Context Map*

*Attachment 2 – Key Map*

*Attachment 3 – Aerial Map*

*Attachment 4 – Site Photos*

*Attachment 5 – Site Sketch*

*Attachment 6 – Consolidated Comments*