



**COMMITTEE OF ADJUSTMENT
SUMMARY OF COMMENTS FOR MAY 17, 2023
FOR APPLICATION A08-23
51 CLIFFORD STREET**

The below summary of comments provides information and any requested conditions of approval from circulated Departments and external agencies.

CITY OF ORILLIA

TO: Committee of Adjustment – Meeting of May 17, 2023
FROM: Planning Division
DATE: May 5, 2023
FILE NO: Application for Minor Variance A08-23
APPLICANT: Innovative Planning Solutions (c/o Tyler Kawall)
OWNER: MDR Group Inc. (c/o Steve Reddick)
**SUBJECT
PROPERTY:** 51 Clifford Street- Minor Variance

Recommendation:

THAT the Committee of Adjustment defers the portion of Minor Variance Application A08-23, as it relates to the proposed 0.5m setback along the southern property boundary, to be reheard on or before the August 16th, 2023, Committee of Adjustment Hearing, with either adjustment make to their initial request or to report back on alternatives strategies to minimize adverse effects.

AND THAT the Committee of Adjustment approves the portion of Minor Variance Application A08-23, as it relates to the proposed increase in Height from 11.0m to 13.8m subject to the following conditions.

Recommended conditions of approval for increase in Height:

1. That the Owner/Applicant apply the provision of “Angular Planes “as set out in section 5.3 of Zoning By-law 2014-44, as amended to the existing lower density single detached dwelling unit which flanks the northern property line.
2. That the Owner/Applicant provide a cost estimate for the cost of erecting of a 2.0m privacy fence around the perimeter of the property, and deposit the amount outlined in that cost estimate in advance of applying for a building permit. Once proof of or inspection of the erected fence is provided to the City then the Owner/Applicant shall receive their deposit back.

Should the Committee wish to approve and not defer the portion of Minor Variance Application A08-23, as it relates to the proposed 0.5m setback along the southern property boundary then staff would suggest the following conditions:

1. That the Owner/Applicant consult with City Building Officials to modify the design to adhere to the requirements of the Ontario Building Code.
2. That the Owner/Applicant provide a cost estimate for the cost of erecting a 2.0m privacy fence around the perimeter of the property, and deposit the amount outlined in that cost estimate in advance of applying for a building permit. Once proof of or inspection of the erected fence is provided to the City then the Owner/Applicant shall receive their deposit back.

Purpose

The purpose of this report is to provide the Committee of Adjustment with information related to Minor Variance application A08-23, submitted with respect to the property municipally known as 51 Clifford Street. The purpose of the application is to facilitate the development of a four-storey, 6-unit residential condominium building with associated variances for height and a reduced setback to the building from the south lot line.

The applicant has requested the following variances to the provisions of Zoning By-law 2014-44:

	Section	Requirement	Proposed	Variance
1	Section 7.4, Table 7.2 – Interior Side (minimum) 1.2 m	1.2m	0.50m	0.7m
2	Section 7.4, Table 7.2 – Height (maximum) 11.0m	11.0m	13.8m	2.8m
3	Table 5.2 – Landscaped Buffer Area 2.0m	2.0m	0.50m	1.5m
4	Section 5.28 – Permitted yard encroachment for a Balcony	1.2m	0.5m	0.7m

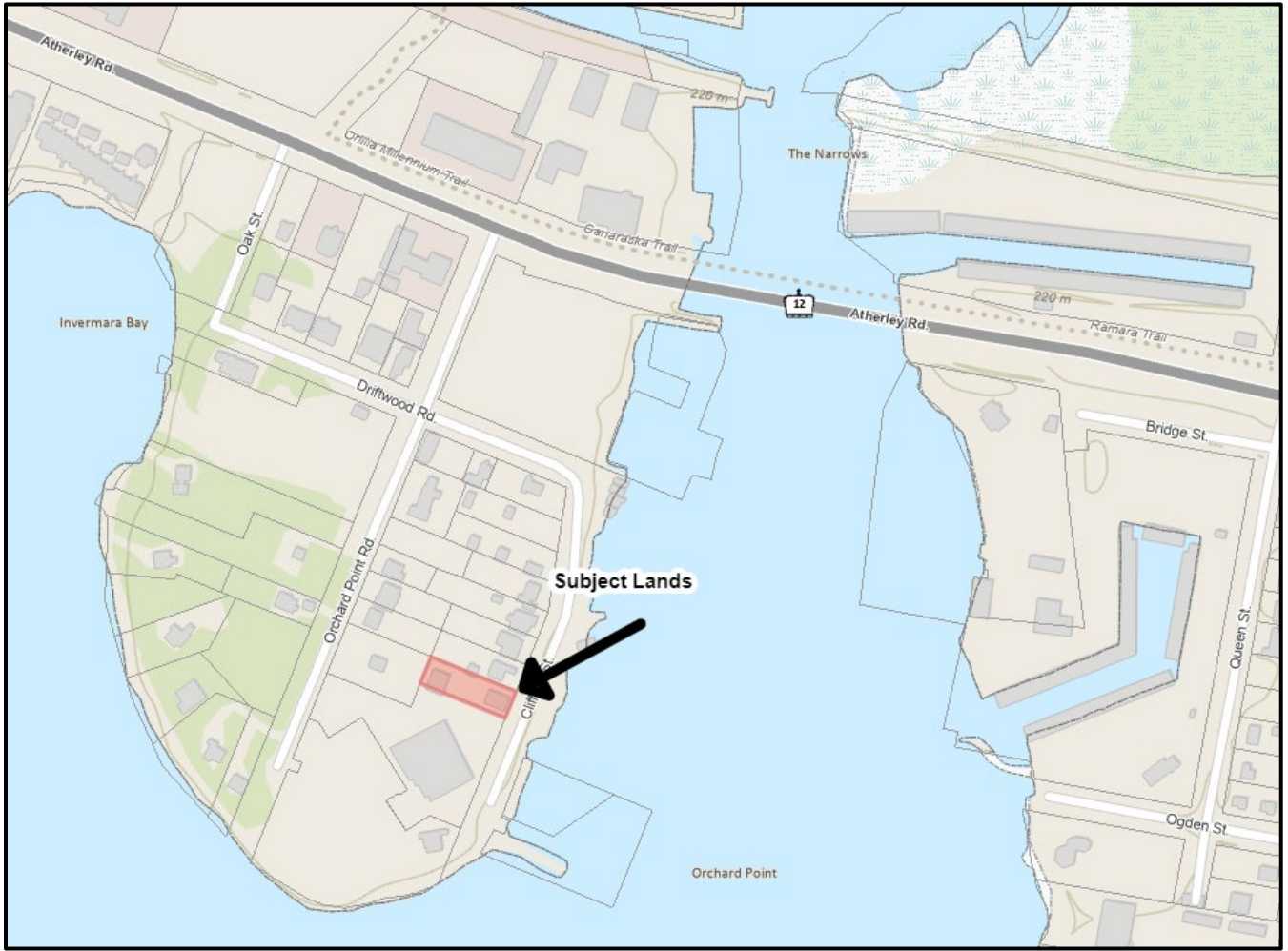
Background and Key Facts

- The subject property is:
 - Located within the “Living Area – Intensification Area” designation of the City of Orillia Official Plan. Apartment buildings are permitted in this designation.
 - Zoned “Residential Two-Intensification Area” (R2i) per Zoning By-law 2014-44, as amended. Apartment buildings are permitted in this zone.
- The property has a Lot Area of 1,006 m² (0.25 acres) and a Lot Frontage of approximately 17.7 metres (58 feet).
- Subject property has frontage on Clifford Street (Local Road).
- The subject lands are currently developed with a Single Detached Dwelling, which will be demolished.
- Located in the Lake Simcoe Watershed. Therefore, subject to the Lake Simcoe Protection Plan and developments must be in compliance with Section 4.7 of the City’s Official Plan. The proposal is not considered Major Development under the Lake Simcoe Protection Plan because the building footprint is less than 500m². However, it must still conform to the City’s Stormwater Management policy of Section 6.2.3 of the Official Plan as the impervious surface will exceed 500m².

Surrounding lands:

North	Single Detached Residential lot
East	Clifford Street and Lake Simcoe
South	Orchard Point Harbour Condominiums
West	Unoccupied residential lot, subject to proposed redevelopment application

Location Map



ANALYSIS:

Site Inspection Date	<p>April 26, 2023</p> <p>Approaching the lot from a northerly direction along Clifford Street, this lot is the last of a series of smaller cottage style “original” homes. The lots and dwellings prior to this lot can be categorized as well-maintained and have suitable buffering from the subject lot from a ground level perspective.</p> <p>These existing dwellings are modest and can be generalized as 1.5 storeys to 2 storeys in height and are of a similar design to the dwelling currently on the subject lands.</p> <p>The subject lands are also flanked to the south by the existing Orchard Point Condominium Development. This development has been established for several years now and is currently 8 storeys in height. It is setback a fair distance from the mutual property line and has an established buffer with existing and mature</p>
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vegetation along it. The vegetation along this property line is equally Orchard Point's and the Subject Land's and should a development proceed on these lands it is likely all the vegetative buffering on the subject lands would need to be removed. There are a number of images which depict the frontage of the site and the buffering on each side.









The rear of the property flanks an existing vacant lot, which has been purchased and may be subject to further development under the Intensification permissions. Should that occur, both properties would be required to provide buffering under directions provided through the Zoning By-law. If the uses are of a similar land use and density, they would likely cancel each other out as far as impacts.

In front of the property is open shoreline to Lake Simcoe set over the municipal right of way of Clifford Street. There should be little to no impact from this vantage.

Overall, Orchard Point is a collection of contrasting uses, with smaller modest original cottage dwellings set amongst new intensification uses. Orchard Point is becoming increasingly busy with both people and vehicles, as was evident during our site visit (even for a mid day weekday). This area is a peninsula made up of 3 local

roads, and only one viable egress and ingress point that being the Atherley Road and Orchard Point Road intersection. Atherley Road is a provincial highway and is not under the jurisdiction of the municipality, this intersection is not current unsignalized, which makes movements to and from the area difficult. Indication have been made by Ministry of Transportation (MTO) that improvements may be occurring, but nothing formal has been received.

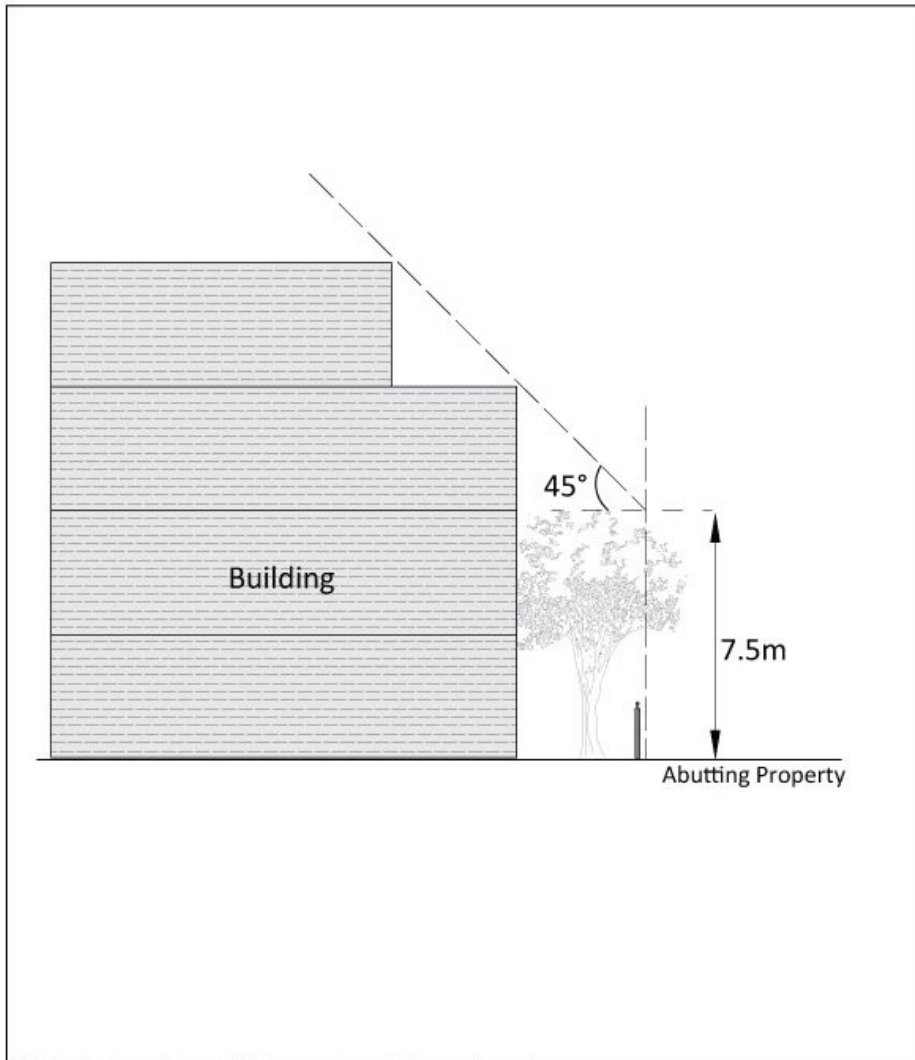


Maintains the purpose and intent of the Official Plan:

The City's Official Plan is a tool used to direct actions of government and to help manage future growth and development within the City. The Plan is structured around four main principles (Protecting the Environment, Promoting Healthy Communities, Engaging for Employment and Managing Growth Responsibly). Of those principles one reflects heavily on this development and the Orchard Point area and that is. - **Management of growth in a Responsible and Efficient Manner.** This principle entrusts that when Planning for new development that it be carried out in a manner that makes efficient use of existing infrastructure, underutilized lands/buildings and directs growth to areas where planned municipal services exist. It also direct that new development shall be designed to improve the character of the existing community and shall not cause undue, adverse impacts on adjacent properties.

<p>On the matter of Height <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Defer</p> <p>On the matter of the 0.5m setback <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Defer</p>	<p>The Intent and purpose of the “Intensification Area” is to identify lands where intensified development should. The 'Intensification Area' should provide opportunities for transit supportive and mixed-use proposals to thrive, which includes proximity to public transit routes and local conveniences. Orchard Point, being entirely comprised of local road networks, will never have this ability and currently transit is only in place up to and up to the Invermera development, with no sidewalk connections in place to get there. The local convenience is in proximity, but options to get there involve crossing the unsignalized provincial highways corridor, therefore making the reliance on a vehicle necessary for those living on Orchard Point. As a result, the increased vehicles and trip have staff worried about how much more density the existing infrastructure can support. Unfortunately, due to the introduction of Bill 23 Site Plan Control can no longer be applied to development proposing less than 10 dwelling units, which would have given the City opportunity to request Traffic Impact Studies. If the development requires additional approval under the <i>Planning Act</i>, such as Plan of Condominium, this would be an opportunity to request such studies.</p> <p>Staff recognize that within the “Intensification Area” designation Apartment Buildings are permitted uses and “Single Detached Dwelling”, with lower densities are considered prohibited uses. Under applicable policy, lands are permitted to realize no lower than 2 storeys and no higher than 8 storeys, and where the proposed development is proposing 4 storeys, so it is inline with this direction. However, where such heights abut a Stable Neighbourhood or Downtown Shoulder Designation, Angular Planes shall be used. Staff feel given the contrast of the area that the utilization of Angular Planes for this development is suitable, since reviews have begun to reassess the validity of the Intensification Designation for this area.</p> <p>Further to this section 3.3.7.4.1 g) of the “Intensification Area” stipulates that all new development will be compatible with adjacent and neighbouring development by ensuring that the siting and massing of new buildings does not result in undue, adverse impacts on adjacent properties particularly in regard to adequate privacy conditions for residential buildings and their outdoor amenity areas. Angular Planes will require that the upper stories of the development (anything higher than 3 storeys) will be stepped back in order not to crowd adjacent developments. The City’s Zoning By-law provides an illustration of how Angular Planes would be applied in a situation like this.</p>
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Angular Planes



This illustration does not form part of this By-law and is provided for convenience only.
City of Orillia Zoning By-law

Staff would suggest that as a condition of approval of the height that Angular Planes be utilized. Therefore, staff are supportive of the increase in height and density provided the conditions of approval are completed prior to commencement of construction

Maintains the purpose and intent of the Zoning By-law:

On the matter of Height

- Yes
- No

The subject property is zoned Residential Two – Intensification (R2i) Zone in the City’s Zoning By-law 2014-44, as amended. Residential uses, including an Apartment Dwellings, are permitted Uses in the R2i Zone.

And Prohibited uses include new Single Detached Dwellings or 2-Unit Dwellings.

The intent of the Intensification designation is to encourage higher residential densities which should begin at a 3-unit or more threshold.

Zoning By-law performance standards exist to ensure that proposed development is constructed in a manner that balances the relationship between built form and the land upon which its sits, it allocates space to so that there is an opportunity for a myriad of needs to be shared. Performance Standards also exist to minimize impacts to adjacent properties. Staff understand that the zone standards are not a

<input type="checkbox"/> Defer On the matter of the 0.5m setback <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Defer	<p>“one standard fits all approach” and hence why Minor Variance Application exist, that being so that individual sites can make a case as to why the standards do not adequately accommodate their proposed use or design.</p> <p>The Minor Variance Application before us is requesting two deviations from those standards.</p> <ol style="list-style-type: none"> 1. Increase in Height from 11.0m to 13.8m, which would permit a 4th storey and, 2. Decrease in the Interior Side Yard setback from 1.2m to 0.5m, which would result in the required 2.0m Landscape Buffer Area being reduced. The Side Yard Setback reduction would also increase the projection of balconies into the required setback. <p><u>Interior Side Yard Setback – 1.2m required.</u></p> <p>The Purpose and intent of the Interior Side yard setback it to ensure a couple of things.</p> <ol style="list-style-type: none"> 1. To ensure there is adequate distance to provide suitable buffering between neighboring properties. This buffering can include landscaping to help create a visual and noise barrier, provides space to reduce lighting and adequate space to maintain the landscape features. 2. To allow for access and maintenance around a building sufficient in width as to not result in interference with abutting properties. 3. To allow adequate space for storm water run-off and drainage needs so that adverse effects are not incurred by neighbour. 4. To allow adequate space to permit a design that is in keeping with the Ontario Building Code. <p>Staff note that the reduced 0.5 m (1.65 ft) Interior Side Yard Setback (and the variances that befall it) from the southern property line does cause some concern, and as such we posed a group of question to the applicant’s agent in order to gather some clarity. The questions are arranged below with Q – Question A – Answer and <i>R-City Response</i> (If required).</p> <p>Q. How will excavation be accomplished without impacting the neighbouring property? Similarly, how could the building be constructed without the use of the neighbouring property?</p> <p>A. Contractor will provide shoring or other retaining devices along the property lines to ensure adjacent properties are not utilized. This will only be required along the south side where the side yard setback is approximately 600 mm. This is a normal means and methods of construction process.</p> <p>Q. Similarly, how could the southern wall or remaining 0.5 m of greenspace be maintained without the use of the neighbouring property?</p> <p>A. Answered as part of first question. Further, it is not intended to make use of the neighbouring property and that was never intended to be implied. This space will be maintained by landscape contractors retained by the landowner. The .5m are pinch points, the majority of this setback is .77-.74m which will provide enough space for periodic maintenance of the area as required.</p> <p>Q. Generally, foundations extend outward from the wall. Will the footings encroach into the neighbouring property?</p>
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A. Engineers design foundations to ensure they do not encroach beyond property lines. This is a normal design provision.

Q. If the wall is 0.5 m from the property line, will the eaves encroach onto the neighbouring property?

A. There are no eaves. Flat roof will be drained by roof drains, directed to storm water sceptors.

Q. How will the snow and ice be prevented from falling onto the neighbouring properties?

A. There is no unusual chance of sliding snow and ice, as the roof areas and all balconies are flat.

Q. There are building code requirements for a structure located within 1.2 m of a property line?

A. There are no such Ontario Building Code requirements. Any structural load from the building can not and will not project onto buildings or structures on adjacent properties.

R. Staff note that this statement is inaccurate as comments received by the City's Chief Building Official indicate the following "with a setback 0.5m they will be required to fire rate the entire exterior wall along the exposed building face and there shall be no unprotected openings (windows or doors) within same. Any unprotected openings will require fire shutters or be removed depending on the room type. A Building Code qualified designer can assist them in this regard"

Q. Does the location of the building in this 0.5 proximity have any adverse effect on water movement (swales) can you explain how the water on site and from the building will be dealt with?

A. Catch basins in the rear exposed parking area will be used and a storm water system will be provided as part of a building permit application. Drainage along sodded side yards will be via swales as required. Civil engineer will provide design as part of a building permit application.

R- Please refer to response and comments provided by our Engineering Division.

Q. Has there been any discussion with Orchard Point Condominiums about a potential lot line adjustment, and if so what were the results of that discussion?

A. No discussions have been held with any adjacent property only regarding lot line adjustments, nor are there plans to do so. Such discussions are not required.

R. Staff were disappointed to read that the applicant made no efforts to find alternative solutions to their deficient side yard setback, especially as the design of their build does not provide opportunity much flexibility in design. We do however commend the applicant for adhering to the required setback and buffering requirements for the northern property line (adjacent single detached dwelling). Staff would like to know if Orchard Point Condominiums were approached, would they be willing to give a small portion of land to help balance the lot and execute the proposed design at presented.

Generally, staff do not support such a minimal Interior Side Yard Setback on account of the lack of ability to perform proper maintenance and difficulty with adherence to other construction standards, be it drainage or the Ontario Building Code. Staff are still open to granting relief in future, as we do agree Orchard Point Condominium (adjacent use) would not be impacted by this development, but we need assurance that this Interior Side Yard Setback is of a suitable size for proper passage and will not cause adverse impacts to neighbouring properties (by way of encroachments). We also want to ensure that the applicant is aware of any

	<p>ramifications that a reduced setback may have on their design from a building code perspective. As such we recommend deferral on the reduction of the setback to 0.5m.</p> <p><u>Increased Height – 13.8m (allowance of a 4th Storey)</u></p> <p>As this area is zoned “Intensification” it is assumed that the uses within it would resemble denser forms of housing such as an Apartment Building. From a theoretical perspective, staff have no issues with the increase of height. However, from a realistic point of view, the property to the north is of a lesser density and is not likely to transition to a higher density before the City makes efforts to down designate this area. So as a compromise to support the height, we ask that the applicant consider applying Angular Planes to the northern façade to minimize the impacts on the lower density uses.</p> <p>Staff therefore recommend approval of the height increase to 13.8m, subject to a condition that an Angular Plane be applied to the northern façade of the build to the satisfaction of the City.</p>
<p>The variance is desirable for the appropriate/orderly development or use of the land:</p> <p>On the matter of Height <input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>Defer</p> <p>On the matter of the 0.5m setback <input type="checkbox"/>Yes <input type="checkbox"/>No <input checked="" type="checkbox"/>Defer</p>	<p>From a land use policy perspective, this development (a modest apartment building) is desirable for an Intensification Area and staff do support those uses provided such uses and their designs do not cause adverse impacts to the existing area or surrounding community. We generally agree that were municipal services and infrastructure are in place and performing well, there is no reason to not support growth.</p> <p>As for the other variance we do not support the siting of the building as it related to the northern property line, as we feel it is too close to avoid impacts. Staff want to ensure that the applicant is fully aware of the ramification of their request on their design, and we want to be assured that the applicant has made efforts to seek alternatives. Therefore, on account of the Interior Side Yard Setback we recommend deferral as we cannot conclude that it is desirable for the site itself.</p> <p>As a result, Staff support the Height, subject to requested conditions contained within this report and staff wish to defer the portion of the application related to setback reductions so that the applicant can further explore what is appropriate development and desirable for the site.</p>
<p>The variance is minor in nature:</p> <p>On the matter of Height <input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>Defer</p> <p>On the matter of the 0.5m setback <input type="checkbox"/>Yes <input type="checkbox"/>No <input checked="" type="checkbox"/>Defer</p>	<p>When determining whether a variance is considered minor in nature, Staff must evaluate the four tests of the Planning Act and the appropriateness of the development on the subject property to the area. Staff agree that the use (apartment building) is appropriate for an Intensification Area from a land use policy perspective and that if proper conditions are employed it will help ensure adverse impacts are being avoided to allow the continuation of intensification. However, staff can not support intensified uses, coupled with reductions beyond what we deem to be a reasonable without first demonstrating that efforts to mitigate or seek alternatives were made. Staff are supportive and feel the increase in height (to produce a 4th storey) is minor, as long as further efforts are made to reduce impacts to the adjacent lower density uses in.</p>

Conclusion

The proposed variance associated with application A08-23 has been reviewed with regard to the four tests as set out within the *Planning Act*. It is the opinion of staff that the four tests have not been satisfied and are recommending portions of the application be deferred while other portions to be approved conditionally.

Prepared by:

A handwritten signature in blue ink, appearing to read 'A. Chapple', is positioned above the printed name.

Ali Chapple

Senior Planner MCIP, RPP

Reviewed by:

Jeff Duggan, MCIP, RPP

Senior Planner



MEMORANDUM TO COMMITTEE OF ADJUSTMENT

DATE:	May 11, 2023
FROM DEPARTMENT/DIVISION:	Engineering Division, DSE
FROM/CONTACT:	Jamie Galloway, Development Coordinator
SUBJECT ADDRESS:	51 Clifford Street
SUBJECT FILE #:	

Comments to applicant/owner for information purposes (Comments help provide additional information regarding the development of the subject lands to the applicant. Comments are not conditions of approval, rather additional information regarding requested conditions of approval):

- Given that the Owner/Applicant has stated that the development will be a condominium, the City will require at time of Draft Plan of Condominium:
 - A Stormwater Management Report (SWM) and drainage plans, prepared and stamped by a qualified professional engineer, which conforms to the guidance within the City's Engineering Design Criteria to ensure appropriate drainage conveyance from the site under pre- and post-development conditions, to the satisfaction of the City.
 - A Geotechnical Report is required to assess the soil conditions at the site, and to demonstrate the bearing capacity of the soils while also documenting the groundwater levels at the site. The Report shall be prepared and stamped by a qualified professional engineer. Please address the requirements identified within the City of Orillia Engineering Design Criteria manual.
 - A Functional Servicing Report (FSR) to the satisfaction of the City.
 - A Traffic Impact Study to the satisfaction of the City.

Condition of Approval (Conditions of Approval are specific enforceable conditions regarding the subject lands should the Committee of Adjustment approve the application. For example: The applicant/owner shall apply for a building permit for the construction of a new dwelling to the satisfaction of the Building Division).

- No conditions.

EXTERNAL AGENCY COMMENTS

None received.

PUBLIC COMMENTS RECEIVED

None received.