

**The Corporation of the City of Kawartha Lakes**  
**Minutes**  
**Committee of Adjustment Meeting**

**COA2018-09**  
**Thursday, September 20, 2018**  
**1:00 P.M.**  
**Victoria Room**  
**City Hall**  
**26 Francis Street, Lindsay, Ontario K9V 5R8**

**Members:**  
**Lloyd Robertson**  
**David Marsh**  
**Councillor Kathleen Seymour-Fagan**  
**Betty Archer**  
**Sandra Richardson**  
**Steve Strathdee**

**Accessible formats and communication supports are available upon request.**

## 1. **Call to Order**

Chair L. Robertson called the meeting to order at 1:01p.m. Members D. Marsh, B. Archer, S. Richardson and S. Strathdee were in attendance.

Acting Secretary-Treasurer - M. LaHay  
Recording Secretary - C. Crockford-Toomey

Absent: Councillor K. Seymour-Fagan.

## 2. **Administrative Business**

### 2.1 Adoption of Agenda

September 20th, 2018  
Committee of Adjustment Meeting Agenda.

**Moved By** D. Marsh

**Seconded By** B. Archer

**That** the agenda for the September 20, 2018 meeting be approved.

**Carried**

### 2.2 Declaration of Pecuniary Interest

There were no declarations of pecuniary interest noted.

### 2.3 Adoption of Minutes

August 16, 2018  
Committee of Adjustment Meeting Minutes

**Moved By** S. Strathdee

**Seconded By** S. Richardson

**That** the minutes for the previous meeting held August 16, 2018 be adopted as circulated.

**Carried**

### **3. New Applications**

#### **3.1 Minor Variances**

##### **3.1.1 COA2018-055**

David Harding, Planner II  
File Number: D20-2018-041  
Location: 76 Chadwin Drive  
Part Block 11, Plan 57M-782, Parts 6 to 8, 57R-10386  
Former Town of Lindsay  
Owners: Harry and Alwine Groeger

Mr. Harding summarized Report COA2018-055, to request relief to permit an addition to a partially enclosed sunroom.

The Committee asked why the construction was defined as a partially enclosed sunroom. Staff explained based on the components of its construction how that classification was determined. Its north and south walls consist of a fence fitted with translucent plastic sheeting to prohibit the passage of air with additional timbers above fitted with clear plastic panels to enclose the remaining space between the fence and roof. The roof canopy provides overhead covering. The west side is open.

The Committee questioned Development Engineering's comments, requesting clarification on whether they had the authority to make a decision on a plan of subdivision where the grading was not yet assumed. Staff replied that the Committee of Adjustment has the authority to make a decision.

The Committee asked for clarification as to what the differences are between the previous minor variance application a year ago and the current proposal. Staff responded that the previous application was for the partially enclosed sunroom, shed, and dwelling. An extension to the roof canopy was not contemplated at that time, so additional side yard relief and lot coverage is needed to permit the extension.

Both of the owners were present. One of the owners, Mr. Groeger, spoke. He explained that the extension of the roof canopy is proposed to keep the rain and sun off the deck. He provided a letter to the Committee outlining his reasons why he believes he should be refunded the cost for the variance application.

Neighbour Sandra Swearinger, of 74 Chadwin Drive, spoke in support of the application. She confirmed she had no objections to the extension of the canopy as when the Groegers use the sunroom on a rainy day, they get wet because the roof is not long enough.

The Committee stated that it wished the owners had been advised to cover the complete deck with the canopy on the initial application. The Committee suggested that the owners take this issue to Council and ask for reimbursement for fees.

**Moved By** D. Marsh

**Seconded By** S. Strathdee

**That** minor variance application D20-2018-041 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

**Conditions:**

1. **That** the building construction to extend the partially enclosed sunroom related to this approval shall proceed substantially in accordance with the sketch in Appendix 'C' submitted as part of Report COA2018-055, which shall be attached to and form a part of the Committee's decision; and
2. **That** the building construction related to the minor variances shall be completed within a period of twelve (12) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

**This approval pertains to the application as described in report COA2018-055. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.**

**Carried**

### 3.1.2 COA2018-056

Quadri Adebayo, Planner II

File Number: D20-2018-042

Location: 43 Knox Crescent

Lot 8 and Part Lot 18 and Part Water Street, Plan 100, Part 8, 57R-4644 South Louisa, West Colborne

Former Village of Fenelon Falls

Owners: John and Nancy L'Estrange

Applicant: Nancy L'Estrange

Mr. Adebayo summarized Report COA2018-056, to request relief to permit the construction of a detached garage.

The Committee questioned the reduce setback of the garage from the right-of-way as being too small. There is not enough room to safely park a car within the setback space without a portion of the car protruding into the abutting road. Staff replied there is still room at the side of the garage. The Committee also asked why the garage was not set back further on the property. Staff replied that there is a septic system behind the garage and spatial separation is required. Their intention is to use the opposite side of the property as a driveway. The garage is not intended for daily use but for ATV and boat storage.

In support of the application, Councillor Doug Elmslie, Ward 6 was present. He confirmed he had visited the property. The proposal for the garage was reasonable. It's not intended to be used on a daily basis. The driveway on the opposite side of the property is intended for vehicles. He also stated that the neighbours have no issues.

**Moved By** D. Marsh

**Seconded By** S. Richardson

**That** minor variance application D20-2018-042 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

**Conditions:**

1. **That** the construction of the detached garage related to this approval shall proceed generally in accordance with the sketch in Appendix "C" and elevations in Appendix "D" submitted as part of Report COA2018-056, which shall be attached to and form part of the Committee's Decision. Any deviation from these specifications will require review by the City and may necessitate further approvals to be granted by the City and/or any other governing agency, body or authority, where applicable;
2. **That** the owner acknowledge through the granting of this approval that the detached garage shall not be used for human habitation, nor shall it be connected to water or septic facilities. Similar wording shall be placed on the required building permit;
3. **That** as part of building permitting process, there be a requirement that the tool shed in the northerly interior side yard between the northern wall of the dwelling and the northerly interior side lot line, and the beer shed located in rear yard between the rear wall of the dwelling and the water's edge shall be

removed from the property to the satisfaction of the Chief Building Official upon the complete construction of the detached garage; and

4. **That** the building construction related to the minor variance shall be completed within a period of twelve (12) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

**This approval pertains to the application as described in report COA2018-056. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.**

**Carried**

### 3.1.3 COA2018-057

David Harding, Planner II  
 File Number: D20-2018-043  
 Location: 89 Loon Street  
 Lot 20, Plan 260, Part 1, 57R-8835  
 Geographic Township of Ops  
 Owners: Juliette Betts and Grace Wanyura  
 Applicant: Juliette Betts

Mr. Harding summarized Report COA2018-057, to permit the construction of a second floor on a single detached dwelling upon a lot that does not abut an improved street as defined.

The Committee questioned why there were no correspondence from the Building Division and Sewage System. Staff read their correspondence from the previous variance application, noting no objections.

The applicant, Grace Wanyura was present and spoke. Ms. Wanyura confirmed the addition of the second floor was to make the bedrooms larger and not increasing surface area. Ms. Wanyura also explained she was unable to fulfill condition 3 to complete the first building inspection within 1 year on the previous application which is now lapsed.

The Committee questioned why the sunset clause is proposed at 24 months. Staff explained it is usually 12 months but as the owner encountered unforeseen challenges with securing a contractor in time, staff is recommending a longer

timeframe to avoid another lapse in approval. The Committee suggested that there should be a standard timeline for all applications.

**Moved By** D. Marsh

**Seconded By** B. Archer

**That** minor variance application D20-2018-043 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

**Condition:**

1. **That** the construction of the addition related to this approval shall proceed substantially in accordance with the sketch in Appendix 'C' of Report COA2018-057, which shall be attached to and form a part of the Committee's decision; and
2. **That** the building construction related to the minor variance shall be completed within a period of twenty four (24) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

**This approval pertains to the application as described in report COA2018-057. Fulfillment of all conditions are required for the Minor Variance to be considered final and binding.**

**Carried**

#### 3.1.4 COA2018-058

David Harding, Planner II

File Number: D20-2018-044

Location: 226 Victoria Avenue North

Block T, Part Lot 6, Plan 1, Part 1, 57R-10360

Former Town of Lindsay

Owners: Margaret and Alexander Istchenko

Applicant: Alexander Istchenko

Mr. Harding summarized Report COA2018-058, to request relief to add an accessory building (framed shed) to the list of permitted uses within the Residential One (R1) zone for a maximum of three years to permit a framed shed to remain on the lot to be created.

The Committee questioned why the sunset clause in condition 3 was set at 36

months. Staff replied that 36 months corresponded to the length of time a municipality could pass a zoning by-law amendment permitting a temporary use. The Committee asked why the shed was being retained. Staff replied that during the review of the consent application, the owner requested to keep the shed to be used by future property owner.

The Committee asked why staff were entertaining leaving the shed on the lot. Staff replied the discussions during the consent process determined that lot would sell quickly, so the shed would not remain the primary building for an extended period of time. Condition 8 of the provisional consent approval requires a variance to permit an accessory building (shed) to be retained on the proposed severed lot.

The applicant, Mr. Istchenko, was present and spoke. He confirmed he bought the property in 1977. He outlined that the land he bought then will have a total of 3 severances once the last consent application is finalized. He outlined the consent processes to date.

The Committee reiterated its belief that the proposed timeline for the sunset clause was unusual. Staff replied this is an anomaly for the sunset clause, this being consistent with the Planning Act's permissions for a temporary use zoning by-law amendment. The Committee also believed it unusual that a variance was needed to permit a shed on a lot with no other buildings.

Leah Barrie, Policy Planning Supervisor was present and addressed the Committees concerns. The City is looking forward to review minor and major differences when it undertakes its zoning by-law review.

**Moved By** S. Richardson

**Seconded By** D. Marsh

**That** minor variance application D20-2018-044 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

**Conditions:**

1. **That** the variance apply solely to the existing 24.8 square metre shed upon the proposed severed lot identified within Consent Application D03-16-001;
2. **That** the shed cannot be used for human habitation nor may it be altered or replaced while the variance is in effect; and



3. **That** the requested variance shall be deemed to be refused if the first Building Inspection for a single detached dwelling is not successfully completed within a period of thirty-six (36) months after the date of the Notice of Decision.

**This approval pertains to the application as described in report COA2018-058. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.**

**Carried**

### 3.1.5 COA2018-059

Quadri Adebayo, Planner II

File Number: D20-2018-045

Location: 44 Shadow Lake Road 2

Front Range, Part Lots 74 and 75, 57R-9866, Parts 1 to 4

Geographic Township of Somerville

Owners: Douglas and Patricia Willmot

Applicant: Black Point Construction Services (Holly Richards-Conley)

Mr. Adebayo summarized Report COA2018-059, to request relief in order to permit the construction of a two storey single detached dwelling. An amendment to add three conditions were noted, the original condition 4 now becoming condition 7.

The Committee questioned the sunset clause timeline of 18 months. Staff explained the timeline was reached through discussions during the pre-screening process. Normally we allow 12 months, however 18 months was considered to be more realistic because of being close to winter.

The Committee asked who used the right-of-way. Staff replied Shadow Lake Road 2 is a shared right-of-way with neighbouring properties. The Committee asked if the property would be affected by snow removal since there is a right-of-way that traverses the subject property. Staff replied no as the other right-of-way is for the primary use of the subject property.

The applicant, Holly Richards-Conley was present and spoke. The right-of-way at the corner of the proposed dwelling is a private right-of-way. The legal public right-of-way is far away from the proposed dwelling.

In support of the application, Councillor Doug Elmslie, Ward 6 and Gregg Mercer, neighbour of 50 Shadow Lake Road 2.

The Committee motioned to change condition 7 to amend building construction period from 18 to 24 months.

**Moved By** S. Strathdee

**Seconded By** B. Archer

**That** minor variance application D20-2018-045 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

**Conditions:**

1. **That** the construction of the dwelling related to this approval shall proceed generally in accordance with the sketch in Appendix “C” and elevations in Appendix “D” submitted as part of Report COA2018-059, which shall be attached to and form part of the Committee’s Decision. Any deviation from these specifications will require review by the City and may necessitate further approvals to be granted by the City and/or any other governing agency, body or authority, where applicable;
2. **That** notwithstanding the definition of rear yard, the granting of the variance for the reduced water setback for the proposed dwelling will not be interpreted to permit the placement of any other accessory structure(s) between either the north wall of the proposed dwelling and the water’s edge, or between the west wall of the proposed dwelling and the water’s edge;
3. **That** the proposed shed will be located on the property in a compliant manner at a minimum water setback of 15 metres; and
4. **That** the owner shall work with the Kawartha Region Conservation Authority (KRCA) pertaining to the implementation of erosion and sediment controls during all the construction phases of the dwelling;
5. **That** prior to the issuance of a Building Permit the owner shall submit an updated topographic survey/drawing showing all openings and finished floor elevations for the proposed dwelling at or above sea level to reflect one (1) metre above the highest point of the top of the slope to the satisfaction of the Kawartha Region Conservation Authority (KRCA). This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the KRCA advising that the topographic survey has been completed to its satisfaction;
6. **That** prior to the issuance of an Occupancy Permit for the dwelling, the owner shall work with the KRCA to develop and implement a shoreline planting plan. This condition will be considered fulfilled once the owner submits to the

Secretary-Treasurer written confirmation from the KRCA advising that the planting plan has been initiated or completed to its satisfaction; and

7. **That** the building construction related to the minor variances shall be completed within a period of twenty-four (24) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.-

**This approval pertains to the application as described in report COA2018-059. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.**

**Carried**

### 3.1.6 COA2018-060

Quadri Adebayo, Planner II

File Number: D20-2018-046

Location: 10 Lake Street

Range NWB, Part Lot 9, Plan 134, Lot 5 to 6, Poplar Grove

Geographic Township of Bexley

Owners: William Ball and Heather Clarke-Ball

Mr. Adebayo summarized Report COA2018-060, to request relief to permit the construction of a detached garage.

The Committee questioned the zoning of the back lot, being Limited Service Residential (LSR) and whether that can create a natural severance. Staff replied yes.

The Committee asked, once the decision is approved, can they build a single dwelling, on the back lot, also are the front and back lots connected. If it can only be sold together, then only one dwelling can exist. Staff replied title confirmation can be searched by the applicant.

The applicant, Heather Clarke-Ball was present and claimed it is on one lot. The Committee asked the applicant if she was aware of what is written on title. The applicant replied they were sold together as one lot.

The Committee asked Staff if Lake Street is municipally owned or a private right-of-way. Staff replied it is a public road but un-assumed.

The Committee suggested to the applicant to defer application so that staff can find out if you can sell both lots as one. Staff suggested a merger agreement be added as a condition.

The Committee questioned the height of the garage. Staff replied the height of the garage is 6 metres and may seem visually imposing due to insufficient vegetation. Likewise a 5 metre garage will also appear the same at human scale. Staff can only encourage the owners to plant new trees and shrubs and save any existing ones.

**Moved By D. Marsh**

**Seconded By S. Strathdee**

**That** the Committee has deferred the application until the October 18th meeting to enable further discussions with staff per the title status on subject lands being reviewed under the minor variances process.

**Carried**

### 3.2 Consents

#### 3.2.1 COA2018-064

Janet Wong, Planner II

File Number: D03-2018-008

Location: 64 Mitchell's Road

Part Lot 24, Concession 2

Geographic Township of Verulam

Owners: Richard and Mary Gascho

Applicant: EcoVue Consulting Services Inc. (Nolan Drumm)

Ms. Wong summarized Report COA2018-064, to sever a 0.8 hectare vacant farm retirement lot and retain approximately 30.4 hectares of agricultural land with a single detached dwelling and barn.

The owners provided information on their farm income history as they do not

currently have an active Farm Business Registration Number which is standard demonstration of a "bona fide farmer". Mr. Gascho purchased the property in 1982 and operated a beef farm until 2005 when he retired. He has rented the land to another farmer since 2006. Revenue Canada and the Province do not recognize rental of land to be a farm business income. On this basis neither owners of the property has been a bona fide farmer for 12 years. Thus Official Plan Policy for a farm retirement lot is not met.

The Committee asked if a Garden Suite would be permissible. Staff replied yes, as a separate unit with a zoning by-law amendment for temporary use to a Garden Suite. An agreement would be registered on title to permit the Garden Suite for an agreed upon time and maybe extended if required. The building could be turned into a garage when the agreement expires.

The applicant, Nolan Drumm was present and spoke to various Provincial and City policies supporting the creation of the lot.

In support of the application, Councillor Doug Elmslie, Ward 6 gave a brief history of Mr. Gascho's farming operation and the property remains farmed by others.

The Committee asked if the Gascho's would consider constructing a Garden Suite instead of severing the lot. The Councillor responded no.

In support of the application, Mike Gascho, indicated his brother and parents would not find a modular home to be suitable accommodation.

In opposition to the application, Richard Mitchell, 155 and 157 Mitchell's Road spoke. He stated that he was denied a building lot. As well all farmland should be conserved and the neighbour does not have a farming operation.

The Chair requested staff to respond to the applicant's interpretation of the Provincial Policy Statement (PPS). Ms. Wong stated while a lot would meet a number of identified policies, a key policy is limited residential use may be permitted. The City has identified the limited circumstance in the rural area as a new residential lot for a retiring farmer. The owner is not retiring, thus does not meet the policy requirement for a farm retirement lot.

The Committee considered all information. However due to the fact that Mr. Mitchell's previous consent to sever his lot was denied, we have to be consistent. The Committee confirmed an excellent case was made but we have to follow

policies.

The Committee called for a recorded vote to deny the application.

**Moved By** D. Marsh

**Seconded By** S. Strathdee

**That** consent application D03-2018-008, being an application to sever a 0.8 hectare vacant farm retirement lot and retain approximately 30.4 hectares of agricultural land with a single detached dwelling and barn, be DENIED.

<b>Recorded</b>	<b>For</b>	<b>Against</b>
L. Robertson	X	
D. Marsh	X	
Councillor Seymour-Fagan		
B. Archer		X
S. Richardson		X
S. Strathdee	X	
<b>Results</b>	<b>3</b>	<b>2</b>

**Carried**

#### **4. Deferred Applications**

##### **4.1 Minor Variances**

##### **4.1.1 COA2018-051**

Quadri Adebayo, Planner II  
 File Number: D20-2018-040  
 Location: 971 Fleetwood Road  
 Part Lots 16 and 17, Concession 12  
 Geographic Township of Manvers  
 Owners: Ryan and Angela Weiler

Mr. Adebayo summarized Report COA2018-051, to permit addition of a living space and attached garage to an existing single detached dwelling.

The Committee asked why there were no comments from the Sewage and Septic department. Staff replied that the Sewage Program Supervisor had granted approval of the existing septic system as having capacity for the proposed addition prior to pre-screening. Therefore, the septic review process for the minor variance application was waived.

The owners, Mr. and Mrs. Weiler were not present.

**Moved By D. Marsh**

**Seconded By S. Strathdee**

**That** minor variance application D20-2018-040 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

**Conditions:**

1. **That** the construction of the dwelling related to this approval shall proceed generally in accordance with the sketch in Appendix “C” and elevations in Appendix “D” submitted as part of Report COA2018-051, which shall be attached to and form part of the Committee’s Decision. Any deviation from these specifications will require review by the City and may necessitate further approvals to be granted by the City and/or any other governing agency, body or authority, where applicable;
2. **That** notwithstanding the definition of front yard, the granting of the variance for the reduced setback will not be interpreted to permit the placement of any other structure or building between the front wall of the dwelling and the front lot line; and
3. **That** the building construction related to the minor variance shall be completed within a period of twenty-four (24) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

**This approval pertains to the application as described in report COA2018-051. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.**

**Carried**

4.2 Consents

5. **Correspondence**

6. **Other Business**

There was a general discussion regarding mileage and membership cards.

The Committee also discussed building approval timelines related to Decisions.

**Moved By** D. Marsh

**Seconded By** S. Richardson

**That** the Committee respectfully encourages those involved relative to the building and approval timelines to consider a 24 month sunset clause.

**Carried**

**7. Next Meeting**

The next meeting will be Thursday, November 8, 2018 at 1:00pm in the Victoria Room, City Hall.

**8. Adjournment**

**Moved By** S. Richardson

**Seconded By** D. Marsh

**That** the meeting be adjourned at 4:17pm.

**Carried**

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Mark LaHay, Acting Secretary-Treasurer