



**UPPER CANADA
CONSULTANTS**
ENGINEERS / PLANNERS

**Upper Canada Planning
& Engineering Ltd.**

3-30 Hannover Drive
St. Catharines, ON L2W 1A3

T: 905-688-9400
F: 905-688-5274

July 28, 2025

UCC File: 25057

City of Niagara Falls
Planning, Building and Development
4310 Queen Street
Niagara Falls ON L2E 6X5

Attn: Janielle Maxwell– Secretary Treasurer, Committee of Adjustment

**Re: Application for Minor Variance
3318 Garner Road**

Please accept the enclosed application for Minor Variance affecting lands municipally known 3318 Garner Road.

The following items are included with this submission:

- Declaration of Owner
- A cheque in the amount of \$2,205.00 made payable to the City of Niagara Falls (minor variance application fee)
- Site Plan, prepared by Russell Technical Services
- PIN Sheet

A Planning Justification Report providing and overview and evaluation of the applications is provided on the following pages.

I trust the enclosed is in order. If you require any additional information, please do not hesitate to contact the undersigned.

Respectfully,

Joseph M. Tomaino, MCIP, RPP
Senior Planner
Upper Canada Consultants

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1.0 – PREFACE

Upper Canada Consultants has been retained by Jassi Furtado to prepare a Planning Justification Report in relation to a minor variance application for lands known municipally as 3318 Garner Road. This Planning Justification Report provides an analysis of how the application satisfies the four tests of a minor variance as required in Section 45(1) of the *Planning Act*. The four tests are as follows:

1. Does the variance maintain the general intent and purpose of the Official Plan?
2. Does the variance maintain the general intent and purpose of the Zoning By-law?
3. IS the variance desirable for the appropriate use and development of land, building or structure?
4. Is the variance minor in nature?

2.0 – DESCRIPTION AND LOCATION OF THE SUBJECT LANDS

The current applications pertain to lands municipally addressed as 3318 Garner Road in the City of Niagara Falls. The lands are legally described as LT 4, PL 186 STAMFORD; Niagara Falls. These lands will be referred to as the “subject lands” throughout this Planning Justification Report. **Figure 1** below displays an aerial image of the subject lands and is illustrative to the use and surrounding uses of the subject lands.



Figure 1 – Cropped Image from Niagara Navigator of 3318 Garner Road

The subject lands are situated on the east side of Garner Road, within the Prime Agricultural Area of the Region of Niagara. The subject lands have a lot area of 4124.19 square meters, and have a lot frontage of approximately 32.61 meters along the east side of Garner Road approximately 1 km north of Thorold Stone Road. The subject lands are within a Rural (R) Zone and are used for rural residential purposes. The surrounding land uses are as follows:

North:	Rural residential uses and a woodlot
East:	Rural residential use
South:	Rural residential uses
West:	Rural residential uses

3.0 – PROPOSED DEVELOPMENT

The applicant is seeking relief from the Zoning By-law to allow the existing flat roofed accessory building that is within the rear yard of the property adjacent to the south lot line. The site plan is shown below in **Figure 3** and included in this application as **Appendix I** this image is illustrative to the proposed layout of the site.

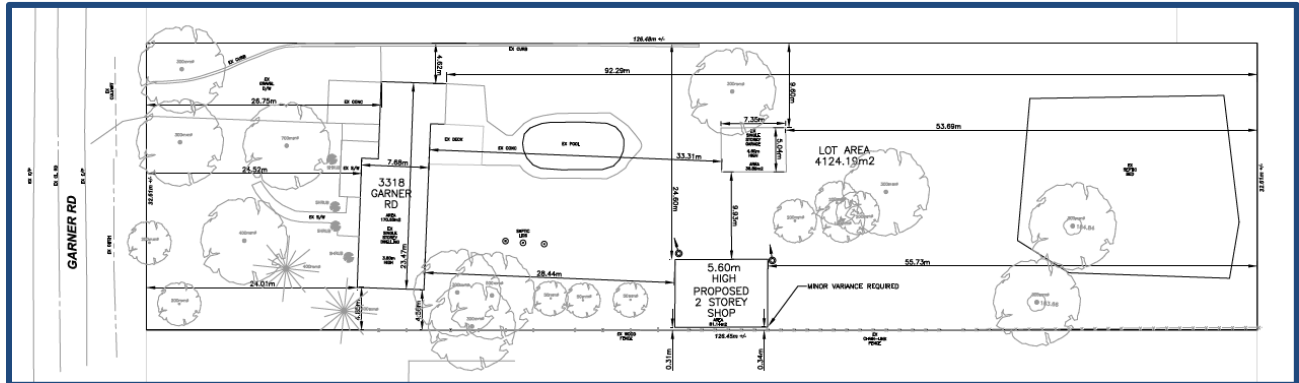


Figure 3 – Excerpt of Appendix I – Site Plan

The proposed building is a 2-storey shop that exists within the rear yard of the subject lands. The building has an area of approximately 81.42 meters squared. The proposed minor variance application will be to reduce the minimum side yard setback requirement from 1.2 meters to 0.31 meters and to allow for an increase to the maximum height from 3 meters to 4.83 meters. It is noted that the second floor of the workshop is only 1.83 meters in height and the first floor is 2.74 meters in height.

4.0 – CITY OF NIAGARA FALLS ZONING BY-LAW 79-200

An application for a minor variance has been submitted to allow the existing 2-storey shop as an accessory building within the rear yard of the subject lands. The application proposes to adjust the minimum side yard setback requirement from 1.2 meters to 0.31 meters and the maximum height from 3.0 meters to 4.83 meters. An overview of how the subject lands conform to the Rural (R) Zone Requirements is provided in **Table 1** below.

As the proposed building is considered an accessory structure, it will be evaluated based on requirements for accessory buildings and accessory structures in Section 4.13 of the City of Niagara Falls Zoning By-law 79-200. The proposed minor variance will adjust the minimum side yard setback and maximum height for an accessory building. The following section discusses the four tests of a minor variance and goes in-depth on how the proposed application addresses each test.

Table 1 – Zoning Conformity – 3318 Garner Road**Zoning By-law 79-200****Section 13 – Rural (R) Zone**

Provision	Required	Provided	Proposed Provision
13.1 – Permitted Uses			
No person shall within any R Zone use any land or erect or use any building or structure for any purpose except one or more of the following uses: <ul style="list-style-type: none"> a) A use, building or structure permitted in any one or more of clauses (a) to (d) inclusive of section 12.1. b) A detached dwelling on a separate lot, the location of which complies with the Minimum Distance Separation formula issued by the Ministry of Agriculture, Food and Rural Affairs. (2007-156) c) Accessory buildings and accessory structures which area accessory to the use described in clause (b). d) Farm produce outlet, subject to the provisions of section 4.36 e) A bed and breakfast in a detached dwelling, that complies with the provisions set out in section 4.37 		Single Detached Dwelling and Accessory Buildings	No Change
13.2 - Regulations			
i. Minimum lot area	0.4 hectares	0.412	No Change
ii. Maximum lot area	1.3 hectares	0.412	No Change
iii. Minimum lot frontage	30 meters	32.61 m	No Change
iv. Minimum front yard depth	10 meters plus any applicable distance specified in section 4.27.1	24.01 m	No Change
v. Minimum side yard width	3 meters plus any applicable distance specified in section 4.27.1	4.58 m	No Change
vi. Minimum rear yard depth	10 meters plus any applicable distance specified in section 4.27.1	92.29 m	No Change
vii. Maximum lot coverage	30%	9.32%	No Change
viii. Maximum height or building or structure	10 meters subject to section 4.7	One storey	No Change
ix. Minimum floor area	80 square meters	170.65 sqm	No Change
x. Maximum number of detached dwellings on one lot	Only one	one	No Change
4.13 – Accessory Building Requirements			
c) Accessory Building interior side yard requirement	An accessory building may be erected in an interior side yard provided that it is distant not less than 1.2 metres from the side lot line.	0.31 m	0.31m
f) Accessory Building height requirement	except as otherwise specifically permitted in this by-law no person shall erect any accessory building having a greater height than 3 metres, provided that an accessory building with a pitched roof may be erected to a height not exceeding 4.6 metres but in no event shall any part of the walls or supporting posts excluding any gable or dormer exceed 3 meters.	4.83 m	4.83m

5.0 – MINOR VARIANCE

Section 45(1) of the *Planning Act* outlines the Powers of Committee. Planning Authorities must have regard for the four tests of a minor variance when considering applications under the *Planning Act*.

The application is seeking relief for the existing 2-storey shop that is within the rear yard of the subject lands. The application proposed the reduction of the minimum side yard setback requirements from 1.2 meters to 0.31 meters and the maximum height from 3.0 meters to 4.83 meters to accommodate the existing accessory building.

Four Tests of a Minor Variance

1. Does the Variance Maintain the General Purpose and Intent of the Official Plan?

The subject lands are designated as Good General Agricultural in the City's Official Plan. The general policies for the Good General Agricultural designation under Part 2, Section 7 of the Official Plan permits existing residential and accessory uses. The policies of the Official Plan are to limit non-farm uses and minimize land use conflicts in favour of agriculture wherever possible. Secondary uses, including uses ancillary to an existing residential dwelling are permitted. The workshop in the accessory building is an ancillary use to the existing residential dwelling which is permitted by the Official Plan. The workshop is for personal use and is not commercial enterprise and given its location on the property, it does not have access to the driveway on the subject lands therefore no public access is afforded to the accessory structure. All activities associated with the workshop will occur within the building. As such the ancillary use is consistent with the rural residential character of the area and consistent with the policies for secondary uses and will have minimal impact on adjacent uses. The requested variance will recognize the existing side yard setback of 0.31 meters and height of 4.83 meters to allow for the existing accessory building on the subject lands and

aligns with the policies for the Good General Agricultural designation and maintains the general intent and purpose of the Official Plan with regards to an ancillary use to an existing rural residential dwelling.

2. Does the Variance Maintain the General Purpose and Intent of the Zoning By-law?

The proposed minor variance application seeks to adjust the maximum height for an accessory building from 3.0 meters to 4.83 meters. A front elevation of the existing accessory structure is attached in **Appendix II** of this Planning Justification Report and is illustrative to the height of the structure. It is noted that the proposed accessory building is a flat roofed structure at 4.83 meters in height with the second floor of the accessory building being 1.83 meters in height and first floor being 2.74 meters in height. It is noted that the Zoning By-law does permit a peaked roof structure being a maximum of 4.6 meters in height. The increase in height does not adversely impact on the adjacent property in terms of shadow impacts as the shadows of the building occur within the subject lands and does not impact on the existing dwelling on the subject lands given that it is more than 28 meters separated from the existing dwelling and 22 meters from the dwelling on the adjacent property to the south. This

separation of the accessory building from existing dwelling and adjacent dwelling is more than adequate to mitigate against any impacts relative to the increase in building height.

The proposed minor variance application seeks to adjust the minimum side yard setback from 1.2 meters to 0.31 meters. The intent of the minimum side yard setback requirement under the Zoning By-law is to provide sufficient separation from the adjacent properties. The proposed side yard of 0.31 meters provides for adequate separation for the accessory structure to the southern lot line. It is noted that an existing solid wood board fence exists along this south property line to the front of the accessory building and then a chain link fence is provided along the remainder of the length of this side lot line. Given the presence of the existing fencing along the south side lot line the 0.31 meters side yard setback is adequate for separation from the adjacent properties.

The requested variances therefore maintain the general intent and purpose of the Zoning By-law as it pertains to side yard setbacks and maximum building height for accessory structures.

3. Is the Variance Desirable for the Appropriate Development or Use of Land, Building or Structure?

As a whole, the requested variances are desirable and appropriate as they will allow for an existing accessory structure on the subject lands that provides for an ancillary use to an existing rural residential use and have no impacts on adjacent lands. The development provides for the efficient use of the property and is consistent with the rural residential character of the property and surrounding area.

The applicant has ensured that the existing garage structure does not affect the residents of the surrounding properties given its placement on the subject lands. The applicant has also sought support from surrounding property owners along Garner Road by asking their neighbours to sign a petition. By signing the petition, the neighbours of the applicant confirm that the garage does not obstruct views or access, does not create any inconvenience or detract from the enjoyment of their property and does not negatively affect the aesthetic or structural harmony of the neighbourhood. A copy of this petition is attached in **Appendix III** of this Planning Justification Report.

The existing accessory structure does not affect the neighbouring properties and is appropriate accessory structure for the existing rural residential use and therefore the minor variance is desirable for the use of land.

4. Is the variance minor in nature?

The test for minor relates to impact and the requested variance is minor in nature and does not result in any negative impacts on the use of the subject lands or on the surrounding land uses as discussed earlier in this brief. It is noted that the reduced side yard and increase in height has been supported by a number of residents of the neighbouring properties, specifically 3340 Garner Road, which is the property that is immediately adjacent to the existing accessory structure. Therefore, the reduction of the side yard from 1.2 meters to 0.31 meters and the increase in height from 3.0 meters to 4.83 meters is considered minor in nature.

6.0 – PLANNING POSITION

This Planning Justification Report has been prepared to provide a planning rationale for the minor variance application made for 3318 Garner Road. The minor variance is requested for a reduction to the minimum side yard setback requirement from 1.2 meters to 0.31 meters and an increase in building height for an accessory structure from 3.0 meters to 4.83 meters. The requested minor variance will accommodate the existing 2-storey accessory building on the subject lands.

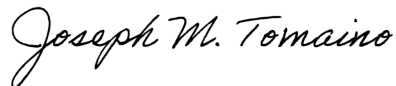
Overall, the application is consistent with the four tests of a minor variance as required in Section 45(1) of the *Planning Act*. Accordingly, it is in my professional opinion that the application is appropriate for the property, represents good land use planning and should be supported by the City of Niagara Falls.

Prepared by,



Sara Meerveld
Planning Technician Student
Upper Canada Consultants

Reviewed by,

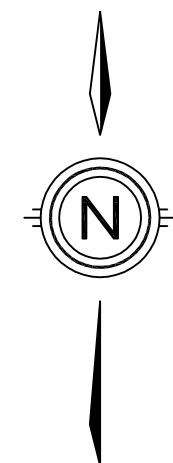


Joseph M. Tomaino, MCIP, RPP
Senior Planner
Upper Canada Consultants

Appendix I

Site Plan





BENCHMARK:
ELEVATIONS HEREON ARE GEODETIC AND WERE
DERIVED FROM THE TOPNET RKT NETWORK, NAD83
CSRS, VERSION 3, EPOC 2010.

NOTE:
THIS IS NOT A PLAN OF SURVEY

EXISTING CONDITIONS

ADDRESS 3318 GARNER RD
PLAN No. LOT 4 PLAN 186 STAMFORD
DATE OCT 10, 2024
HOUSE STYLE PROPOSED SHOP
SCALE 1:200m
DR.BY R.T.S. REV 0

TOTAL LOT AREA	4124.19m ²	TOTAL LOT AREA	4124.19m ²
HARDSCAPE AREA	384.33m ²	EXIST HOUSE AREA	170.65m ²
% OF LOT AREA	9.32%	EXIST GARAGE	36.89m ²
LANDSCAPE AREA	3451.18m ²	PROPOSED SHOP	81.14m ²
% OF LOT AREA	83.68%	TOTAL COVERAGE	288.68m ²
		LOT COVERAGE	7.0%

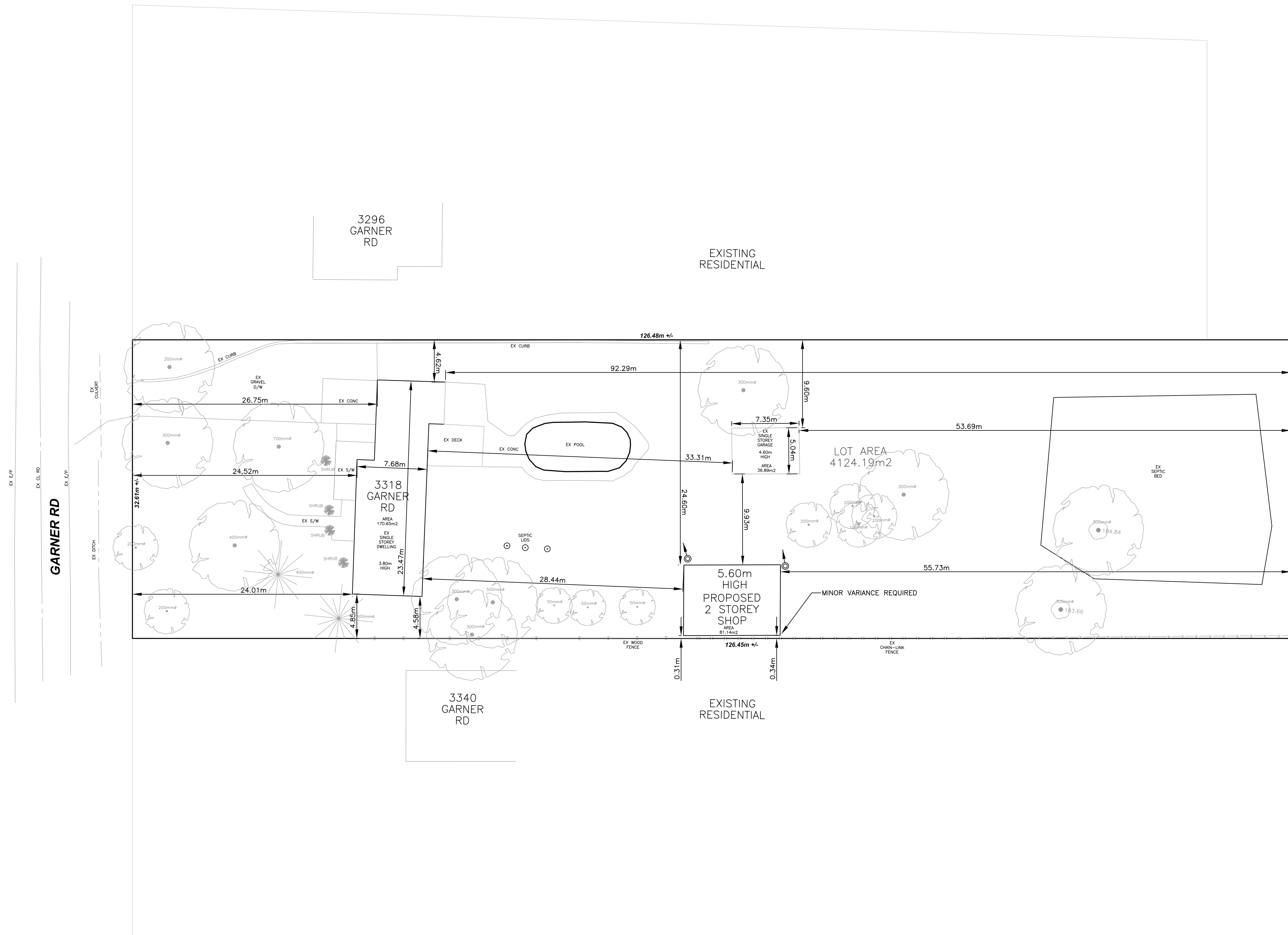
LEGEND

182.00 x	PROPOSED ELEVATION
190.63	EXISTING ELEVATION
→	DIRECTION OF DRAINAGE FLOW
⊙	DOWNSPOUT DISCHARGE
SP	SUMP PUMP

CERTIFICATION OF EXISTING AND PROPOSED GRADES

I hereby certify that this proposed Lot Grading Plan satisfies the technical requirements for City of Niagara Falls drainage policy. The proposed grades shown are compatible with adjacent properties and this lot will drain satisfactorily and not adversely affect adjacent properties.

NAME: GARRETT RUSSELL SIGNATURE: *Garrett Russell*
LIC#: 100506848 DATE: DATE Oct 11, 2024



- NOTES:
- THE POSITION OF POLE LINES, CONDUITS, WATERMANS, SEWER, AND OTHER UNDERGROUND AND OVERGROUND UTILITIES AND STRUCTURES IS NOT NECESSARILY SHOWN ON THE CONTRACT DRAWINGS AND, WHERE SHOWN, THE ACCURACY OF THE POSITION OF SUCH UTILITIES AND STRUCTURES IS NOT GUARANTEED. BEFORE STARTING WORK, THE CONTRACTOR SHALL INFORM HIMSELF OF THE EXACT LOCATION OF ALL SUCH UTILITIES AND STRUCTURES AND SHALL ASSUME ALL LIABILITY FOR DAMAGE TO THEM.
 - PROPERTY LINES WERE PLOTTED USING REGISTERED PLANS AND BARS LOCATED IN THE FIELD. TO VERIFY THE ACCURACY OF THESE PROPERTY LINES, A LEGAL SURVEY SHOULD BE PERFORMED PRIOR TO CONSTRUCTION.
 - ALL CONSTRUCTION MUST COMPLY WITH THE NIAGARA PENINSULA STANDARD CONTRACT DOCUMENT.

DRAFTING
GAR
DESIGN
GAR
CHECKED BY
GAR
APPROVED BY
GAR

STAMP

NOTE:
BUILDER AND SURVEYOR TO
VERIFY LOCATION OF ALL
SERVICES AND UTILITIES PRIOR
TO CONSTRUCTION.

SURVEYOR IS RESPONSIBLE
FOR VERIFYING BUILDING
LOCATION PRIOR TO LAYOUT
OF BUILDING FOUNDATION

GRADING NOTES:
-ROOFWATER LEADERS ON THE PROPOSED
DWELLING TO SPILL TO GRADE ON SPLASH PAD.
-SUMP PUMP OUTLET TO BE DIRECTED TO GRADE
-MAINTAIN EXISTING GRADING AND SURFACE
DRAINAGE PATTERNS SO NOT TO IMPACT
ABUTTING PROPERTIES
-MIN. 2% TO A MAX. 5% SLOPE FOR REGRADING
PROPOSED APRON TO MATCH INTO EXISTING GRADE.



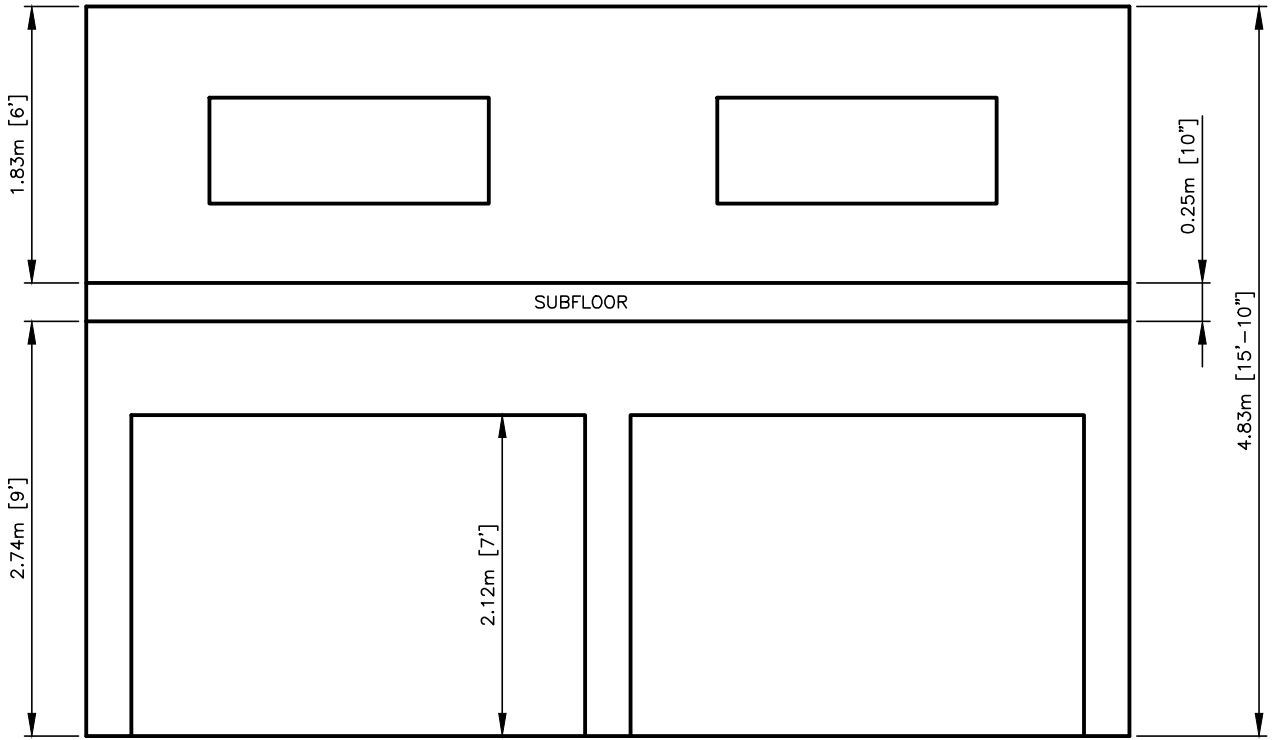
3318 GARNER RD
SITE PLAN

DATE
OCT 2, 2024
SCALE
1:250 m
DWG No.
3318A
REV
0

Appendix II

Front Elevation





3318 GARNER ROAD
NIAGARA FALLS

FRONT ELEVATION

DATE	2025-07-28
SCALE	1:50 m
REF No.	.
DWG No.	25057-FE

Appendix III

Neighbourhood Support



Petition Regarding the Garage Structure at 3318 Garner Road

To: City of Niagara

We, the undersigned, residents of Gardner Rd., hereby affirm that the garage structure located at 3318 Gardner Rd does not cause any disturbance or inconvenience to the neighboring properties.

Gabriela Medeiros and Jassi Furtado has been penalized for constructing a garage without the required permit, and as part of the resolution process, we are gathering statements from neighbors to confirm that the structure does not negatively impact the surrounding community.

By signing this petition, you confirm that the garage:

- Does not obstruct views or access
- Does not create any inconvenience or detract from the enjoyment of your property
- Does not negatively affect the aesthetic or structural harmony of the neighborhood

We appreciate your participation in this petition, as your feedback will provide helpful evidence to resolve this matter.

Please sign below if you affirm that the garage structure does not bother you:

Name	Address	Signature	Comments (optional)
Mika	3296 Garner	[Signature]	doesn't bother me
Arlan Secco	3217 GARNER	Arlan Secco	No CONCERN / NOT DISTURBED
Frank Pullano	3281 GARNER RD	[Signature]	no concerns
Renata + Eugene Kurpiewski	3274 GARNER RD	[Signature]	no concerns doesn't bother me.
Peter Cipparone	3305 Garner	[Signature]	No concerns can't see it
Madelyn Madusik	3317 Garner Rd.	[Signature]	No Concerns
Mari Beth Philip	3346 Garner Rd.	[Signature]	No concerns.

Thank you for your support in helping resolve this matter.

Sincerely,
Gabriela Medeiros and Jassi Furtado
3318 Garner Road
(416) 303 - 3410