

November 11, 2024

Suzanne Anderson Secretary-Treasurer, Committee of Adjustment City of Niagara Falls VIA EMAIL

Dear Ms. Anderson

RE: 4642 Bridge Street – Minor Variance Application

Please accept this letter as supporting documentation for the Minor Variance application under Section 45(2)(a)(ii) of the *Planning Act* for the property municipally known as 4642 Bridge Street ("Subject Lands"). NPG Planning Solutions Inc. have been retained by the current owner, 3TFamily Holdings Corporation, to provide professional planning advice on the proposed Minor Variance application.

The Subject Lands are currently zoned Central Business 4 (CB4) Zone under the City of Niagara Falls' Zoning By-law 79-200, as amended. There is currently a 2-storey detached building on the Subject Lands. The second floor is accessed via an external staircase at the back of the building.

A Minor Variance application is required to permit a duplex dwelling on the Subject Lands. It should be noted that under the CB4 zone, neither a detached dwelling or a duplex dwelling is permitted. The owner intends for both dwelling units within the duplex dwelling to function as VRU, a use permitted within the Central Business Commercial ("CB") zones, subject to regulations outlined in Section 4.38 of the Zoning By-law 79-200 and proper licensing with the City of Niagara Falls.

To facilitate the Minor Variance application under Section 45(2)(a)(ii) of the *Planning Act*, it is first necessary to establish detached dwelling as a legal non-conforming use on the Subject Lands. The Minor Variance request is for the Committee to permit duplex dwelling as a permitted use on the basis that the duplex dwelling operated as VRUs is more



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compatible with the uses permitted under the CB4 zone than the legal non-conforming detached dwelling use.

Section 45(2)(a)(ii) of the Planning Act states:

45 (2) In addition to its powers under subsection (1), the committee, upon any such application,

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee.

Section 1 of this letter provides an overview of the Subject Lands and the surrounding land use context while Section 2 discusses the detached dwelling's legal non-conformance status. The evaluation of the application against the relevant planning policies is in Section 3 while Section 4 of the letter summarizes our planning opinion with respect to the proposed Minor Variance application.

As part of this electronic submission, please find the following documents in addition to this cover letter:

- Signed Owner Authorization Form
- Parcel Register and PIN Map obtained from OnLand, identifying the current landowner
- Minor Variance Sketch prepared by NPG Planning Solutions Inc., dated November 7, 2024
- Floor Plans for each residential dwelling unit
- Planning Letter prepared by NPG Planning Solutions Inc., dated November 11, 2024

1. SITE AND CONTEXT

The Subject Lands are legally described as Part of Lot 14, Plan 275, Town of Niagara Falls as in RO713552, in the Regional Municipality of Niagara. The Subject Lands, municipally known as 4642 Bridge Street, are located on the south side of Bridge Street

and east of Victoria Avenue. The site has frontage of approximately 15.3 metres (50 feet), a depth of approximately 32 metres (105 feet) and a total area of approximately 490 m². A Minor Variance Sketch, showing the existing building and its setback distances as well as the parking spaces and their dimensions, is included in **Appendix A**.

The Subject Lands are bordered by a variety of residential, commercial, and industrial uses. The south side of Bridge Street is primarily residential, featuring a mix of singledetached homes and multi-residential units containing two to three self-contained units, as identified through MPAC data accessed via Niagara Navigator. Directly west of the Subject Lands is a commercial and industrial property occupied by an auto mechanic shop with an associated retail component. Across the street, to the north, are industrial uses including a welding shop, mechanic shop, and other similar establishments. According to the City's website¹, two properties within 150 metres of the Subject Lands Street.

On the Subject Lands there is a two-storey residential dwelling, a paved driveway to the right of this dwelling, and a garden shed to the rear of the detached dwelling. The dwelling currently functions as a duplex dwelling, consisting of two (2) self-contained dwelling units: one on the ground floor and another on the second floor. Access to the ground floor unit is available by the front building entrance (see Photo 1), while the second floor unit is accessible via an external staircase (see Photo 2). A parking lot with four (4) spaces will be constructed behind the existing dwelling to meet parking requirements for VRUs, with access provided through the existing single-lane driveway. To facilitate the parking lot, the garden shed will be removed from the Subject Lands.



Photo 1 – Front of dwelling

Photo 2 – External staircase, providing access to the second-floor unit



¹ https://niagarafalls.ca/city-hall/clerks/business-licences/rental-properties.aspx

2. LEGAL NON-CONFORMANCE STATUS

Section 34 (9) of the *Planning Act* prevents any Zoning By-law passed under Section 34 of the *Act* to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose. These legal non-conforming uses are allowed to continue to exist notwithstanding the prevailing Zoning By-law.

The existing two-storey dwelling was originally constructed in 1875, as verified by the City's property records (refer to Appendix B). Historical aerial imagery appears to capture the dwelling as early as 1934, with clearer imagery available in 1954 (refer to Appendix C). Historical records from the Vernon's Directories confirm that this building was owned by Giovanna Perri from at least 1972 through 1995, during which time it was used as the place of residence by her and some of her family members. The 1978 edition of the Vernon's Directories confirms the detached dwelling use of this building in 1978 (refer to Appendix F). The building's continued use as a residential dwelling, is verified in the 1987 and the 1995 Vernon's Directories (the last edition). Aerial images up until 2023 confirms the continued existence of the detached building.

As mentioned, the Subject Lands are currently zoned Central Business 4 (CB4) Zone under the City of Niagara Falls' Zoning By-law No. 79-200, as amended. The following table evaluates the detached dwelling use's legal status over time since construction until present day:

Timeline	Applicable Zoning By-law
1875	Existing building was constructed. No Zoning By-law applies to regulate the Subject Lands.
1955	Zoning By-law No. 5335, the first known Zoning By-law according to city records, came into effect in 1955.
	Under By-law No. 5335, the Subject Lands were zoned Commercial District (C-2) Zone, which permitted uses that are permitted in the R1, and R2 Districts. The R1 zone permitted one-family dwellings which are the equivalent of detached dwellings under the By-law 079-200. The R2 zone permitted duplex dwellings. Relevant sections of the By-law No. 5335 are provided in Appendix D .
	The detached dwelling is permitted and legal under By-law No. 5335.

Timeline	Applicable Zoning By-law
1979	Zoning By-law No. 079-200 came into effect.
	Under this By-law, the Subject Lands were zoned Central Business (CB) Zone which permitted
	The detached dwelling use, confirmed through the 1978 edition of Vernon's Directories, is no longer a permitted use in under By-law No. 079-200 when it was introduced in 1979. This use became a legal non-conforming use.
	Relevant sections of the By-law No. 79-200 are provided in Appendix E .
2022 - Present	By-law No. 2021-040 was passed to amend the Zoning By-law No. 079-200. Following this, the Subject Lands are zoned Central Business 4 (CB4) Zone.
	Under the Niagara Falls Zoning By-law No. 79-200, the CB4 Zone permits only apartment dwellings as the sole residential use.
	The detached dwelling use continues to be protected as a legal non- conforming use.

Considering this historical context, the detached dwelling use on the Subject Lands was legally constructed and permitted by applicable Zoning By-law from its construction in 1875 up until before the adoption of By-law No. 79-200 in 1979. Following this date, this detached dwelling use became a legal non-conforming use until today.

3. POLICY ANALYSIS

3.1 Planning Act

Section 45(2) of the *Planning Act* includes policies that grant Committees of Adjustment powers related to approval of Minor Variance applications.

- 45 (2) In addition to its powers under subsection (1), the committee, upon any such application,
 - (a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,
 - (ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the

purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee.

This variance, requested under Section 45(2)(a)(ii) of the *Planning Act*, is not subject to the four tests of a minor variance that apply to requests under Section 45(1). The following justifications are provided for the Committee's review and support of this variance request:

- The Central Business Commercial 4 (CB4) Zone permits a wide range of commercial uses in addition to apartment dwellings and VRU within each dwelling unit. The requested "duplex dwelling use" is closer to the permitted "apartment dwelling use" compared to the legal non-conforming "detached dwelling use". Permitting the duplex dwelling use brings the Subject Lands closer to the residential density contemplated for the CB4 zone.
- A VRU within each dwelling unit in the CB4 zone is permitted. The Owner seeks to permit the duplex dwelling use on the Subject Lands in order to obtain licenses for two (2) VRUs on the lands eventually. VRU is a commercial use of a dwelling unit and will bring the Subject Lands closer to the commercial nature contemplated for the CB4 zone.
- Permitting an additional dwelling unit on the Subject Lands also implements one of the matters of provincial interests as outlined in Section 2 of the *Planning Act*, i.e. the adequate provision of a full range of housing.

3.2 Niagara Falls Official Plan

In permitting any change of a legal non-conforming use, the Committee of Adjustment shall be satisfied that the relevant requirements outlined in Section 9.5 of the City's Official Plan are, or will be fulfilled, in order to safeguard the wider interest of the general public. The following table evaluates how the proposed duplex dwelling use achieves these requirements.

Section	Policy	Analysis
9.5.1	The approval of an application will not unduly aggravate the situation	As explained, the proposed duplex dwelling use brings the Subject

Section	Policy	Analysis
	or result in the further entrenchment of the use in keeping with the policies of the Official Plan and the provisions of the Zoning By-law.	Lands closer to the permitted uses under the CB4 zone. No physical changes will take place following the approved change of the legal non- conforming use and no adverse impacts are expected from this.
9.5.2	The proposed extension, enlargement or change of use is similar to, or is more compatible with, existing development in terms of street character, traffic generation, noise vibration, fumes, smoke, dust, odour, lighting and hours of operation.	The proposed use will not impact or alter the character of the neighborhood. The change of use does not lead to any alteration of the built form and therefore, will not impact the street character. As there are already two (2) dwelling units on the lands and the variance is meant to recognize the second-floor unit, this is not expected to exacerbate traffic and noise conditions. As a residential use, the variance will not cause any nuisances associated with fumes, smoke, dust, odour, lighting and hours of operation.
9.5.3	Neighbouring conforming uses will be afforded reasonable protection and, where applicable, enhancements through the provision of landscaping, devices and measures for reducing nuisances and, where necessary, by specific conditions which minimize adverse effects caused by outside storage, lighting, advertising signs, etc.	As noted previously, the proposed change in use will not impact neighboring conforming uses, as the dwelling is already functioning as a duplex. The only exterior modifications will be an expansion of the parking area to reduce reliance on on-street parking, thereby minimizing any nuisances for surrounding commercial uses.
9.5.4	A proposed extension or enlargement will be in an appropriate portion to the size of the non-conforming use established prior to the passing of the Zoning By-law.	No proposed extension or enlargement of a non-conforming use is proposed.
9.5.5	Adequate provisions have or will be made for parking, loading and storage facilities.	The parking area behind the existing dwelling will be expanded to meet the parking requirements for a duplex dwelling with two (2) VRUs.

Section	Policy	Analysis				
9.5.6	Municipal services such as water, sanitary and storm sewers and roads can accommodate the proposed development.	As the units are existing, no additional demand on municipal services is expected.				

4. SUMMARY AND CONCLUSION

It is our recommendation that the Committee of Adjustment approves the application as:

- Section 45(2)(a) of the *Planning Act* enables the Committee to permit a change of a legal non-conforming use if the use is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed. The proposed duplex dwelling use and the eventual VRU use of the dwelling units are closer to the permitted uses under the CB4 zone.
- Recognizing the upper floor dwelling unit contributes to a matter of provincial interests outlined in Section 2 of the Planning Act, i.e the adequate provision of a full range of housing.
- The requested variance will not generate any adverse impacts on the surrounding conforming uses, the streetscape nor municipal services.

Please provide notice of all meetings and decisions regarding these variances to the undersigned.

Yours truly,

Prepared By:

Robert Smit, MSc RPD Planner NPG Planning Solutions Inc.

Prepared and Reviewed By:

Jeremy Tran, MCIP, RPP, MPIan Senior Planner NPG Planning Solutions Inc.

Appendix A – Minor Variance Sketch



Appendix B – Property Information



CITY OF NIAGARA FALLS

November 11, 2024 08:02:45

Property Information for

27-25-010-005-02800-0000

Owner & Mailing Address	Property Location Information
3TFAMILY HOLDINGS CORPORATION 441 ELMWOOD AVE SUITE 401	4642 BRIDGE ST NIAGARA FALLS PT LOT 92
RICHMOND HILL	Fontage 50
ON	Depth: 100
L4C 1M5 CANADA	Area: 5000 PLAN 275 PT LOT 14

Notes

Official Plan	Zoning
Code Description	Code Bylaw Description
Structure	es on Property

	Ye	ar	Code	Description	Stor	reys		Area		Bed	Bathro	oms	Flo	or Ar	ea
	build	effect			Full	Half	Total	Bsmt	Finish		Full	Half	1	2	3
1	1875	1875	301	Single Family Detached	1	3	1872	1051		5	2		1051	821	
2	1970	1970	101	Detached Garage: Types 1 - 5		0	240						240		

Appendix C – Aerial Imagery from Niagara Navigator

<u>1934 Mapping</u>



1954-1955 Mapping



Appendix D – Zoning By-law No. 5335

10. R-1 RESIDENTIAL DISTRICT PERMITTED USES:

One-family dwellings, converted dwellings, professional offices as part of user's residence, parks and playgrounds, gardens(private and non-commercial), bowling greens and tennis courts, churches, parking areas (non-commercial without any services), private garages, public or private schools as regulated by the Ontario Department of Education.

Signs(not exceeding 2 sq. ft. gross area) for professional offices.

Signs(not exceeding 6 sq. ft. gross area) for temporary advertising for the sale, rent or lease of the real property upon which the sign is located.

Uses accessory to the foregoing.

See Schedule of Residential District Requirements, following.

11. R-2 RESIDENTIAL DISTRICT PERMITTED USES:

Uses permitted in R-1 District.

Semi-detached dwellings, duplex dwellings, double-duplex dwellings, boarding houses and rooming houses, apartments of not more than 12 dwelling units, tourist homes, public libraries.

Uses accessory to the foregoing.

See Schedule of Residential District Requirements, following.

12. R-3 and R-4 RESIDENTIAL DISTRICT PERMITTED USES:

Uses permitted in R-1 and R-2 Districts.

Uses similar to the foregoing.

Uses accessory to the foregoing.

See Schedule of Residential District Requirements, following.

14. C-2 COMMERCIAL DISTRICT PERMITTED USES:

Uses permitted in and requirements of R-3 and C-1 Districts.

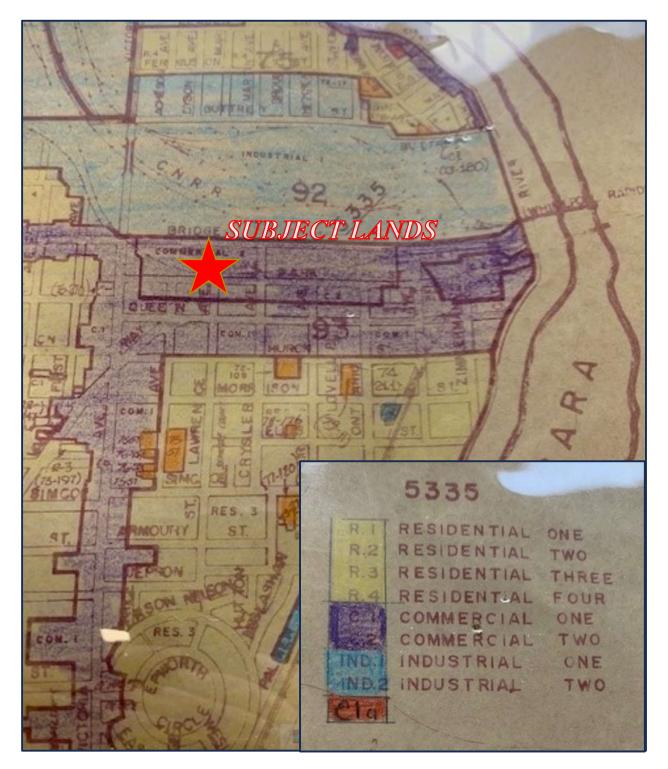
Animal hospitals, automotive repair shops and yards, building contractors' yards, building material supply yards, bus depots, carpenter's shops, cleaners and dyers, cold storage lockers, dairy products plants, garages (commercial), gasoline filling and service stations, greenhouses, public utilities plants, used car lots, welding shops and wholesale stores and warehouses.

Dwelling units required for the maintenance of the foregoing.

Uses similar to the foregoing.

Uses accessory to the foregoing.

Zoning Map



Appendix E - Zoning By-law No. 1979-200

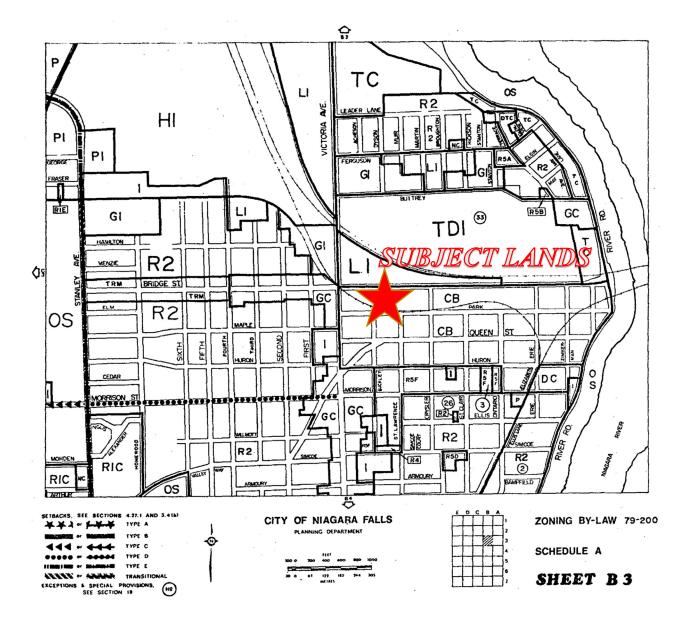
Permitted Uses

- 8.5 CENTRAL BUSINESS COMMERCIAL ZONE (CB ZONE)
- 8.5.1 PERMITTED USES: No person shall within any CB Zone <u>use</u> any land or <u>erect</u> or <u>use</u> any <u>building</u> or <u>structure</u> for any purpose except one or

more of the following uses:

- (a) Art gallery
- (b) Assembly hall
- (c) Auctioneering establishment
- (d) Bake shop
- (e) Bank, Trust Company, Credit Union
- (f) Car rental establishment, truck rental establishment
- (g) <u>Clinic</u>
- (h) Dancing studio
- (i) Day Nursery
- (j) Drive-in restaurant
- (k) Dry cleaning establishment
- (1) Farmers' market
- (m) Funeral home
- (n) <u>Health Centre</u>
- (o) <u>Hotel</u>
- (p) Laundry
- (q) Library
- (r) <u>Motel</u>
- (s) Museum
- (t) Office
- (u) Parking Lot
- (v) Personal Service shop
- (w) Photographer's studio
- (x) Place of entertainment
- (y) Place of Worship
- (z) Printing shop
- (aa) Public garage, mechanical
- (gg) Tavern
- (hh) Veterinarian office
- (ii) <u>Dwelling units</u> in a <u>building</u> in combination with one or more of the <u>uses</u> listed in clauses a to hh inclusive above, provided that not more than 75% of the <u>total floor area</u> of such <u>building</u> is used for <u>dwelling units</u> and further provided that such <u>dwelling</u> <u>units</u> except entrances thereto are located entirely above the ground floor.

Zoning Map



Appendix F – Vernon Directories

<u>1972 Vernon Directory – Alphabetical Directory</u>

Purpose of this	Names of all adult persons showing householder, street			
Section:	address and indicates where available, occupation and			
	place of present or past employment.			
Relevant Excerpt: Page: 225	Perri Albt (Rose) wks Imp Motel h 6955 McMillan dr Giovanna (wid Luigi) prsr Tomco Serv h 4642 Bridge Jos J studt 4642 Bridge			
Relevant Excerpt: Page: 226	PERRI Mario (Theresa) jan Ont Hydro h 5756 Peer apt 2 Nancy V studt 4642 Bridge Pasquale A 4642 Bridge Rose M clk Prov Crane 4642 Bridge			

(h) refers to householder

<u>1972 Vernon Directory – Street Directory</u>

Purpose of this Section:	Showing the name and telephone number of the householder and businesses at each street number, whether owner or tenant, the description of each street and the numbers at which other streets cross.				
Relevant Excerpt:	BRIDGE, South Side				
Page: 357	4618* Aitcheson, J 356-4158 4618 Gidley, Maude				
	4622* Thome, G H 354-8028 4632* Gregg, H D				
	4642* Perri, G 354-3571				
	4662 Apartments 1 Bratt, Richd 2 Shale, D A 356-1764 3 Thornton, A C 358-0239 4 Bell, Roger 354-8362				

1978 Vernon Directory – Alphabetical Directory

Purpose of this Section:	Names of all adult persons showing householder, stree address and indicates where available, occupation and			
	place of present or past employment.			
Relevant Excerpt: Page: 16	Perri Alberto (Rose) lab h 6955 McMillan dr - Giovanna (wid Luigi) prsr Tomco Serv h 4642 Bridge - Guiseppe formn Tomco Serv 4642 Bridge - Jos (Nancy) h 4413 Park - Jos J lab Can Home Prod 4642 Bridge - Linda typist Canada Manpower Centre 5756 Peer apt 2 - Luigi jr 4642 Bridge - Mario (Theresa) wks Ont Hydro h 5756 Peer apt 2 - Mary L (Pat) teller Canada Trust 4615 Portage rd apt 312 - Pasquale (Mary) h 4615 Portage rd apt 312			

(h) refers to householder

<u>1978 Vernon Directory – Street Directory</u>

Purpose of this Section:	Showing the name and telephone number of the householder ar businesses at each street number, whether owner or tenant, th description of each street and the numbers at which other street cross.			
Relevant Excerpt:	BRIDGE, South Side	and the second		
Page: 357	4570*Piccolo R 4580*Mariani M 4588*Smith L 4596*Burkett R 4606*Rankin S 4606 Vacant 4610 Bartolomie J 4622 Refused 4632 Refused	354-9425 354-1482 358-7211 354-6273 354-5785		
	4642*Perri G 4642 Vacant 4662 Apartments	354-3571		
	1 Vacant 2 Sawchuk W 3 Warner G 4 Lovering E Street Continued 4670 Brewers' Retail Store	357-1230 354-2472 357-1055		

1987 Vernon Directory – Alphabetical Directory

Purpose of this Section:	Names of all adult persons showing householder, street address and indicates where available, occupation and place of present or past employment.
Relevant Excerpt: Page: 275	Perri Alberto (Rose) h 6955 McMillan dr - Giovanna prsr Tomco Serv h 4642 Bridge - Guiseppe lab Can Home Prod 4642 Bridge - Jos (Nancy) h 4699 Jepson - Linda 5756 Peer apt 2 - Lou 4590 First av - Luigi jr trk drvr Ont Hydro 4642 Bridge - M 6225 Orchard av - Mario (Theresa) wks Ont Hydro h 5756 Peer apt 2 - Pasquale h 4961 Valley Way apt 2

(h) refers to householder

<u> 1987 Vernon Directory – Street Directory</u>

Purpose of this Section:	businesses at each stree	et number, whe	per of the householder and ether owner or tenant, the pers at which other streets
Relevant Excerpt:	BRIDGE, South Side	1. 1. 1. 1. 1. 1.	
Page: 17	4570*Piccolo F 4570 Whitehead J 4580*Mariani M 4588 No Return 4596 Widdicombe E 4596*Burkett R 4598*Kubisewsky D 4606*Rankin S 4610 McArthur L 4622*Firlotte G 4632*Amadio R 4642*Perri G 4650 Deuce Coupe Performance Sper		

1995 Vernon Directory – Alphabetical Directory

Purpose of this Section:	and indicates where available, occupation and place of present or past employment.
Relevant Excerpt: Page: 110	 PERRI Alberto (Rose) ret h 6955 McMillan Dr David R (Diana L) mngmnt Marineland h 7186 Casey St Giovanna B NA h 4642 Bridge St Jos (Lucy A) tchr Welland County Sep Schl Bd h 7685 Bernadette Cres Linda wks Niag Square 5756 Peer St apt 2 Louigi (Carol E) jan Ont Hydro h 4590 First Ave Mario (Theresa) wks Ont Hydro h 5756 Peer St apt 2 Pasquale h 6782 Dorchester Rd

(h) refers to householder

<u> 1995 Vernon Directory – Street Directory</u>

Purpose of this Section:	Showing the name and telephone number of the householder and businesses at each street number, whether owner or tenant, the description of each street and the numbers at which other streets cross. Postal codes are printed after each street intersection description and apply to all addresses in the block following.		
Relevant Excerpt: Page: 19	BRIDGE, South Side		
	X 4642*Perri G 354-3571		
	(3) 4650 Neucor Glass & † 358-1515 Mirror 4662 Apartments		
	 Charles D 354-0297 		
	 Stadnyk E 357-0568 		