

The Corporation of the City of Kawartha Lakes

Agenda

Committee of Adjustment Meeting

COA2018-011

Thursday, November 8, 2018

1:00 P.M.

Victoria Room

City Hall

26 Francis Street, Lindsay, Ontario K9V 5R8

Members:

Councillor Kathleen Seymour-Fagan

Betty Archer

David Marsh

Sandra Richardson

Lloyd Robertson

Steve Strathdee

Accessible formats and communication supports are available upon request.

1.	Call to Order	
2.	Administrative Business	
2.1	Adoption of Agenda	
2.2	Declaration of Pecuniary Interest	
2.3	Adoption of Minutes	
	October 18, 2018	
	Committee of Adjustment Meeting Minutes	
3.	New Applications	
3.1	Minor Variances	
3.1.1	COA2018-070	5 - 28
	David Harding, Planner II	
	File Number: D20-2018-053	
	Location: Part Lots 3 and 4, Concession 2	
	Geographic Township of Emily	
	Owner: Clifford Tate	
	Applicant: Doug Carroll	
3.1.2	COA2018-072	29 - 45
	Quadri Adebayo, Planner II	
	File Number: D20-2018-055	
	Location: 61 Kenhill Beach Road	
	Part Lot 10, Concession 3, Lot 29, Plan 192	
	Geographic Township of Verulam	
	Owner: Richard Kearney	
	Applicant: Joe Hood	

3.1.3	COA2018-073	46 - 56
	David Harding, Planner II File Number: D20-208-056 Location: 1473 Highway 7A Part of Lot 24, Concession 8, Lot 4, Part Lot 5, Plan 5 Geographic Township of Manvers Owner: 2341209 Ontario Inc. Applicant: Carla Gray	
3.1.4	COA2018-074	57 - 70
	Quadri Adebayo, Planner II File Number: D20-2018-057 Location: 674 County Road 24 Part Lot 12, Concession 6, 57R-3813, Part 3 Geographic Township of Verulam Owner: Cheryl Dodge Applicant: Tom deBoer	
3.1.5	COA2018-078	71 - 83
	Quadri Adebayo, Planner II File Number: D20-2018-61 Location: 42 Mary Street West Part Park Lot 4, Plan 109, South Mary Street, West Sturgeon Former Village of Omemee Owner: David Ellenzweig Applicant: Scott Mainhood	
3.2	Consents	
4.	Deferred Applications	
4.1	Minor Variances	
4.2	Consents	
5.	Other Business	
6.	Correspondence	
7.	Next Meeting	
	The next meeting will be Thursday, November 29, 2018 at 1:00pm in the Victoria Room, City Hall.	

8. Adjournment

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Clifford Tate
Report Number COA2018-070

Public Meeting

Meeting Date: November 8, 2018
Time: 1:00 pm
Location: Victoria Room, City Hall, 26 Francis Street, Lindsay

Ward: 15– geographic Township of Emily

Subject: Permission is sought to recognize the location of two additions to a dwelling within an Environmental Protection (EP) Zone and/or within 15 metres of the EP Zone category boundary whereas Sections 3.13 and 3.18 and Part 5 currently do not permit such expansion. Permission is also sought to construct two decks abutting a dwelling within an EP Zone category and/or within 15 metres of the EP Zone category boundary whereas Sections 3.13 and 3.18 and Part 5 currently do not permit such expansion.

The variances are requested at Part Lot 3 and 4, Concession 2, geographic Township of Emily (File D20-2018-053).

Author: David Harding, Planner II

Signature:

Recommendations:

RESOLVED THAT Report COA2018-070 Clifford Tate, be received;

THAT minor variance/permission application D20-2018-053 be **DENIED**, as the application does not meet the tests set out in Section 45(2) of the Planning Act.

Background: This application was deemed complete August 16, 2018.

Proposal: To recognize two additions to the dwelling. The additions occupy a total footprint of approximately 16.36 square metres (176.1 square feet). To permit the construction of two decks that will occupy approximately 40.14 square metres (432.1 square feet).

Owner: Clifford Tate

Applicant: Doug Carroll, DC Planning Services Inc.

Legal Description: Part Lots 3 and 4, Concession 2, geographic Township of Emily, City of Kawartha Lakes

Official Plan: Environmental Protection and Rural within the City of Kawartha Lakes Official Plan

Zone: Agricultural (A1) Zone, Agricultural Exception Eight (A1-8) Zone, and Environmental Protection (EP) Zone within the Township of Emily Zoning By-law 1996-30.

Site Size: 36.4 hectares (90 acres)

Site Servicing: Private individual well and privy

Existing Uses: Rural, Forest, Wetland, Rural Residential

Adjacent Uses: North: Agricultural, Forest, Wetland, Pigeon River
East: Agricultural, Forest, Wetland
South: Agricultural, Rural, Forest, Rural Residential
West: Rural, Forest, Wetland, Pigeon River

Rationale: Section 45(2)(a)(i) of the Planning Act permits the Committee of Adjustment to consider an expansion to a legal non-conforming use. The tests of 45(1) of the Planning Act are not prescribed for applications considered under 45(2). However, the application must be analysed to determine whether the proposal meets good planning principles.

Section 34(9) of the Planning Act allows for the continuation of the use of any land, building or structure for the purpose it was used on the date of passing of the by-law which prohibited the use provided the use on the date of passing of the by-law was lawful and it continues to be used for that purpose.

Section 45(2)(a) authorizes the Committee of Adjustment to consider an enlargement or extension of a building or structure if its use legally existed on the day the by-law was passed, but that is not permitted by the by-law, or a use permitted under subclause (ii), continued until the date of the application.

In order to apply good planning principles, the legality of the non-conforming use must be established. The applicant has submitted two affidavits in support of the application: one dated August 22, 2016 and the second dated July 24, 2018.

The building used for habitation has been identified as a dwelling within the application, and as a cabin in the affidavits. As the affidavits support the application, the building will be referred to as a cabin for the report.

Factual Information:

The property contains three zone categories within the current Township of Emily Zoning By-law 1996-30, passed October 15, 1996. The cabin is located within the Environmental Protection (EP) Zone. The EP Zone permits conservation uses, bird/wildlife sanctuaries, flood and erosion control works and docks, and forestry. No buildings or structures are permitted within the EP Zone for the permitted uses which are not authorized by the conservation authority, Ministry of Natural Resources and Forestry, or Parks Canada. By-law 1996-30 replaced by-law 1978-, which was the Township of Emily's first comprehensive zoning by-law passed on February 24, 1978. Within by-law 1978-3, the portion of the property where the cabin is located was zoned Open Space (O1) Zone. The O1 Zone permitted golf courses, parks, and agricultural uses but no buildings.

Within the by-law 1978-3, a private cabin is defined as "...a building for sleeping, containing no cooking or sanitary facilities and which is an accessory use to a dwelling." A cabin cannot exceed a floor area of 30 square metres.

Within the current zoning by-law, a private cabin is defined as "...a building for sleeping, containing no cooking or sanitary facilities and which is an accessory use to a dwelling unit." The maximum permitted floor area of a cabin is 30 square metres.

Within the current zoning by-law, a dwelling unit is defined as: "...one or more habitable rooms designed or intended for use by one household exclusively as an independent and separate unit in which separate kitchen and sanitary facilities are provided for the exclusive use of the household with a private entrance from outside the building or from a common hallway or stairway inside the building."

The current zoning by-law requires a dwelling unit that is not within a residential zone category to have a minimum floor area of 93 square metres.

Available Municipal Property Assessment Corporation (MPAC) records record the existence of a cabin built in 1955, measuring an area of 384 square feet (35.7 square metres) with no bathrooms and one bedroom.

The first affidavit notes the existence of a cabin on the property in 1973.

The second affidavit notes the cabin was used as a seasonal or permanent home in 1973.

The second affidavit states that in 1973 the dwelling was an "L" shape of approximately 55.8 square metres. From 1973 to October 25, 2013 its footprint was not expanded; however, it appears to have been expanded between 1955 and 1973 from 35.7 square metres to 55.8 square metres.

The second affidavit states that the cabin was used 4-6 months of the year from spring 2001 until October 25, 2013.

A bathroom shower and sink was installed in 2005.

The Building Division has no record of any permit applications for the property prior to 2017.

Building Division has advised that in addition to the bathroom, a kitchen sink and laundry facilities are present.

Analysis:

When demonstrating the establishment of a legal non-conforming use, evidence must be satisfactorily provided which shows the use was permitted and legally established prior to a change or approval of the zoning by-law, that the use has been continuous since the use became non-conforming, and that the appropriate approvals have been obtained for any subsequent expansions to the non-conforming use.

The affidavits demonstrate the existence of a cabin prior to the approval of the first zoning by-law for the Township of Emily in 1978. However, the second affidavit does not provide evidence to determine whether the cabin was used as a seasonal or permanent residence prior to 1978, nor identify if or how the cabin was used between 1978 and spring 2001. This is a substantial gap of time where information on the nature and continuity of the use of the cabin is not established. It is also unclear whether the cabin was used as a permanent residence for the 4 to 6 months of the year it was occupied from spring 2001 to October 25, 2013. A permanent residential use could not have been legally established within this timeframe as the use was not permitted in the EP Zone under zoning by-law 1996-30. The application identifies the current use of the building as a dwelling. It is unclear on what basis this determination was made.

Prior to 2005 there was no bathroom, and the bathroom was installed without building permits. On-site sanitary disposal was via pit privy and leeching pit to the west of the cabin. While there was no bathroom, there was a kitchen area in existence in 1973, but the second affidavit does not define what is meant by a kitchen area. A kitchen area within a cabin may mean a countertop with a hot plate and no sink. Without further information there is uncertainty as to what actually constituted a kitchen. Therefore, the cabin did not have at least one of the two facilities, being a bathroom and/or kitchen, to be defined as a dwelling unit, nor did it meet the minimum area for a dwelling unit, which would have been applicable to this use in 2005.

There is also a 20.1 square metre (216.4 square foot) discrepancy between the cabin footprint recorded by MPAC and that recorded in the second affidavit. This suggests that the cabin was expanded at some previous point in time. There is some uncertainty as to when this expansion occurred, though it may have occurred between 1955 and 1973. The MPAC information further corroborates that the cabin was constructed without a bathroom.

It is unclear from the affidavits provided what the exact use of the cabin was, but it appears clear based upon the information provided that the residential use and function of the cabin has been expanded beyond that of the original building. The current application suggests that the cabin now carries the characteristics of a dwelling. The basis of 45(2)(a) is that the legally established use has been continuous since the date it became non-conforming. The use of and facilities

within a cabin are fundamentally different from that of a single detached dwelling. If the use has changed to the point where the building no longer functions as a cabin, but as a dwelling, then the basis of 45(2) is no longer upheld as the use has changed.

In the event that further evidence could be supplied to address these questions raised within the analysis to demonstrate a legal non-conforming use, the letter provided from the neighbours raises the important question of whether the use, if it could be considered legal non-conforming, ceased between October 25, 2013 when the current owner acquired title to the property and May 26, 2016 when the owner submitted a pre-screening application to the Planning Division. The letter states that the entire cabin was demolished, and select components incorporated into the construction of a new building. If this is the case, then the building is no longer eligible for consideration under 45(2) of the Planning Act because approvals were not obtained for the construction and the original building containing the use ceased to exist.

Other Alternatives Considered:

A pre-screening application was applied for on or about May 26, 2016. The application proposed to approve an existing seasonal cabin. Due to the breadth of challenges, the application was referred to the pre-consultation process. A pre-consultation meeting took place on July 14, 2016 which outlined that Official Plan and Zoning By-law Amendment applications along with supporting documentation, were required to permit the existing and proposed development. On August 25, 2016, the Planning Division received the first affidavit attached to a letter from the owner. The letter advised the Development Services that rights pertaining to legal non-conforming uses would be exercised.

On September 1, 2016, the Director of Development Services responded with a letter which stated that the cabin was not considered legal non-conforming as the size, area, shape, and location of the building were not clarified within the affidavit. It was also noted that the original size and shape of the building are difficult to determine due to removal of some of the original walls and construction of some additions. Further, no evidence had been provided to determine what the use of the original building was.

Servicing Comments:

The property is serviced by privy and a private individual well.

Consultations:

Notice of this application was circulated in accordance with the requirements of the Planning Act.

Subsequent to the advertisement of the application, the applicant communicated to the Planning Division that they wish to include the recognition of the privy, storage building, and animal coop to the application for the Committee of Adjustment's consideration. The advertisement specified the recognition of two additions to the dwelling and two proposed deck expansions to the dwelling are being sought.

Planning staff is of the opinion that the proposal as advertised does not convey that recognition is being sought for the three additional structures. Should the applicant wish to proceed with the recognition of these three structures, planning staff believe a re-advertisement is necessary to provide agencies and the public the opportunity to comment on these additional structures.

In response to the application as advertised, comments have been received from:

Agency Comments:

Building Division (October 26, 2018): Construction to the cabin has occurred without building permits. An existing animal coop, existing shed, and the two proposed decks will require building permits. See Appendix E for additional information.

Building Division – Part 8 Sewage Systems (October 27, 2018): A sewage system permit has been submitted. The application remains incomplete pending other required approvals and design requirements. The application cannot be endorsed until it can be demonstrated that an on-site sewage disposal system can be accommodated.

Kawartha Region Conservation Authority (KRCA) (October 29, 2018): A violation has been issued under Ontario Regulation 182/06 on January 26, 2017. The violation remains active. In the absence of more detailed information, the existing/proposed development is within a flood hazard. The existing/proposed development appears to be within a provincially significant wetland. The relocation of the existing/proposed development outside of the EP Zone is the preferred option. In the absence of detailed topographical, hydrogeological, and ecological studies to support the application, staff are not in a position to approve the variance application. See Appendix E for additional information.

Engineering and Corporate Assets Department (October 29, 2018): No concerns.

Planning Division: A conclusion is provided in the conclusion section below. The Director of Development Services confirmed that the new affidavit did not change his position on the legality of the building in the letter dated September 1, 2016.

Public Comments:

Benoit and Shelley Dupuis – 1055 Ski Hill Road: Objection to the requested permissions. The existing cabin was in poor condition and was completely demolished. A new cabin was constructed, which used a section of an old wall, and some rotten joists/beams had been attached to the new ones. The dwelling is entirely within environmentally protected wetlands, and approximately 161 tonnes of fill was brought in for the driveway, dwelling, and location of a removed septic bed. The on-site activity could adversely impact the quality of their well water and the water quality of the pond and creek. The increased use of the site has negatively impacted important natural habitat. The increased use of the property has resulted in a loss of privacy. See Appendix F for additional information.

Conclusion:

Based upon the evaluation within the staff report and comments received in response to the application, staff are of the opinion that it is not practical to assess the proposal against the principles of good planning as the evidence and information provided does not lead to the conclusion that the use is legal non-conforming.

As staff are unable to conclude that the use is legal non-conforming, the proposal is unable to meet the tests of the principles of good planning to determine whether an expansion to a legal non-conforming use is appropriate.

Attachments:



Appendices A-F to
COA2018-070.pdf

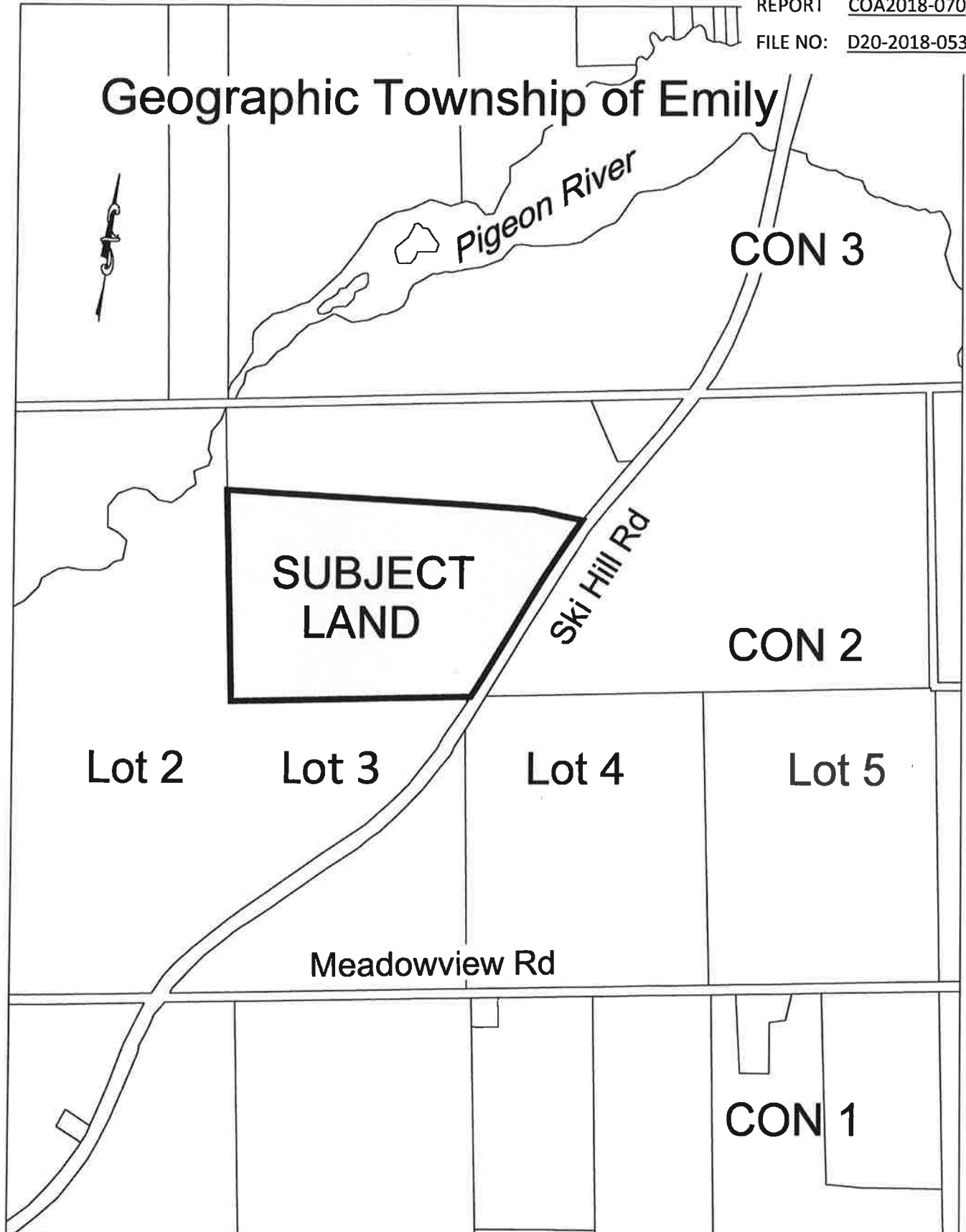
Appendix "A" – Location Map
Appendix "B" – Aerial Photo
Appendix "C" – Applicant's Sketches
Appendix "D" – Affidavits
Appendix "E" – Department and Agency Comments
Appendix "F" – Public Comments

Phone:	705-324-9411 extension 1206
E-Mail:	dharding@kawarthalakes.ca
Department Head:	Chris Marshall
Department File:	D20-2018-053

to

REPORT COA2018-070

FILE NO: D20-2018-053



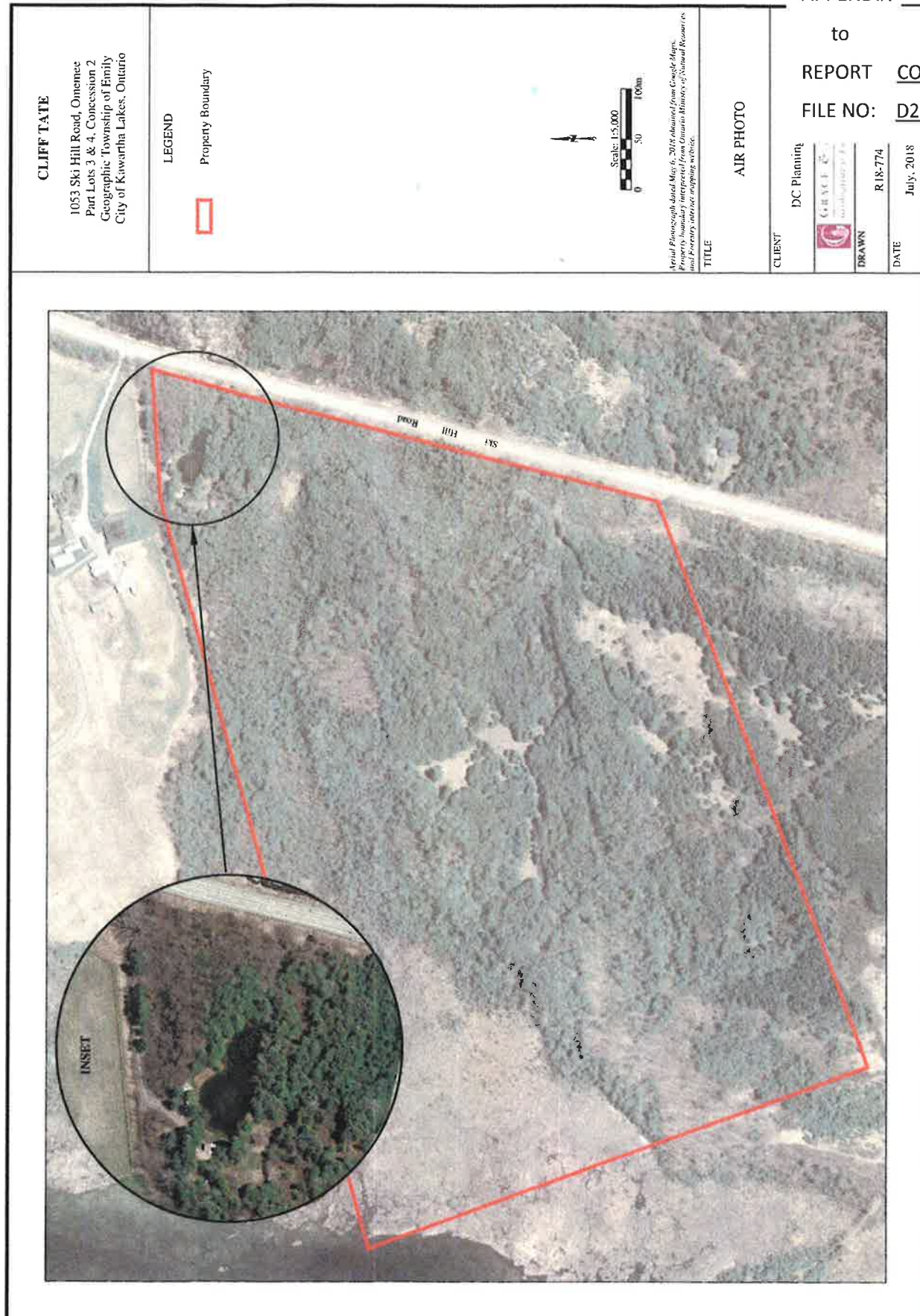
1473 Highway 7A, geographic Twp. of Manvers



to

REPORT COA2018-070

FILE NO: D20-2018-053



to
REPORT COA2018-067
FILE NO: D20-2018-051

CLIFF TATE

1053 Ski Hill Road, Onemec
Part Lots 3 & 4, Concession 2
Geographic Township of Emily
City of Kawartha Lakes, Ontario

LEGEND

- Property Boundary
- *On-site Structure
- Drilled Well

*On-site structure location and dimensions provided by client.



Scale: 1:750
0 10 20m

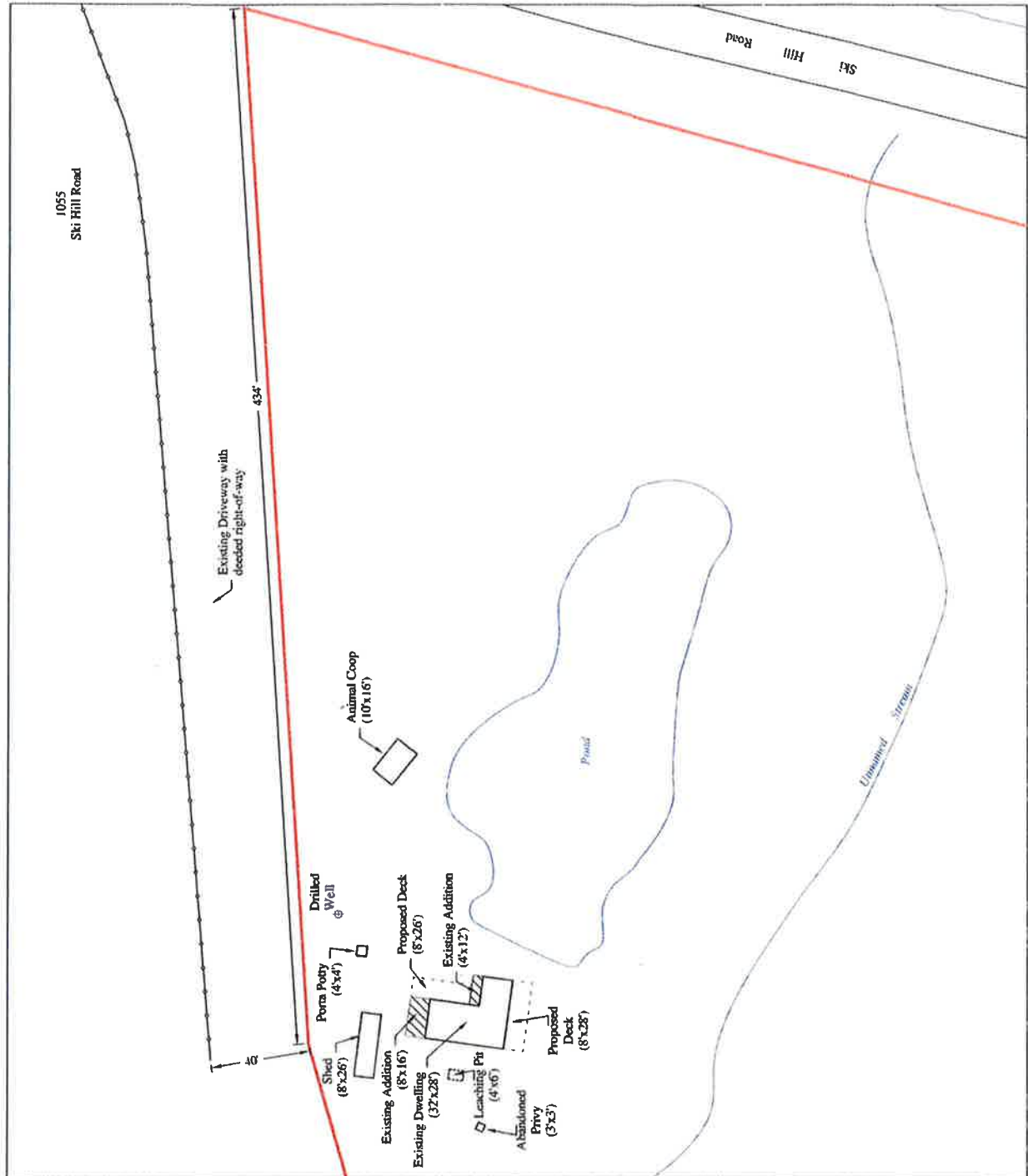
On-site structure locations interpreted from aerial photograph dated May 6, 2018 obtained from Google Maps.

Property boundary interpreted from Ontario Ministry of Natural Resources and Forestry internet mapping website.

TITLE

SKETCH

CLIENT	DC Planning & Design
DRAWN	R18-774
DATE	July, 2018



AFFIDAVIT

I, Joseph Jesse Roger McQuade, of the City of Kawartha Lakes, in the Province of Ontario MAKE OATH AND SAY:

- 1) In 1973 I visited the property located at Concession 2, Part Lots 3 and 4, Geographic Township of Emily, being approximately 90 acres and identified as 1053 Ski Hill Road, several times. I fished the pond to the east of the cabin. At that time the cabin was used as a seasonal (or permanent) home. During my visits I did not observe any flooding of the pond or small creek.
- 2) During these visits I observed it to be an "L" shape layout, comprising approximately 600 sq. ft. Inside the cabin there was a living area, a kitchen area, a sleeping area and a dining area. Heat was provided by a wood stove. There was a pit privy and a leeching pit to the west of the cabin.
- 3) I purchased this property on or about spring 2001 for the specific purpose of having a place to live and enjoy the outdoors. I was the registered owner of this property from that date to October 25, 2013.
- 4) I used the cabin and property as my home for periods of four (4) to six (6) months each year that I owned it. The cabin was heated by wood-burning stove.
- 5) I completed renovations to the cabin, during which I discovered water pipes in the walls and a drain through the floor. It was obvious to me that prior to my ownership, the cabin had plumbing, running water and electricity. In 2005 I installed a bathroom shower and sink. I replaced all the wiring throughout the cabin and used a generator to produce electricity.
- 6) During my use of this property I did not observe any flooding of the pond or small creek.
- 7) On October 25, 2013 I sold this property to Clifford Brian Tate and the cabin was approximately 600 sq. ft.
- 8) The residential use of the cabin, established by the prior owner and continued by me, has been continued by Cliff Tate.
- 9) In August 2016, I visited Cliff Tate at this property. He advised that he had constructed two (2) additions; the 1st being a 12 ft. x 4 ft. addition/extension to the north side of the front section of the dwelling and the 2nd being an 8 ft. x 16 ft. addition/extension to the north end of the cabin, for a total of 176 sq. ft. From my prior knowledge and use of this cabin, I agree that the cabin was enlarged by approximately 176 sq. ft.
- 10) I make this Affidavit for no improper purpose.

SWORN BEFORE ME at the)
City of Kawartha Lakes)
In the Province of Ontario)
This 24th day of July 2018)


Joseph Jesse Roger McQuade



Commissioner for Taking Affidavits (on behalf of the City of Kawartha Lakes Police Service)

Allison Donna White,
a Commissioner, etc., Province
of Ontario, before City of Kawartha
Lakes Police Service.
Expires May 3, 2020.

TO WHOM IT MAY CONCERN


AFFIDAVIT

I, Joe McQuade, of the City of Kawartha Lakes, in the Province of Ontario, MAKE

OATH AND SAY:

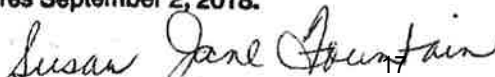
1. I was the registered owner of the property located at Con 2, PT Lots 3 & ~~X4~~ *1.4.*
Ward 15, City of Kawartha Lakes.
2. I sold the property to Cliff Tate, on or about October 25, 2013.
3. At the time of my purchase and the time of the sale to Cliff Tate, I had
knowledge of an existing cabin located on the property.
4. During my childhood, 1973, I would fish at the property and the cabin was in
existence at that time.
5. I make this Affidavit for no improper purpose.

SWORN BEFORE ME at the)
City of Kawartha Lakes)
in the Province of Ontario)
this ~~28.11~~ day of August, 2016)


Joe McQuade

Commissioner for Taking Affidavits (or as may be)

Susan Jane Fountain,
a Commissioner, etc., Province
of Ontario, for City of Kawartha
Lakes Police Service.
Expires September 2, 2018.



to

REPORT COA2018-070**David Harding**

From: Susanne Murchison
Sent: Friday, October 26, 2018 4:24 PM
To: Charlotte Crockford-Toomey
Subject: D20-2018-053

FILE NO. D20-2018-053

The Building Division has the following comments:

- Construction has occurred to the existing cabin without the benefit of a building permit being issued. As well, existing animal coop structure, existing shed and proposed decks will require building permits, no applications submitted to-date. Building permit applications, both pending and those not yet filed, will require zoning compliance, conservation approval and sewage system application approval.

Susanne Murchison, CBCO
Chief Building Official
Building Division, Development Services, City of Kawartha Lakes
705-324-9411 ext. 1200 www.kawarthalakes.ca



David Harding

From: Anne Elmhirst
Sent: Saturday, October 27, 2018 9:21 PM
To: David Harding
Subject: D20-2018-053 - Tate

Hi David,

Further to the email provided by Susanne Murchison, Building Division, I will add that an application for a sewage system permit has been submitted for a proposed system on the Ski Hill property. This application remains incomplete due to requirements for Conservation Authority approval, zoning amendments and design completion. The Building Division - Sewage System Program is not able to endorse this proposal for minor variance until it can be demonstrated that an on-site sewage system can be accommodated.

Should you have any questions or concerns, please do not hesitate to contact me.

Best Regards,
Anne Elmhirst

Sent from my BlackBerry 10 smartphone on the Bell network.

Via E-Mail: mlahay@kawarthalakes.ca

Mark LaHay
Acting Secretary-Treasurer
Committee of Adjustment
City of Kawartha Lakes
180 Kent Street West
Lindsay, ON K9V 2Y6

**Regarding: Application for Minor Variance – D20-2018-053
Clifford Tate (Agent: Doug Carroll)
1053 Ski Hill Road, Part of Lots 2 & 3, Concession 2
Geographic Township of Emily
City of Kawartha Lakes**

Dear Mr. LaHay:

This Letter acknowledges the receipt of the above noted application. Kawartha Region Conservation Authority (KRCA) staff have reviewed this application and provided the following comments:

Application Purpose

It is our understanding that the purpose of this application is to request the following variance from the requirements of Zoning By-Law 1996-30 (Township of Emily), as amended, as it relates to Relief from Sections 3.18 and 5.1 of the Zoning By-Law by recognizing the location of two additions to a dwelling within an Environmental Protection (EP) Zone and within 15 metres of the EP Zone boundary. Permission is also sought to construct two decks abutting a dwelling within an EP Zone category and/or within 15 metres of the EP Zone category boundary.

Kawartha Conservation previously provided comments (City of Kawartha Lakes Pre-consultation File D38-16-035) 2016 in relation to a proposal to rezone portions of the property to permit a single detached dwelling on private services in the existing Environmental Protection (EP) Zone. Upon further review of the proposal and a subsequent site visit, staff determined that several works proposed through the pre-consultation were constructed without approvals and permissions under Ontario Regulation 182/06. Subsequently, a violation notice under Ontario Regulation 182/06 was issued and a formal letter was provided to the applicant on January 26, 2017 by Kawartha Conservation Enforcement Staff.

The matter remains an active violation in the absence of evidence validating the presence, use and size of certain undertakings on the subject lands. Kawartha Conservation also received documentation from the City of Kawartha Lakes identifying the opinion that the cabin on the property is not Legal Non-Conforming. Staff noted to the applicant that any future permissions from Kawartha Conservation do not preclude the requirement to obtain all other

KAWARTHA CONSERVATION
277 Kenrei Road, Lindsay, ON K9V 4R1
705.328.2271 Fax 705.328.2286
KawarthaConservation.com

Our Watershed Partners:

City of Kawartha Lakes • Region of Durham • Township of Scugog • Municipality of Clarington • Township of Brock • Municipality of Trent Lakes • Township of Cavan Monaghan

necessary permissions from the City of Kawartha Lakes nor does Ontario Regulation 182/06 take precedence over legislation and policies administered by the City of Kawartha Lakes and other agencies.

Applicable Kawartha Conservation Regulations and Policies

Ontario Regulation 182/ 06 (as amended):

The subject property is entirely within the KRCA's Regulated Area with the constructed additions and proposed decks located adjacent to a tributary of the Pigeon River. Kawartha Conservation regulates the tributary and from the greater of the floodplain and erosion hazard associated with the feature plus lands within 15 metres from the greater of the hazard. Given the size of the catchment area (approximately 700 Hectares) of the tributary and in the absence of detailed Regulatory floodplain mapping for the watercourse, Kawartha Conservation policies identify the Regulatory flood hazard at an elevation of one (1) metre above the bankful width (physical top of bank) of the watercourse. Moreover, the cabin and location of the proposed deck appear to be within the Pigeon River No. 25 Provincially Significant Wetland (PSW) Complex. Kawartha Conservation regulates the PSW feature and lands within 120 metres from the limit of the PSW. As such, any development (or redevelopment) on the subject lands require a Permit pursuant to Ontario Regulation 182/06 prior to development and site alteration. In accordance with Ontario Regulation 182/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), as amended, permissions are required from Kawartha Conservation prior to any of the following works taking place:

- a) straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b) Development, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of lands may be effected by the development.

Development is defined as:

- a) The construction, reconstruction, erection or placing of a building or structure of any kind,
- b) Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- c) Site grading or, the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

An elevation survey signed and stamped by an Ontario Lands Surveyor (OLS) would be required in order to determine the extent of the flood hazard on the property. The applicant is also advised they may undertake a floodplain delineation study, examining the hydrology and hydraulics of the watercourse on the subject lands in order to more precisely delineate the limit of the floodplain on the subject lands. Noteworthy is the fact the applicant has yet to provide the requisite elevation survey to support the proposal.

Any development (including the proposed decks and constructed additions) on the subject lands would require support by a geotechnical report addressing the potentially unstable soils and the potential for erosion from the

meander belt associated with the tributary of the Pigeon River. The unstable soils would need to be addressed in the report conducted by a qualified geotechnical engineer with any erosion hazards identified to remain within a protective zoning.

An Environmental Impact Study (EIS), delineating the boundary of the PSW and demonstrating no negative impacts on the PSW and fish habitat would be required for all development on lands adjacent to the PSW feature. The EIS should examine the hydrologic and ecological impacts to the wetland feature presented through the development constructed to-date and any proposed works, maintaining hydrologic and ecological linkages. It is further recommended that the proponent address any serious threats to fish and/or fish habitat, Species-at-Risk and Migratory Bird legislation within the study.

A number of potentially hazardous conditions for development may be associated with this feature, including flooding hazards(s), erosion hazard(s) and unstable soils (i.e. organic soils). Any additions or decks are subject to Kawartha Conservation Policies 4.6.2.1(1) & (2) (*New Development*), which cannot be supported, as the current zoning is incompatible with the nature of the proposed development.

It is noted that the proponent can move the building envelope outside of the EP zone. The option would require less remediation and fewer studies in order to achieve support from Kawartha Conservation. Kawartha Conservation is willing to work with the applicant towards devising an approach necessary in order to rectify the outstanding violation under Ontario Regulation 182/06. Should the applicant not receive the requisite permissions from Kawartha Conservation in order to retain the additions, Kawartha Conservation will require full remediation of the property, including removal of the additions in order to resolve the active violation. The applicant is advised to contact Jim Shrubsall, Compliance Officer & Permitting Technician, at (705) 328-2271 ext. 250 or jshrubsall@kawarthaconservation.com to determine any additional requirements from Kawartha Conservation.

Application-Specific Comments

KRCA Memorandum of Understanding (MOU):

KRCA Permitting and Compliance:

As noted, the subject property is within KRCA Regulated Area of the Watershed. All works constructed on the lands including the constructed additions and proposed deck subject to this application are within lands regulated by the Conservation Authority. The matter remains an active violation under Ontario Regulation 182/06. The previous recommendation made by Enforcement staff to relocate the dwelling and works undertaken to a more suitable area, which provides suitable buffering from both the wetland and watercourse and is located outside of the Environmental Protection Zoning remains a preferred option. Should the development remain status quo, Kawartha Conservation will require full remediation of the property, including the removal of buildings and structures in order to resolve the outstanding violation.

Natural Heritage – Provincially Significant Wetlands and Significant Woodlands

The location of the additions and proposed deck appear to be within lands designated by the Province as Provincially Significant Wetland. In accordance with Section 2.1.4 a) of the PPS (2014), *“Development and site alteration shall not be permitted in significant wetlands in Ecoregions 5E, 6E and 7E.”*

Without the submission of an EIS illustrating the additions and proposed deck are within lands adjacent to the PSW and present no negative impacts on the natural feature or its ecological function, the application does not conform to Provincial policy.

In keeping with the provisions of the PPS (2014), the City of Kawartha Lakes Official Plan (2008), the Growth Plan for the Greater Golden Horseshoe (2017) and Kawartha Conservation Policies, development and site alteration shall not be permitted in significant woodlands south and east of the Canadian Shield or within 120 metres of significant woodlands, unless it has been demonstrated that there will be no negative impact on the woodlands or adjacent lands or on their ecological functions. An EIS/Natural Heritage Evaluation (NHE) is the preferred mechanism in order to demonstrate no negative impacts to significant woodlands. The EIS/NHE will need to provide justification as to how the woodlands do not meet the criteria for significance. The property should also be assessed for the presence of species-at-risk and/or their habitat. Since the application for minor variance did not include the aforementioned EIS/NHE identifying how the additions and proposed deck are within lands adjacent to the significant woodlands and present no negative impacts on the natural feature or its ecological function, the application does not conform to Provincial policy.

Flooding Hazards (Hazardous Lands)

To ensure conformity with Section 3.1 of the Provincial Policy Statement (PPS, 2014), Kawartha Conservation aims to prevent new development from locating in areas where there is a potential for loss of life and/or property damage from natural hazards. Moreover, KRCA Plan Review Policies (Section 2.4.2.4) for Natural Hazards identifies that applications shall not create new or exacerbate existing hazardous conditions. The unauthorized additions and the proposed decks appear to be located within the floodplain of the tributary associated with the Pigeon River.

Further, development and site alteration shall not be permitted within areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard, in accordance with Section 3.1.2.c) of the PPS. In the absence of the previously mentioned elevation survey or a detailed delineation of the depths and flows of flooding on the lands, staff cannot confirm that the constructed additions are structurally sound should they be subjected to conditions under the Regulatory flood event. Furthermore, there remains uncertainty surrounding the ability to increase in habitable space given the location of the additions, while achieving safe ingress/egress to and from the property.

Fish Habitat

The pond and tributary of the Pigeon River are considered fish habitat. Policy 2.1.8 of *Provincial Policy Statement* states,

“Development and site alteration shall not be permitted on adjacent lands (120m) to fish habitat unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions”.

In addition, the Ministry of Natural Resources and Forestry (MNRF) recommends a minimum vegetated buffer for fish habitat of 30 metres. The existing cabin is located within the 30 metre setback and the construction of the addition has resulted in the overall expansion of the dwelling within the fish habitat buffer.

Based on MNRF’s direction, in cases where a site specific technical report (e.g. EIS) has evaluated the ecological function of the adjacent land and has demonstrated that smaller buffer widths would be appropriate to ensure no negative impacts on the fish habitat and does not represent a serious threat to fish ; a minimum 15 metre buffer width may be acceptable. Ultimately, the constructed additions as well as the proposed deck(s) abutting the dwelling represent an increased footprint both within and closer to the pond and watercourse, within the fish habitat buffer. Again, the application was not supported by an EIS; therefore, the development is contrary to Provincial policy.

Recommendation

Based on our review of the above information, the remaining outstanding violation on the property and the absence of detailed hydrological and ecological studies supporting the application, **staff are not in a position to approve Minor Variance application D20-2018-053**. A request for relief to existing natural heritage features and hazards on the property contradicts the very purpose of implementing the protective zoning, which is to prevent development in areas where there is increased risk to property and life and direct construction in areas where no negative impacts would be presented to natural heritage features. Kawartha Conservation reiterates that the applicant can relocate the building envelope outside of the Environmental Protection zone. Staff are willing to work with the applicant towards devising an approach necessary in order to rectify the outstanding violation.

Kawartha Conservation staff would like to note that the decision of the Committee of Adjustment does not bind Kawartha Conservation under the Conservation Authorities Act to approve the proposed works identified on the plans/drawings submitted with this application. As such, Kawartha Conservation staff strongly recommends that the plans in support of the proposed development be consistent with all applications made under the *Planning Act* and the *Conservation Authorities Act*.

The above comments reflect our understanding, at the time of writing, of the best available data, applicable policies and regulations. I trust this meets your information requirements at this time. Should you have any questions regarding this matter, please do not hesitate to contact this office.



October 29, 2018
KRCA File No 16585
Page 6 of 6

Yours Truly,

Kent Stainton
Resources Planner
Extension 232
Kent.stainton@kawarthaconservation.com

cc: Ron Warne, Kawartha Conservation
Jim Shrubsall, Kawartha Conservation
Chris Marshall, City of Kawartha Lakes
David Harding, City of Kawartha Lakes
Charlotte Crockford-Toomey, City of Kawartha Lakes

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Our Watershed Partners:
City of Kawartha Lakes • Region of Durham • Township of Scugog • Municipality of Clarington • Township of Brock • Municipality of Trent Lakes • Township of Cavan Monaghan



Engineering & Corporate Assets Department
P.O. Box 9000, 12 Peel Street
Lindsay ON K9V 5R8
Tel: (705) 324-9411 Ext. 1152
Fax: (705) 324-2982
e-mail: csisson@kawarthalakes.ca
website: www.kawarthalakes.ca

MEMORANDUM

TO: Mark LaHay, Acting Secretary-Treasurer

CC: Kirk Timms, Engineering Technician
Kim Rhodes, Administrative Assistant
Charlotte Crockford-Toomey, Administrative Assistant

FROM: Christina Sisson, Supervisor, Development Engineering

DATE: October 29th, 2018

SUBJECT: Application for Minor Variance/Permission
D20-2018-053 – 1053 Ski Hill Road
Part Lots 3 and 4, Concession 2
Geographic Township of Emily, City of Kawartha Lakes

The Development Engineering Division has reviewed the City of Kawartha Lakes Committee of Adjustment Notice of Public Hearing for Minor Variance as well as the Application for Minor Variance/Permission received on October 25th, 2018.

It is our understanding that the applicant is applying for a minor variance to seek permission to recognize the location of two additions to a dwelling within an Environmental Protection (EP) Zone and/or within 15 metres of the EP Zone category boundary. Permission is also sought to construct two decks abutting a dwelling within an EP Zone category and/or within 15 metres of the EP Zone category boundary.

Further to our review of the above noted application, we confirm that we have no objection to the proposed minor variance and no engineering comments related to the proposed minor variance.

We respectfully request to be circulated should additional information be brought forward through the commenting period that changes the intent of the minor variance application and the corresponding report by Planning.

Please do not hesitate to contact our office if you have any questions.

to

REPORT COA2018-070

David Harding

From: Benoit Dupuis <benoitdupuishorse@gmail.com>
Sent: Monday, October 29, 2018 11:00 AM
To: Mark LaHay
Cc: David Harding; Mary Ann Martin
Subject: File D-20-2018-053 Minor Variance application Addressed to M.Lahay , Acting Secretary-Treasurer

FILE NO. D20-2018-053

To Mark Lahay Secretary-Treasurer

Committee of Adjustments City of KawarthaLakes

Lindsay Service Centre,

180 Kent Street West,

Lindsay Ontario K9V 2Y6

Benoit and Shelley Dupuis object to the minor variance application D20-2018-053 – part Lots 3 and 4, Concession 2, geographic township of Emily, Ward 15, now in the city of Kawartha Lakes.

BACKGROUND for the objection: After Mr. Tate purchased the adjacent property to us, I introduced myself and questioned Mr. Tate on whether he was planning on building on his property. He informed me that they would build a dwelling at the second entrance further south and not beside us. I proceeded to explain that the area around the pond and creek were an (EP) Environmentally Protected Zone designated wetlands. He assured me that he would not build in this (EP) zone. On 2 more occasions upon seeing large metal containers dropped off ,my wife and I in discussion with Mr. Tate were assured he would not be building by the pond and creek; we also restated that this area was designated Wetlands and were very concerned about him building there. This was in the fall season There was a small cabin existing by the pond, which Mr. Tate started to use to sleep over periodically. Having been granted unlimited access by the previous owner, my wife and I with the children hiked on the property regularly and visited the cabin on a couple of occasions when the previous owner was present. The cabin floor itself had sunken down into the ground as the floor was rotting and the soil around that area was soft. Upon coming home one day in the next year Mr. Tate had building movers on site to raise the cabin. I went over and informed Mr. Tate that the floor was most likely rotten and he should abandon this project. This is when we became aware that there were no building permits in place, and that there were no permissions from the City of Kawartha Lakes and Conservation Authority in place. Once the cabin was raised and set back down on cement blocks and patio stones and the movers were completed I went over and had a discussion with Mr. Tate about the state of the cabin, he informed me that it was after all, all rotten and that he wouldn't be able to use it. Shortly after coming home one day I noticed the existing cabin torn down and all the salvageable lumber off to the side with a few wall sections intact by this pile and a new floor /base had been built. When I entered Mr. Tate's property and went up and the new floor/base and notice that a section of wall from the old structure had been used and was braced into place on the south end wall and that it was not the full length (28') as provided by DC Planning Services Inc. on the sketch. Also on some of the new joists they had attached the old rotten joists/beams. The old Cabin had been removed and a new one was being built, Mr. Tate was attempting to make this look like an addition or renovation, which it was not as we witnessed this on a daily basis.

The part of the application for the minor variance that deals with the recognition of two additions to the dwelling is 100% not accurate, there was no additions only the removal of the existing cabin, and a new structure/dwelling was built by Mr. Tate without any permits or approvals from the City Of Kawartha Lakes and the Conservation Authority.

Not only is the dwelling built on 100% Environmentally Protected Wetlands, it is also adjacent to a small pond and a tributary stream to the pigeon river. Mr. Tate has been residing on the property full time and has had fill brought in to make the “right of way” driveable, build his cottage and deck, and to cover up the septic bed that he had removed, coincidentally, the same day that he self-reported his illegal dwelling to the City of Kawartha Lakes. This section of wetlands is a low lying area and was quite wet to walk on. Mr. Tate has built it up with the fill he has brought in approximately 161 tonnes. He has also built a bridge over the creek which is eroding the walls of the creek. There is a leaching bed behind the structure. We have seen laundry being hung out. We have great concerns where the drainage from the structure leaches into the bed and where it will go into the water table as we have a well very close to his property. Mr. Tate also had a well drilled (20ft) without a permit and installed a septic bed and tank on Environmentally Protected Wetlands and without permits. He also has 2 large Propane Tanks near the structure and runs a generator continuously that has a bank of batteries as back up that could potentially leak into the soil without proper containment and ventilation which poses an environmental and public safety hazard.

An important natural habitat has been negatively impacted from Mr. Tate’s increased footprint on the site. The surrounding wetlands provide a mature mixed deciduous-coniferous forest with abundant riparian habitat. We’ve seen American Black Bears and Algonquin wolves or (coy-wolf hybrids) frequent this property. Prior to the increased footprint at the site, avian life was more common, including regular visits by Green Horn and rusty Blackbird(Special Concern). The area has abundant reptile and amphibian populations, including Midland Painted turtle(Special Concern), and Spotted Turtle (Endangered). These turtles migrate through both of our properties both to and from the Pigeon River in attempts to lay their nests. Less than 1 in a hundred turtle eggs laid will hatch and now their path has been disrupted by Mr. Tate’s structure/dwelling, trailers, vehicles, “Johnny on the Spot” and large bird cages. Mr. Tate has kept meat birds on his wetlands property since the day after he self-reported to the City of Kawartha Lakes. On April 23, 2016 he brought in 1 rooster and 4 hens. The summer of 2017 and 2018 he procured close to a dozen large ducks which we believe he slaughters every fall. These birds are kept in large cages directly near the shore of the pond. The Birds are free range on the pond and creek during daylight, and their feces that contain potentially harmful bacteria, such as Salmonella, and could pose a threat to the water quality as their feces is deposited in the pond on a daily bases. Mr. Tate has also admitted to myself in spraying round up around this area.

Along with these environmental concerns we have definitely experienced a loss of privacy with the addition of the structure/dwelling and deck and a constant level of noise from Mr. Tate’s generator. A quiet Wetland area with a small cabin that was occasionally used by the previous owner has been transformed into a structure/dwelling with deck on a pond. Mr. Tate does have an area further South on his property that would make a lovely area to move his structure/dwelling to. That area is not zoned Wetlands and would be the logical location for his structure/dwelling.

After reviewing the Official Plan (OP) for the City of Kawartha Lakes, Provincial Policy Statement, and the Planning Act, our opinion is that this is not a minor variance because it is too large and too important to be considered minor. The variance requested does not maintain the general intent and purpose of the Township of Emily Zoning By-Law 1996-30, and the Official Plan (OP). By granting the variance would the public interest be best served?, we think not as this would send the message “better to beg for forgiveness than to ask permission”, and Build on environmentally Protected Land.

Benoit and Shelley Dupuis

1055 Ski Hill RD RR#2

Omeme, Ontario K0L 2W0

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Richard Kearney
Report Number COA2018-072

Public Meeting

Meeting Date: November 8, 2018
Time: 1:00 pm
Location: Victoria Room, City Hall, 26 Francis St., Lindsay

Ward: 13 – Geographic Township of Verulam

Subject: The purpose and effect is to request relief from the following provisions in order to permit the construction of a second floor addition to a single detached dwelling:

1. Section 5.1.4(c) – to reduce the minimum spatial separation between an accessory building and a main building from 1.2 metres to 1.0 metre;
2. Section 5.14.1 - to reduce the minimum parking requirement for a residential use property from two (2) to one (1); and
3. Section 8.2(d) – to reduce the minimum front yard depth from 7.5 metres to 1.1 metres.

The variance is requested at 61 Kenhill Beach Road, geographic Township of Verulam (File D20-2018-055).

Author: Quadri Adebayo, Planner II

Signature:

Recommendations:

RESOLVED THAT Report COA2018-072 Richard Kearney, be received;

THAT minor variance application D20-2018-055 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 COA2018-072, 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** prior to the issuance of a building permit for the proposed addition, the applicant shall obtain all necessary permits required from the Kawartha

Region Conservation Authority (KRCA) prior to construction. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the KRCA advising that the permitting process have been initiated to its satisfaction;

- 3) **THAT** notwithstanding the definition of front yard, the granting of the variance for the reduced front yard depth will not be interpreted to permit the placement of any other accessory buildings between the front wall of the dwelling and the front lot line; and
- 4) **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 COA2018-072. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Background: This application proposes to construct a second floor addition to an existing two-storey single detached residential dwelling comprising an extra storey of living space, a balcony, and a main-level archway. The proposed development will maintain the limits of the existing front wall of the house. This application was deemed complete August 16, 2018.

Proposal: To construct an approximately 25.04 square metre (269.43 square foot) addition to a two-storey detached dwelling consisting of a supplementary living space, a balcony, and a main-level archway. The existing dwelling is approximately 151.43 square metres (1,629.38 square foot) in size.

Owners: Richard Kearney

Applicant: Joe Hood – Pro Home Solutions Limited

Legal Description: Part Lot 10, Concession 3, Lot 29, Plan 192, geographic Township of Verulam, City of Kawartha Lakes

Official Plan: Waterfront in the City of Kawartha Lakes Official Plan

Zone: Residential Type One (R1) Zone within the Township of Verulam Zoning By-law 6-87

Site Size: 0.15 acres (606.89 square metres)

Site Servicing: Lake water system and private holding tanks for sewage

Existing Uses: Residential

Adjacent Uses: North: Sturgeon Lake
East & West: Residential
South: Residential Backlot and Agricultural

Rationale:

**1) Are the variances minor in nature? Yes
And**

2) Is the proposal desirable and appropriate for the use of the land? Yes

The proposed front yard setback measurement accounts for the measurement between the front lot line and the existing building line established by the front wall of the house. Notwithstanding that the west-end of the established building front wall is 2.5 metres from the front lot line, the slanted alignment of the front wall of the house from west to east contributes to the more reduced front yard depth at 1.1 metres for the proposed addition at the east end of the front wall. Observations from site visit suggests that sufficient amenity space will remain in the front yard as the limits of the proposed addition appears to be further back from the front lot line than the existing detached garage in the easterly side yard.

With respect to the reduced spatial separation between the proposed addition and the detached garage in the easterly side yard, staff is of the opinion that the reduction will not be perceptible at human scale due to open concept of the archway proposed on the main level and that the massing of the addition will be on the second level of the house. The existing vegetation along the easterly side lot line also ensures that the scale of development is masked. As such no land use compatibility issues are anticipated.

Regarding the reduction in parking spaces from two (2) to one (1), the uniqueness of the residential use pattern on Kenhill Beach Road neighbourhood ensures that a second parking can be adequately provided on the backlot portion of the subject property. There is a zoning by-law provision in place that ensures that each backlot parcel on Kenhill Beach Road is accessory to adjacent residential use parcel. As such, only accessory buildings are permitted to be built on the backlots. Therefore, the second parking space being proposed to be provided on the backlot is in keeping with the residential character of the neighbourhood.

Based on the above analysis, the variances are minor as well as desirable and appropriate for the use of the land.

3) Does the variance maintain the intent and purpose of the Zoning By-law? Yes

The 6.4 metre front yard depth reduction from the 7.5 metres required, and the 0.2 metres reduction in the 1.2 metres spatial separation required, proposed for the second floor addition, if granted, are not anticipated to be perceptible. Sufficient space remains within the said yards to facilitate access to the rear yard.

The property is constrained in terms of size, having a legal non-conforming lot area of 606.89 square metres where the minimum required in a Residential Type One (R1) Zone is 2,050 square metres. The existing detached dwelling was built circa 1932 (MPAC). With the zoning by-law provisions for the adjacent backlot in place (i.e. Residential Type One Exception Twenty-one), it is evident that a second parking space can satisfactorily be provided on the backlot.

Considering the fact that the proposal has not fully exercised the zoning provision privileges, utilizing a lot coverage of approximately 25.13% from a possible 33% maximum, an approximately 23 metre water setback where 15 metres minimum is permitted, and an approximately 13 metre road centreline setback from the front lot line where 10 metres minimum is permitted, the applicant has reasonably demonstrated that it is possible to develop the undersized lot.

Therefore, the variances maintain the general intent and purpose of the Zoning By-Law.

4) Does the variance maintain the intent and purpose of the Official Plan?
Yes

The property is designated Waterfront in the City of Kawartha Lakes Official Plan, which permits residential uses.

The proposal follows Section 20.5.1 of the Official Plan regarding density and massing in the Waterfront designation. The proposed building will presumably blend with the natural surrounding residential character.

In consideration of the above the variances maintain the general intent and purpose of the Official Plan.

Other Alternatives Considered:

No other alternatives have been considered at this time.

Servicing Comments:

Lake water system and private holding tanks for sewage

Consultations:

Notice of this application was circulated in accordance with the requirements of the Planning Act. Comments have been received from:

Agency Comments:

Building Division (October 25, 2018): No concerns.

Kawartha Region Conservation Authority – KRCA (October 25, 2018): No objections, but applicant is required to obtain necessary permits prior to commencing construction. See comments.

Engineering & Corporate Assets (October 29, 2018): No objections. See comments.

Public Comments:

No comments as of October 29, 2018.

Attachments:

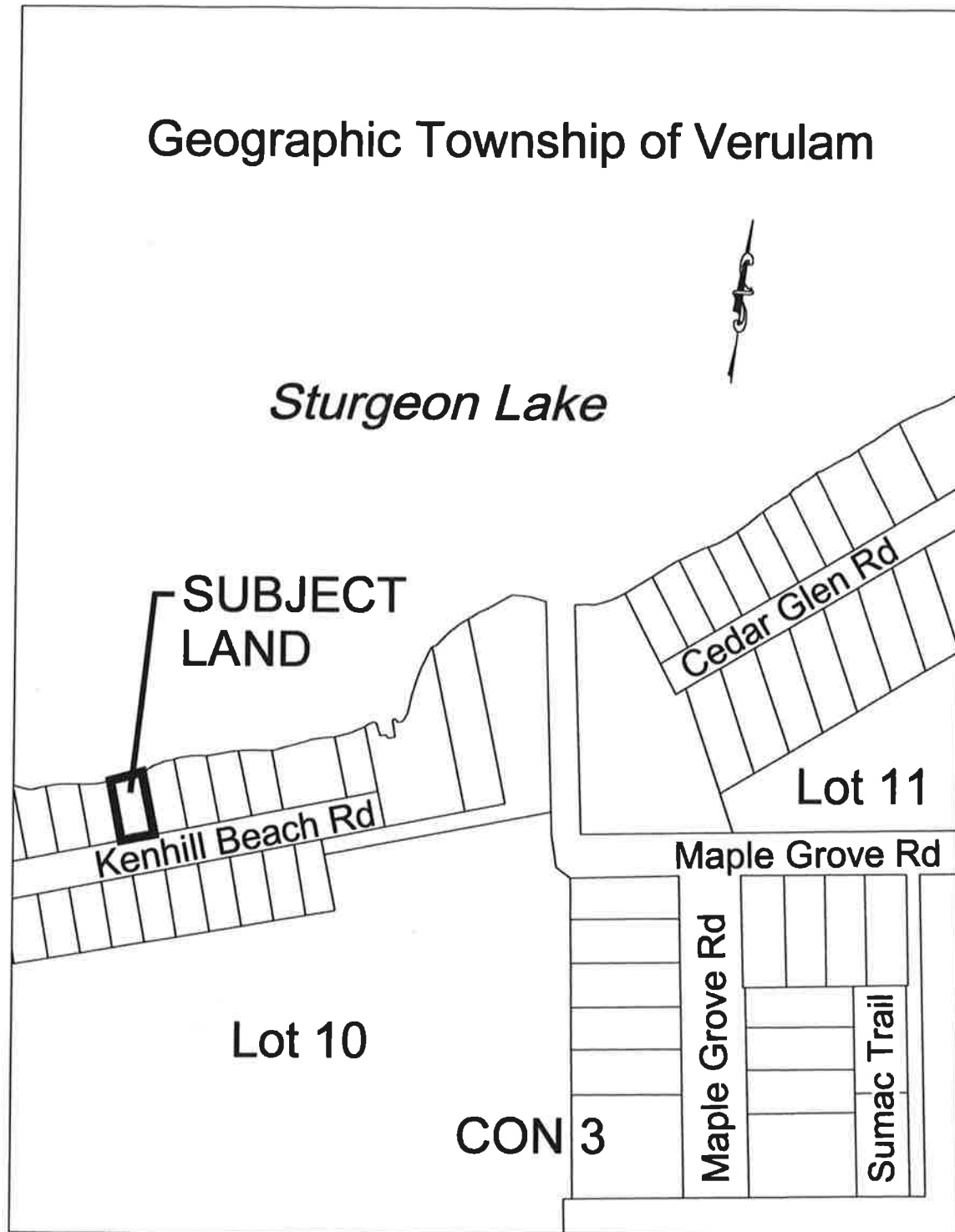


Appendices A-E to
Report COA2018-072

Appendix A – Location Map
Appendix B – Aerial Photo
Appendix C – Applicant's Sketch
Appendix D – Elevation Drawings
Appendix E – Department and Agency Comments

Phone: 705-324-9411 extension 1367
E-Mail: qadebayo@kawarthalakes.ca
Department Head: Chris Marshall
Department File: D20-2018-055

D20-2018-055



APPENDIX: B

to

REPORT COA2018-072

FILE NO: D20-2018-055



GEOMATICS
MAPPING

61 Kenhill Beach Road, Geographic Township of Verulam



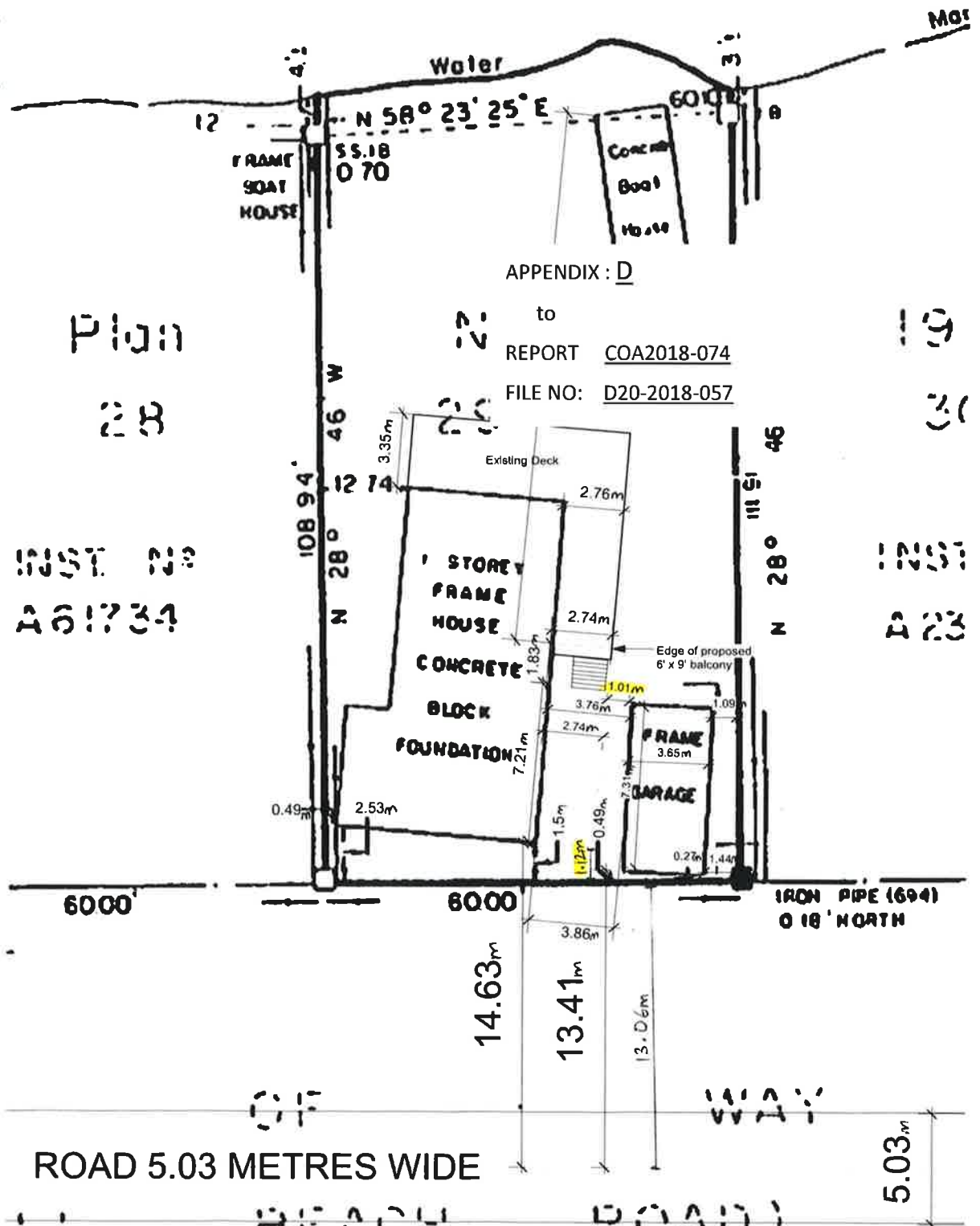
APPENDIX: C

to

REPORT COA2018-072

FILE NO: D20-2018-055

Site Plan Sketch



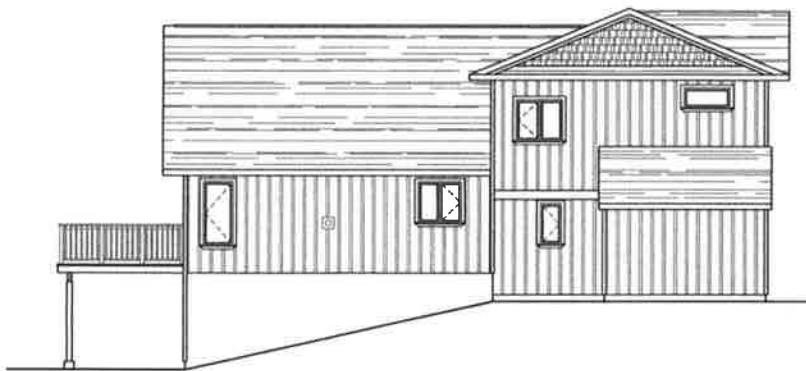
Elevation Drawings



NORTH ELEVATION



EAST ELEVATION



WEST ELEVATION



SOUTH ELEVATION



APPENDIX " E "
to

Quadri Adebayo

REPORT COA2018-072

From: Derryk Wolven
Sent: Thursday, October 25, 2018 8:46 AM
To: Charlotte Crockford-Toomey
Subject: C of A

FILE NO. D20-2018-055

Please see attached comments:

D20-2018-055 No concerns

D20-2018-056 No concerns

D20-2018-057 No concerns

D20-2018-061 No concerns

Derryk Wolven, CBCO

Plans Examiner

Development Services, Building Division, City of Kawartha Lakes

705-324-9411 ext. 1273 www.kawarthalakes.ca



to
October 25, 2018KRCA File No 16616 COA 2018-072
REPORT
Page 1 of 4FILE NO. D20-2018-055

Via E-Mail: mlahay@kawarthalakes.ca

Mark LaHay
Acting Secretary-Treasurer
Committee of Adjustment
City of Kawartha Lakes
180 Kent Street West
Lindsay, ON K9V 2Y6

Regarding: **Application for Minor Variance – D20-2018-055**
 Richard Kearney (Agent: Joe Hood)
 61 Kenhill Beach Road, Part of Lot 10, Concession 3
 Geographic Township of Verulam
 City of Kawartha Lakes

Dear Mr. LaHay:

This Letter acknowledges the receipt of the above noted application. Kawartha Region Conservation Authority (KRCA) staff have reviewed this application and provided the following comments:

Application Purpose

It is our understanding that the purpose of this application is to request the following variance from the requirements of Zoning By-Law 6-87 (Township of Verulam), as amended, as it relates to:

- a) Relief from Section 8.2(d) - Residential (R1) Zone, to reduce the minimum front yard depth from 7.5 metres to 1.1 metres;
- b) Relief from Section 5.1.4 (c) to reduce the minimum spatial separation between an accessory building and a main building from 1.2 metres to 1.0 metre; and,
- c) Relief from Section 5.14.1 – to reduce the minimum parking requirement for a residential use property from two (2) to one (1)

It is noted that the existing dwelling and garage are non-compliant with the zoning by-law and the proposed addition will not encroach any further towards the shoreline than the existing footprint of the dwelling.

Applicable Kawartha Conservation Regulations and Policies

Ontario Regulation 182/ 06 (as amended):

The subject property is within the KRCA's Regulated Area, as it fronts onto the shoreline of Sturgeon Lake. Kawartha Conservation regulates the flooding and erosion hazard associated with this waterbody, plus an additional setback of 15 metres from the limit of the greatest hazard. Staff note that flooding hazard associated with Sturgeon Lake is 248.4 metres above sea level (mASL). As such, any development (or redevelopment) within lands regulated by Kawartha

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Conservation require a Permit pursuant to Ontario Regulation 182/06 prior to development and site alteration. In accordance with Ontario Regulation 182/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), as amended, permissions are required from Kawartha Conservation prior to any of the following works taking place:

- a) straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b) Development, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of lands may be effected by the development.

Development is defined as:

- a) The construction, reconstruction, erection or placing of a building or structure of any kind,
- b) Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- c) Site grading or, the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

Application-Specific Comments

KRCA Memorandum of Understanding (MOU):

KRCA Permitting:

As noted, the subject property is within KRCA Regulated Area of the Watershed. The proposed works identified on the plans provided are within Kawartha Conservation's regulated portion of the site. The works appear to confirm to KRCA Policies under Section 4.5.2, *Minor Residential Additions* (additional storey).

Please be advised the applicant has been issued a permit (Permit No. 2017-053), issued March 7, 2017) for shoreline protection works, pursuant to Ontario Regulation 182/06. Photographs provided by City of Kawartha Lakes staff dated October 17, 2018 based on a site visit conducted on the same day illustrate that the shoreline works proposed through the permit have not been undertaken. The applicant is reminded that the permit will expire on March 7, 2018 and an extension and/or revision to the existing permit will be required to facilitate the construction of the second floor addition subject to this application. Please note that KRCA permits issued after January 1, 2018 are now valid for two (2) years from the date of issuance. Further information regarding a permit extension and/or the permit revision process can be provided by Stacy Porter, Planning and Regulations Technician at extension 231 or via email at sporter@kawarthaconservation.com

KRCA staff would like to note that the decision of the Committee of Adjustment does not bind KRCA under the Conservation Authorities Act to approve the proposed works identified on the plans/drawings submitted with this application. As such, KRCA staff strongly recommends that the plans in support of the proposed development be consistent with all applications made under the *Planning Act* and the *Conservation Authorities Act*.

Fish Habitat

Sturgeon Lake is considered fish habitat. Policy 2.1.8 of *Provincial Policy Statement* states,

“Development and site alteration shall not be permitted on adjacent lands (120m) to fish habitat unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions”.

In addition, the Ministry of Natural Resources and Forestry (MNRF) recommends a minimum vegetated buffer for fish habitat of 30 metres. Based on the Kawartha Conservation's mapping, the existing cottage is located within the 30 metre setback.

Based on MNRF's direction, in cases where a site specific technical report (e.g. Environmental Impact Study) has evaluated the ecological function of the adjacent land and has demonstrated that smaller buffer widths would be appropriate to ensure no negative impacts on the fish habitat; a minimum 15 metre buffer width may be acceptable. Ultimately, redevelopment of the property closer to the shoreline, within the fish habitat buffer is contrary to provincial policy unless supported by a technical study.

It appears as though the proposed addition will not encroach further than the existing limit of development, which is approximately 15 metres from the shoreline. As such, no additional requirements in relation to the protection of fish and fish habitat are required. The applicant is encouraged to check with the MNRF regarding restrictive activity timing windows associated with in-water works (i.e. shoreline protection works) for Sturgeon Lake, a warm water classified system.

Recommendation

Based on our review of the above information and there is no new development proposed through the application, staff can advise it **would foresee no issue with the approval of Minor Variance application D20-2018-055 based on consideration for natural heritage, natural hazards and water quality and quantity protection policies. Kawartha Conservation would like to take this opportunity to restate that the proposed addition will require a permit from this office under Ontario Regulation 182/06, as amended, prior to undertaking the works.**

The above comments reflect our understanding, at the time of writing, of the best available data, applicable policies and regulations. I trust this meets your information requirements at this time. Should you have any questions regarding this matter, please do not hesitate to contact this office.

Yours Truly,



Kent Stainton
Resources Planner
Extension 232
kstainton@kawarthaconservation.com

cc: Stacy Porter, Kawartha Conservation
Quadri Adebayo, City of Kawartha Lakes
Charlotte Crockford-Toomey, City of Kawartha Lakes

KAWARTHA CONSERVATION
277 Kenrei Road, Lindsay, ON K9V 4R1
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KawarthaConservation.com

Our Watershed Partners:

City of Kawartha Lakes • Region of Durham • Township of Scugog • Municipality of Clarington • Township of Brock • Municipality of Trent Lakes • Township of Cavan Monaghan

Quadri Adebayo

FILE NO. D20-2018-055

From: Christina Sisson
Sent: Monday, October 29, 2018 1:00 PM
To: Mark LaHay
Cc: Charlotte Crockford-Toomey; Quadri Adebayo; Kirk Timms; Kim Rhodes
Subject: 20181029 D20-2018-055 61 Kenhill Beach Road - Engineering Comments
Attachments: 20181029 D20-2018-055 61 Kenhill Beach Road - Engineering Comments.docx
Importance: High

Good afternoon,
Further to our review and the email correspondence with the planner, Quadri Adebayo, we confirm we have no objection and provide the attached comments from an engineering perspective.

Thank you,

Christina Sisson, P.Eng.
Supervisor, Development Engineering
Engineering & Corporate Assets, City of Kawartha Lakes
705-324-9411 ext. 1152 www.kawarthalakes.ca





Engineering & Corporate Assets Department
P.O. Box 9000, 12 Peel Street
Lindsay ON K9V 5R8
Tel: (705) 324-9411 Ext. 1152
Fax: (705) 324-2982
e-mail: csisson@kawarthalakes.ca
website: www.kawarthalakes.ca

MEMORANDUM

TO: Mark LaHay, Acting Secretary-Treasurer

CC: Quadri Adebayo, Planner II
Kirk Timms, Engineering Technician
Kim Rhodes, Administrative Assistant
Charlotte Crockford-Toomey, Administrative Assistant

FROM: Christina Sisson, Supervisor, Development Engineering

DATE: October 29th, 2018

SUBJECT: Application for Minor Variance/Permission
D20-2018-055 – 61 Kenhill Beach Road
Part Lot 10, Concession 3
Geographic Township of Verulam, City of Kawartha Lakes

The Development Engineering Division has reviewed the City of Kawartha Lakes Committee of Adjustment Notice of Public Hearing for Minor Variance as well as the Application for Minor Variance/Permission received on October 25th, 2018.

It is our understanding that the applicant is applying for a minor variance to request relief from the following provisions in order to permit the construction of a second floor addition to a single detached dwelling:

1. to reduce the minimum spatial separation between an accessory building and a main building from 1.2 metres to 1.0 metre
2. to reduce the minimum parking requirement for a residential use property from two to one
3. to reduce the minimum front yard depth from 7.5 metres to 1.1. meters

Further to our review of the above noted application, we confirm that we have no objection to the proposed minor variance. We note that the existing one storey frame house is within 0.49 metres of the property line. This is an existing situation, and any existing drainage patterns will remain the same.

We respectfully request to be circulated should additional information be brought forward through the commenting period that changes the intent of the minor variance application and the corresponding report by Planning.

Please do not hesitate to contact our office if you have any questions.

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – 2341209 Ontario Inc.
Report Number COA2018-073

Public Meeting

Meeting Date: November 8, 2018
Time: 1:00 pm
Location: Victoria Room, City Hall, 26 Francis Street, Lindsay

Ward: 16– geographic Township of Manvers

Subject: The purpose and effect is to request relief from the following zone provisions in order to permit an addition to the Bethany General Store:

1. Section 12.2(c) to reduce the rear yard setback on a through lot from 15 metres to 10 metres inclusive of eaves and gutters;
2. Section 12.2(g) to increase the maximum lot coverage from 25% to 37%; and
3. Section 20.12(a) to reduce the number of required parking spaces from 14 to 11.

The variances are requested at 1473 Highway 7A, geographic Township of Manvers (File D20-2018-056).

Author: David Harding, Planner II

Signature:

Recommendations:

RESOLVED THAT Report COA2018-073 2341209 Ontario Inc., be received;

THAT minor variance application D20-2018-056 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 addition related to this approval shall proceed substantially in accordance with the sketch and elevations in Appendices C and D submitted as part of Report COA2018-073, which shall be attached to and form part of the Committee's Decision;
- 2) **THAT** prior to the issuance of a building permit, the Chief Building Official or his/her designate shall submit written confirmation to the Secretary-Treasurer that the shed to the immediate north of the dwelling on the subject property has been relocated so that it maintains a setback of 1.3 metres from the west side lot line and a setback of 1.3 metres from the dwelling;

- 3) **THAT** prior to the issuance of a building permit, the Chief Building Official or his/her designate shall submit written confirmation to the Secretary-Treasurer that the shed to the immediate north of the commercial use and occupies a portion of the footprint for the proposed addition has been removed from the property;
- 4) **THAT** prior to the issuance of a building permit, the owner's application to have Lot 4, Registered Plan 5 be subject of a Deeming By-law in accordance with Subsection 50(4) of the Planning Act be approved by Council and the by-law be in effect.
- 5) **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 COA2018-073. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Background: The owner is applying for an expansion to the Bethany General Store.

This application was last amended October 22, 2018.

Through pre-screening, the applicant was made aware of the need to apply for a deeming by-law to consolidate Lot 4 with Part of Lot 5 on Registered Plan 5. Deeming by-law application D30-2018-014 was submitted concurrently with the variance application.

Proposal: To permit the construction of a storage and receiving area measuring approximately 8.23 metres x 7.18 metres. (27 feet x 23.6 feet) to the north of the existing store.

Owners: 2341209 Ontario Inc. c/o Ho Young Kwak

Applicant: Carla Gray

Legal Description: Part Lot 24, Concession 8, Lot 4, Part Lot 5, Plan 5, geographic Township of Manvers, City of Kawartha Lakes

Official Plan: Hamlet Settlement Area within the City of Kawartha Lakes Official Plan

Zone: General Commercial (C1) Zone within the Township of Manvers Zoning By-law 87-06

Site Size: 1,265.8 square metres

Site Servicing:	Two private individual wells and one holding tank.		
Existing Uses:	Residential, Commercial (Bethany General Store)		
Adjacent Uses:	North:	Community Facility (Bethany United Church), Residential	
	South:	Community Facility (Bethany Library), Commercial (Williams Design Studio)	
	East:	Commercial (TD Canada Trust), Residential	
	West:	Residential	

Rationale:

1) Are the variances minor in nature? Yes

And

2) Is the proposal desirable and appropriate for the use of the land? Yes

The subject property is located within the centre of the hamlet of Bethany. The property consists of a building which runs the length of the frontage along Highway 7A with the exception of a driveway on the far east side which provides access to the rear parking lot. The west side of the building is a two storey dwelling. The balance of the building is a single storey store (Bethany General Store).

The application, if approved, is anticipated to enhance the function of the site. The rear addition will provide for a receiving area for the store and allow delivery trucks to park fully on the property instead of within the Highway 7A corridor to make deliveries.

As the addition is not adding floor space for customers, the need for additional on-site parking is not anticipated. Additionally, while there is a rear parking area, it appears that is not the preferred parking site for customers as the majority of the observed parking activity was in-front of the store on the paved surface between the travelled portion of the highway and the sidewalk. Therefore, the reduction in parking lot size to accommodate the addition is not anticipated to impact the functionality of the site or that of the surrounding uses.

The increased lot coverage is not anticipated to create an adverse massing impact as the addition will continue to maintain a setback of at least 10 metres from George Street, and will continue to be separated from this street by a parking lot.

Therefore, the variances are minor in nature and desirable and appropriate for the use of the land.

3) Do the variances maintain the intent and purpose of the Zoning By-law? Yes

The subject property is zoned General Commercial (C1) Zone within the Township of Manvers Zoning By-law 87-06. The C1 Zone permits a wide assortment of commercial uses.

The intent of the zoning by-law is maintained as the receiving and storage area increases the functionality of an established commercial use. Additionally, the parking requirements are not anticipated to change as additional storage space is proposed rather than retail space for customers.

The property is located within Bethany's commercial centre. The hamlet is highly urbanized within this area, being characterized by buildings which are generally street-related. The reduction in the rear yard setback is appropriate for an urbanized setting, and is also sufficient to provide an adequate spatial separation from the residential and community facility uses to the north.

The existing lot coverage is approximately 30.24%. The increased lot coverage is not anticipated to create any adverse massing impacts due to the size and location of the addition that is being contemplated.

The addition is not anticipated to adversely impact the function of the rear yard, on-site parking will continue to be accommodated. The addition will not affect the available rear yard amenity area of the dwelling.

Therefore, the variances maintain the general intent and purpose of the Zoning By-Law.

4) Do the variances maintain the intent and purpose of the Official Plan?

Yes

The property is within the Hamlet Settlement Area designation of the City of Kawartha Lakes Official Plan (Official Plan). An objective of the designation is to maintain the amenities and services within the hamlets, which serve the hamlet residents and surrounding community and tourists.

As an addition is proposed to a commercial use that will enhance the function of said use, the proposal is in keeping with the general intent and purpose of the Official Plan.

Other Alternatives Considered:

No other alternatives have been considered at this time.

Servicing Comments:

The property is serviced by full municipal services.

Consultations:

Notice of this application was circulated in accordance with the requirements of the Planning Act. Comments have been received from:

Agency Comments:

Building Division (October 25, 2018): No concerns.

Engineering and Corporate Assets Department (October 29, 2018): No concerns.

Public Comments:

No comments as of October 29, 2018.

Attachments:



Appendices A-E to
COA2018-073.pdf

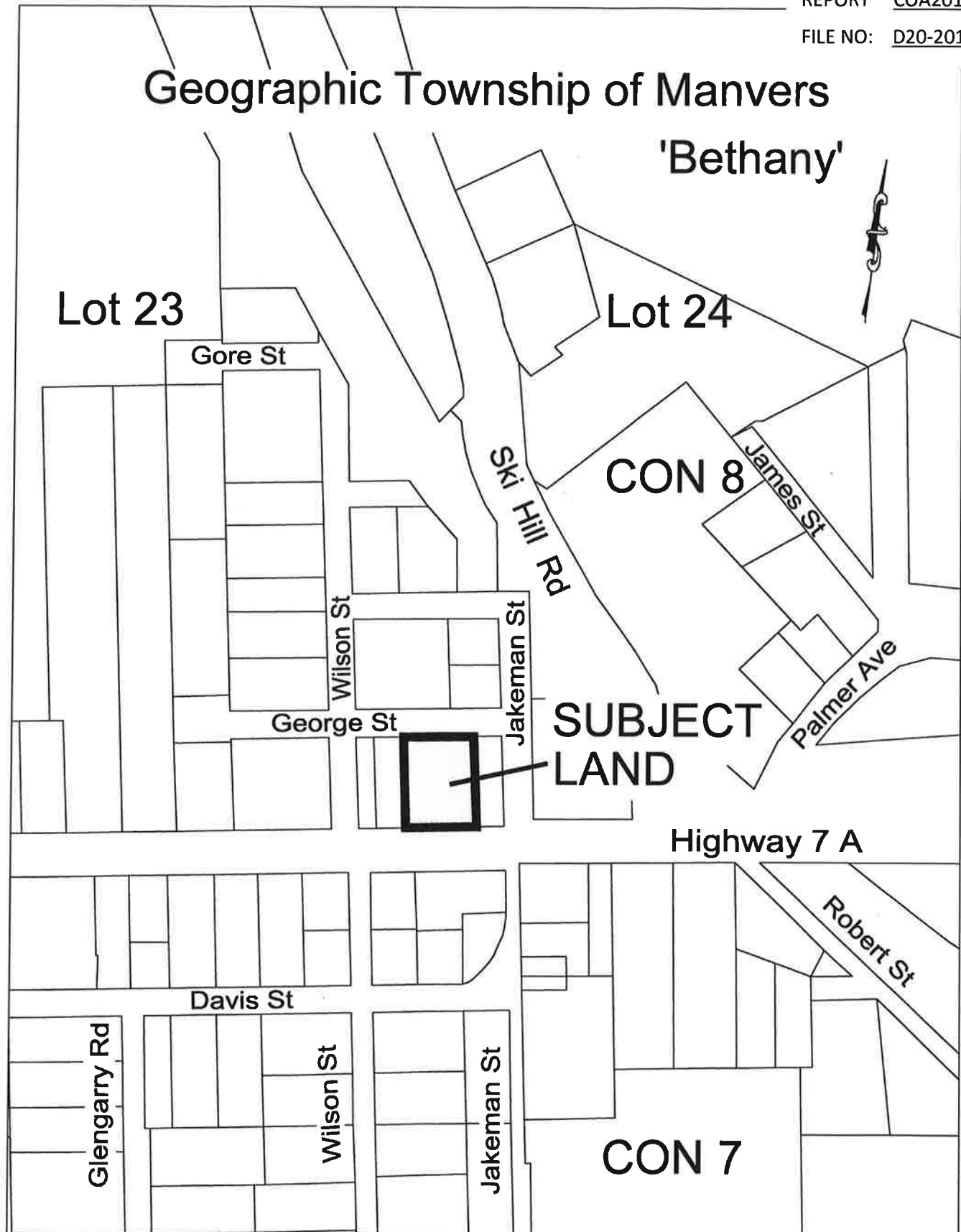
Appendix "A" – Location Map
Appendix "B" – Aerial Photo
Appendix "C" – Applicant's Sketch
Appendix "D" – Elevations
Appendix "E" – Department and Agency Comments

Phone: 705-324-9411 extension 1206
E-Mail: dharding@kawarthalakes.ca
Department Head: Chris Marshall
Department File: D20-2018-056

to

REPORT COA2018-073

FILE NO: D20-2018-056



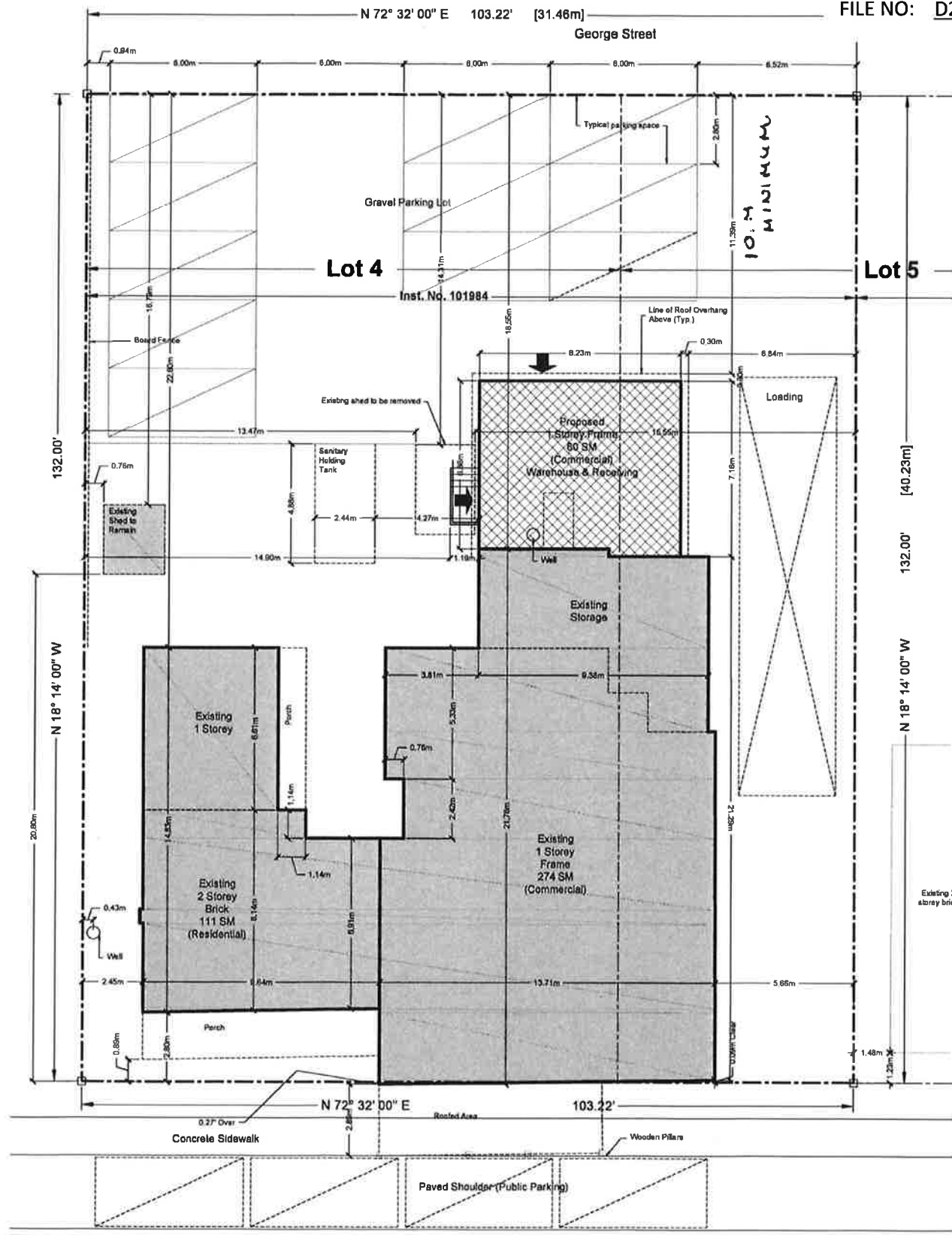
1473 Highway 7A, geographic Twp. of Manvers



to

REPORT COA2018-073

FILE NO: D20-2018-056



King Street (Highway 7A)
Road Allowance Between Concession 7 and 8, Geographic Township of Manvers, City of Kawartha Lakes

REPORT COA2018-073
FILE NO: D20-2018-056



David Harding

From: Derryk Wolven
Sent: Thursday, October 25, 2018 8:46 AM
To: Charlotte Crockford-Toomey
Subject: C of A

APPENDIX " E "

to

REPORT COA2018-073

FILE NO. D20-2018-056

Please see attached comments:

D20-2018-055 No concerns

D20-2018-056 No concerns

D20-2018-057 No concerns

D20-2018-061 No concerns

Derryk Wolven, CBCO

Plans Examiner

Development Services, Building Division, City of Kawartha Lakes

705-324-9411 ext. 1273 www.kawarthalakes.ca





Engineering & Corporate Assets Department
P.O. Box 9000, 12 Peel Street
Lindsay ON K9V 5R8
Tel: (705) 324-9411 Ext. 1152
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e-mail: csisson@kawarthalakes.ca
website: www.kawarthalakes.ca

MEMORANDUM

TO: Mark LaHay, Acting Secretary-Treasurer

CC: Kirk Timms, Engineering Technician
Kim Rhodes, Administrative Assistant
Charlotte Crockford-Toomey, Administrative Assistant

FROM: Christina Sisson, Supervisor, Development Engineering

DATE: October 29th, 2018

SUBJECT: Application for Minor Variance/Permission
D20-2018-056 – 1473 Highway 7A
Part Lot 24, Concession 8, Lot 4, Part Lot 5, Plan 5
Geographic Township of Manvers, City of Kawartha Lakes

The Development Engineering Division has reviewed the City of Kawartha Lakes Committee of Adjustment Notice of Public Hearing for Minor Variance as well as the Application for Minor Variance/Permission received on October 25th, 2018.

It is our understanding that the applicant is applying for a minor variance to request relief from the following zone provisions in order to permit an addition to the Bethany General Store:

1. Section 12.2(c) to reduce the rear yard setback on a through lot from 15 metres to 10 metres;
2. Section 12.2(g) to increase the maximum lot coverage from 25% to 37%; and
3. Section 20.12(a) to reduce the number of required parking spaces from 14 to 11.

Further to our review of the above noted application, we confirm that we have no objection to the proposed minor variance and no engineering comments related to the proposed minor variance.

We respectfully request to be circulated should additional information be brought forward through the commenting period that changes the intent of the minor variance application and the corresponding report by Planning.

Please do not hesitate to contact our office if you have any questions.

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Cheryl Dodge
Report Number COA2018-074

Public Meeting

Meeting Date: November 8, 2018
Time: 1:00 pm
Location: Victoria Room, City Hall, 26 Francis St., Lindsay

Ward: 13 – Geographic Township of Verulam

Subject: The purpose and effect is to request relief from Section 8.2(n) to reduce the minimum water setback from 15 metres to 13.4 metres in order to permit the construction of an addition to a single detached dwelling that comprises a supplementary storey of living space and an attached garage.

The variance is requested at 674 County Road 24, geographic Township of Verulam (File D20-2018-057).

Author: Quadri Adebayo, Planner II

Signature:

Recommendations:

RESOLVED THAT Report COA2018-074 Cheryl Dodge, be received;

THAT minor variance application D20-2018-057 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 COA2018-057, 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** prior to the issuance of a building permit for the proposed dwelling, the frame shed located on the property be removed or relocated on the property in a compliant manner at a minimum water setback of 15 metres;
- 3) **THAT** upon completion of the construction of the proposed addition, as part of building permitting process, there be a requirement that the frame garage located in the front yard, and the frame shed identified in Condition 2 shall

be removed from the property to the satisfaction of the Chief Building Official;

- 4) **THAT** notwithstanding the definition of rear yard, the granting of the variance for the reduced water setback will not be interpreted to permit the placement of any other accessory building or structure between the rear wall of the dwelling and the water's edge;
- 5) **THAT** upon completion of the construction of the proposed addition, the applicant shall submit approval documentation from the Kawartha Region Conservation Authority (KRCA) for the shoreline restoration works, along with a revised survey sketch. The revised survey sketch shall show the improved water setback of the rear wall limits of both the existing building and the proposed addition as being increased than the water setback values shown in Appendix C following the shoreline restoration works. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the KRCA advising the shoreline restoration works and the revised sketch have been completed to its satisfaction; and
- 6) **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 COA2018-074. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Background:	This application proposes to construct additions to an existing one-storey single detached residential dwelling comprising an extra storey of living space and an attached garage. The proposed development will increase the size of the house with a reconfigured footprint. This application was deemed complete September 26, 2018.
Proposal:	To construct an approximately 343.2 square metre (3,692.83.square foot) two-storey single detached dwelling with an attached garage.
Owners:	Cheryl Dodge
Applicant:	Tom deBoer, TD Consulting Inc.
Legal Description:	Part Lot 12, Concession 6, 57R-3713, Part 3, geographic Township of Verulam, City of Kawartha Lakes
Official Plan:	Waterfront within the City of Kawartha Lakes Official Plan

Zone: Residential Type One (R1) Zone within the Township of Verulam Zoning By-law 6-87

Site Size: 0.36 acres (1,469 square metres)

Site Servicing: Private individual septic and lake water systems

Existing Uses: Residential

Adjacent Uses: North: Sturgeon Lake
East & West: Residential
South: Agricultural

Rationale:

1) Are the variances minor in nature? Yes
And

2) Is the proposal desirable and appropriate for the use of the land? Yes

Although the rear wall of the existing building is 14.8 metres from the closest point of the water's edge, the rear wall of the proposed addition is actually set further back than the existing building line established by the rear wall of the house by approximately 0.5 metres. The 13.4 metre water setback relief sought through this application accounts for the measurement between the limits of the rear wall of the proposed addition and closest point of the water's edge which according to the applicant has eroded overtime.

As a compensatory measure to gain staff support for a non-compliant water setback, the applicant has indicated that they have initiated an approval process with the Trent-Severn Waterway (TSW) for restoration works on the shoreline. The restoration works is anticipated to adjust the water's edge with stones for erosion control which will in turn improve the water setback situation of both the existing and the proposed rear walls by a couple feet. Condition 5 has also been placed to ensure the deficient water setback situation will be improved.

Given that there exists sufficient amenity space in the rear yard to function as naturalization space that can retain and infiltrate surface water run-off before discharging it into the abutting waterbody, no negative impacts are anticipated as result of the proposal.

In terms of scale, the proposed height of the increased number of storeys is not anticipated to present a negative visual impact as there is adequate vegetation to mask the massing of the addition from the westerly abutting property. An observation from site visit also suggests that the increased building height will not be discernible at human scale given that County Road 24 is on an elevated topography and being that the road is 60 Kilometer per hour speed limit, vehicles rarely make frequent stops. This is capacitated by the spatial separation between the subject property and the road, and that the limits of the

front yard encroachment of the proposed addition matches the house on the easterly abutting property.

Based on the above analysis, the variance is minor as well as desirable and appropriate for the use of the land.

3) Does the variance maintain the intent and purpose of the Zoning By-law?
Yes

The 1.6 metre water setback relief from the 15 metres required, proposed for the dwelling is not anticipated to impact its function as the scale of the reductions, if granted, are not anticipated to be perceptible.

Sufficient space remains within the side yards (which are compliant with the R1 Zone specifications) to facilitate access to the rear yard. The proposed shed removal in conjunction with Conditions 2 and 5 will also ensure compliance with water setback requirements.

Further, the overall footprint of the proposal will ensure sufficient driveway surface is available outside of the road allowance for parking. The proposed septic location in the front yard subsequent to the removal of the existing frame garage located in the front yard will also make certain that the configuration of the proposed structure is directed away from any potential impact to existing servicing utility.

Considering the fact that the proposal has not fully exercised the zoning provision privileges, utilizing a lot coverage of 18% from a possible 33% maximum, a 6.7 metre building height from a possible 11 metre maximum, the applicant has reasonably demonstrated that it is possible to develop the lot.

Therefore, the variance maintains the general intent and purpose of the Zoning By-Law.

4) Does the variance maintain the intent and purpose of the Official Plan?
Yes

The property is designated Waterfront within the City of Kawartha Lakes Official Plan. The designation anticipates residential uses.

The proposal follows Section 20.5.1 of the Official Plan regarding density and massing in the Waterfront designation. The proposed building will presumably maintain a low profile and blend with the natural surroundings.

Condition 5 also ensures Section 20.3.7 of the Official Plan is met by providing an opportunity to retain the naturalization space between the rear of the building and the water's edge as reasonably possible.

In consideration of the above the variance maintains the general intent and purpose of the Official Plan.

Other Alternatives Considered:

No other alternatives have been considered at this time.

Servicing Comments:

The property will be serviced by a private individual septic and lake water systems.

Consultations:

Notice of this application was circulated in accordance with the requirements of the Planning Act. Comments have been received from:

Agency Comments:

Kawartha Conservation Authority (October 24, 2018): No objection to the proposed variance. See comments.

Building Division – Plans Examiner (October 25, 2018): No concerns.

Public Comments:

No comments as of October 29, 2018.

Attachments:

Appendices A-E to
Report COA2018-074

Appendix A – Location Map

Appendix B – Aerial Photo

Appendix C – Applicant's Sketch

Appendix D – Elevation Drawings

Appendix E – Department and Agency Comments

Phone: 705-324-9411 extension 1367

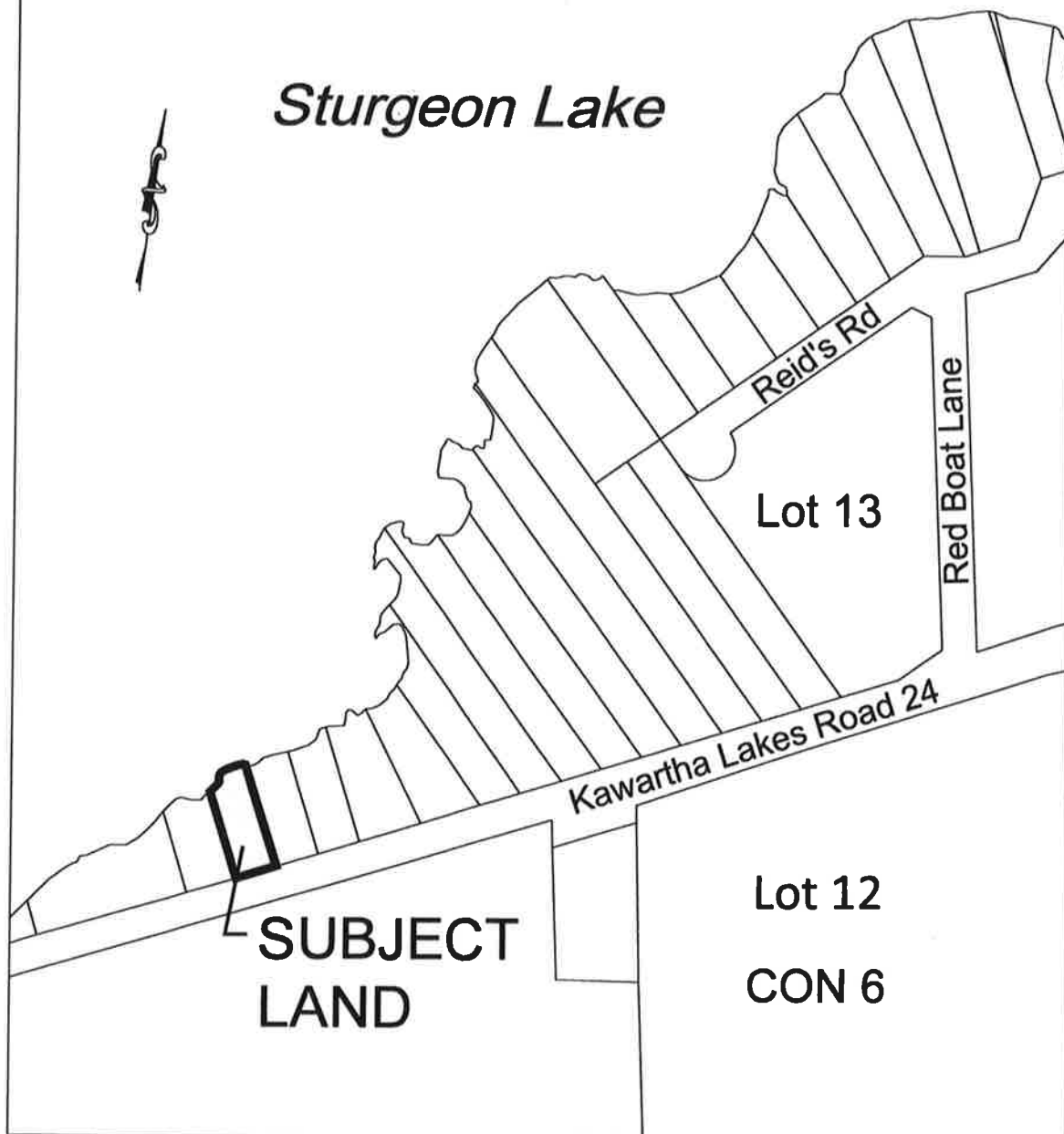
E-Mail: qadebayo@kawarthalakes.ca

Department Head: Chris Marshall

Department File: D20-2018-057

D20-2018-057

Geographic Township of Verulam



APPENDIX: B

to

REPORT COA2018-074

FILE NO: D20-2018-057

674 County Road 24, Geographic Township of Verulam

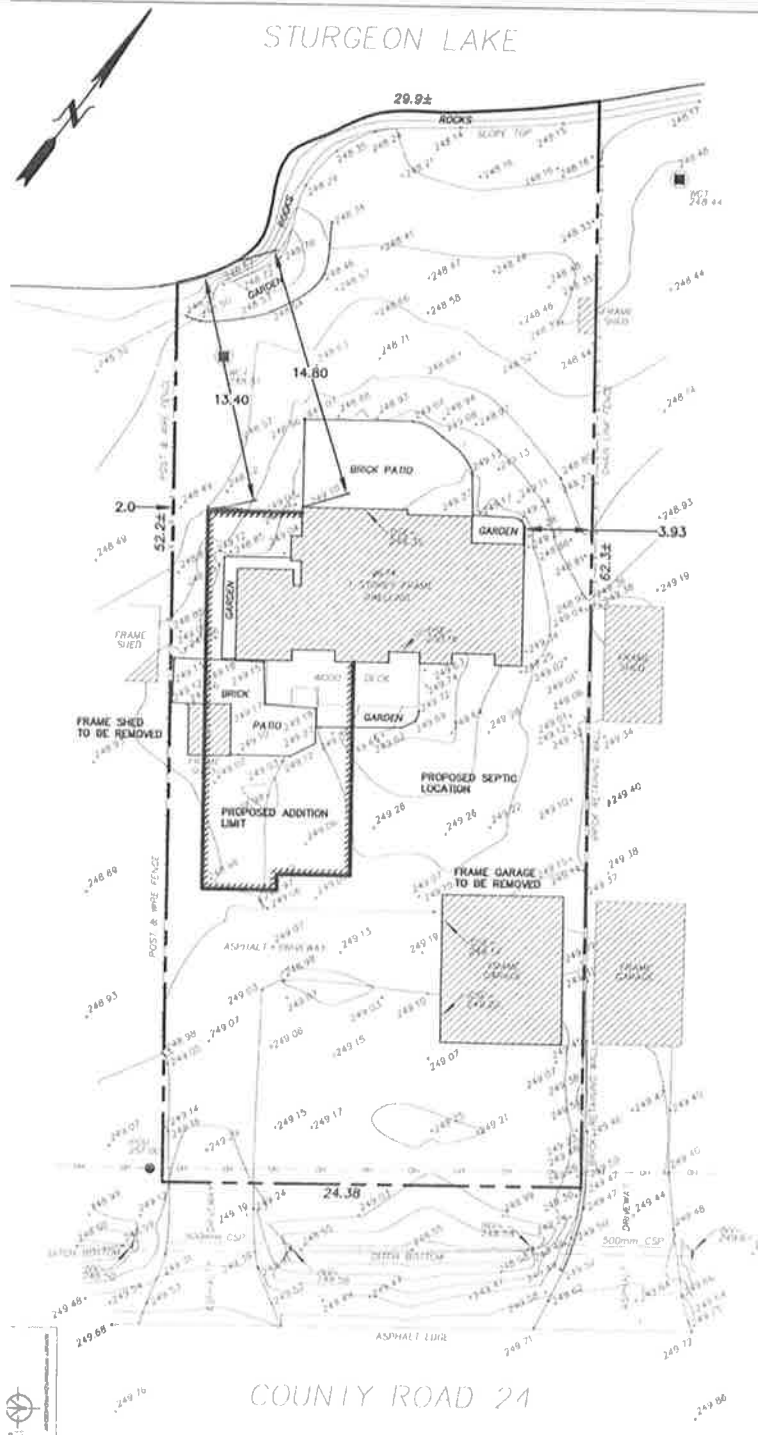


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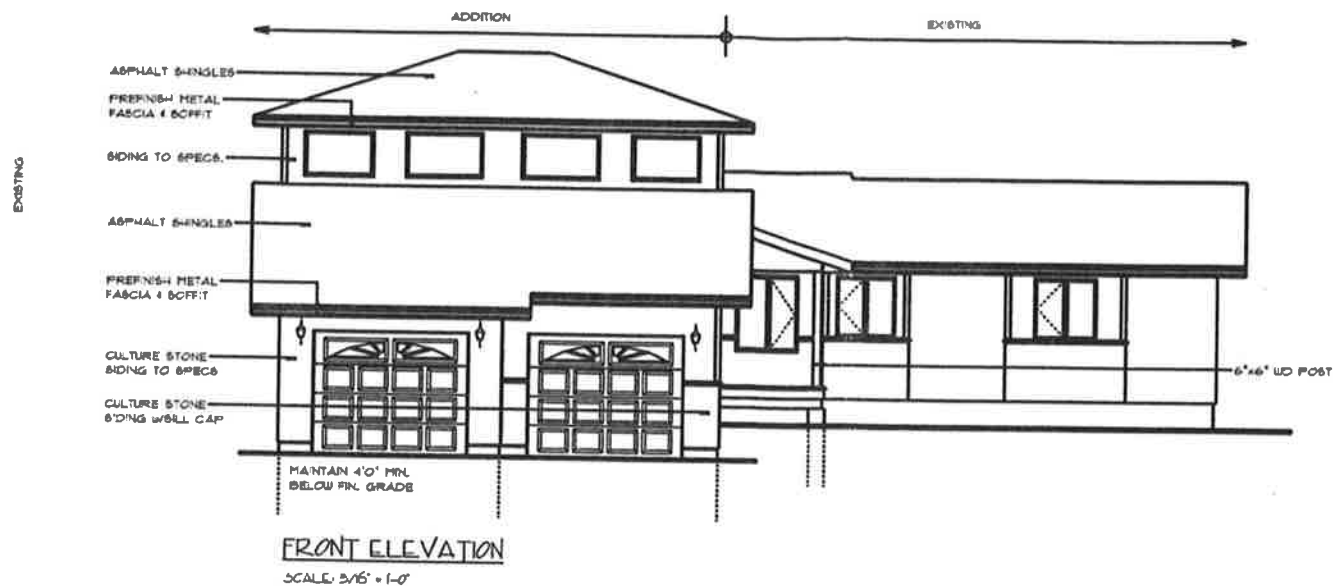
REPORT COA2018-074

FILE NO: D20-2018-057

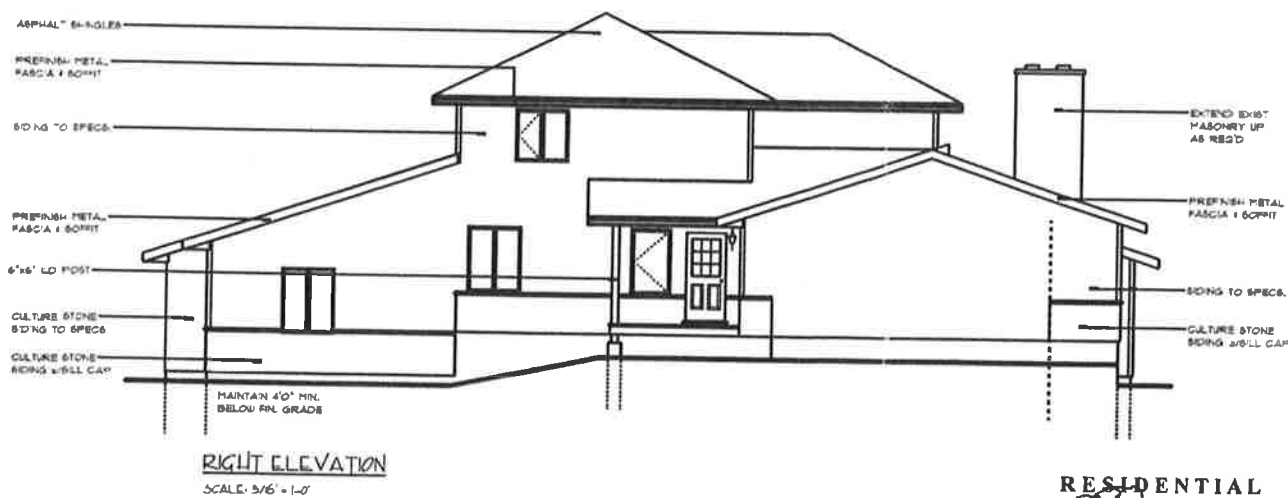
Site Plan Sketch



Front Elevation (South-facing)

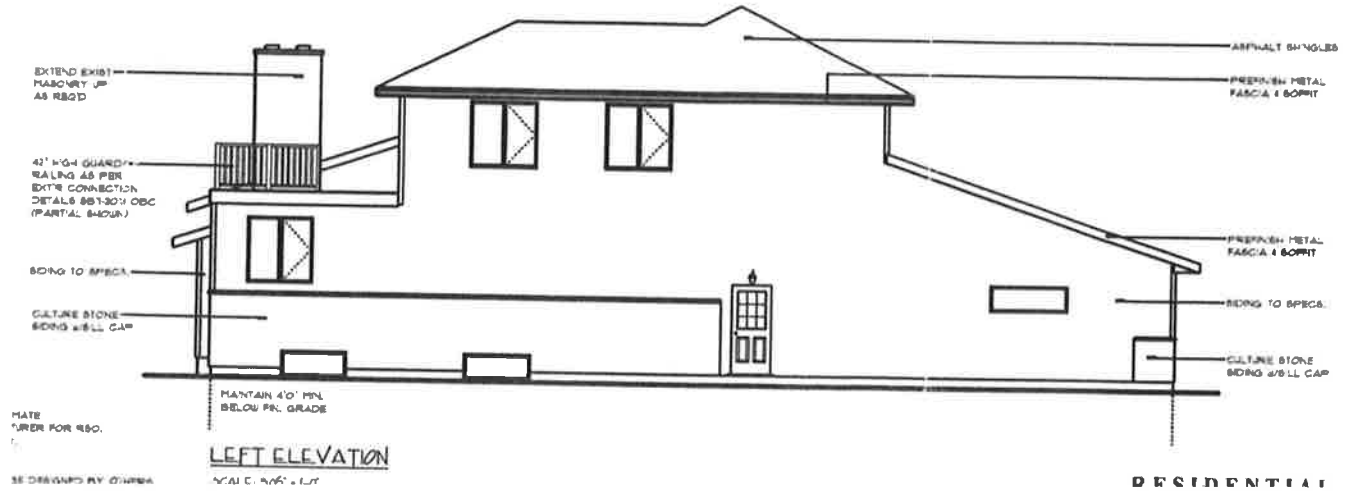


Right Elevation (East-facing)



RESIDENTIAL

Left Elevation (West-facing)



Rear Elevation (North-facing)



Via E-Mail: mlahay@kawarthalakes.ca

Mark LaHay
Acting Secretary-Treasurer
Committee of Adjustment
City of Kawartha Lakes
180 Kent Street West
Lindsay, ON K9V 2Y6

Regarding: Application for Minor Variance – D20-2018-057
Cheryl Dodge (Agent: Tom deBoer)
674 City of Kawartha Lakes Road 24, Part of Lot 12, Concession 6
Geographic Township of Verulam
City of Kawartha Lakes

Dear Mr. LaHay:

This Letter acknowledges the receipt of the above noted application. Kawartha Region Conservation Authority (KRCA) staff have reviewed this application and provided the following comments:

Application Purpose

It is our understanding that the purpose of this application is to request the following variance from the requirements of Zoning By-Law 6-87 (Township of Verulam), as amended, as it relates to:

- a) Relief from Provisions of Section 8.2 - Residential (R1) Zone, to reduce the minimum water setback from 15 metres to 13.4 metres to permit an addition closer than permitted to the water setback.

It is noted that the existing dwelling is non-compliant with the zoning by-law and the proposed addition will not encroach any further towards the shoreline than the existing footprint of the dwelling.

Applicable Kawartha Conservation Regulations and Policies

Ontario Regulation 182/ 06 (as amended):

The subject property is within the KRCA's Regulated Area, as it fronts onto the shoreline of Sturgeon Lake. Kawartha Conservation regulates the flooding and erosion hazard associated with this waterbody, plus an additional setback of 15 metres from the limit of the greatest hazard. Staff note that flooding hazard associated with Sturgeon Lake is 248.4 metres above sea level (mASL). As such, any development (or redevelopment) within lands regulated by Kawartha Conservation require a Permit pursuant to Ontario Regulation 182/06 prior to development and site alteration. In accordance with Ontario Regulation 182/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), as amended, permissions are required from Kawartha Conservation prior to any of the following works taking place:

KAWARTHA CONSERVATION
277 Kenrei Road, Lindsay, ON K9V 4R1
705.328.2271 Fax 705.328.2286
KawarthaConservation.com

Our Watershed Partners:

City of Kawartha Lakes • Region of Durham • Township of Scugog • Municipality of Clarington • Township of Brock • Municipality of Trent Lakes • Township of Cavan Monaghan

- a) straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b) Development, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of lands may be effected by the development.

Development is defined as:

- a) The construction, reconstruction, erection or placing of a building or structure of any kind,
- b) Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- c) Site grading or, the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

Application-Specific Comments

KRCA Memorandum of Understanding (MOU):

KRCA Permitting:

As noted, the subject property is within KRCA Regulated Area of the Watershed. The proposed works identified on the plans provided are within Kawartha Conservation's regulated portion of the site. Please be advised the applicant has applied for a permit under Ontario Regulation 182/06 for shoreline protection works on the subject lands and has acknowledged that a revision to the existing permit (once approved) will be required to facilitate the construction of the addition subject to this application. KRCA permits are valid for two (2) years from the date of issuance.

KRCA staff would like to note that the decision of the Committee of Adjustment does not bind KRCA under the Conservation Authorities Act to approve the proposed works identified on the plans/drawings submitted with this application. As such, KRCA staff strongly recommends that the plans in support of the proposed development be consistent with all applications made under the *Planning Act* and the *Conservation Authorities Act*.

Fish Habitat

Sturgeon Lake is considered fish habitat. Policy 2.1.8 of *Provincial Policy Statement* states,

"Development and site alteration shall not be permitted on adjacent lands (120m) to fish habitat unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions".

In addition, the Ministry of Natural Resources and Forestry (MNRF) recommends a minimum vegetated buffer for fish habitat of 30 metres. Based on the Kawartha Conservation's mapping, the existing cottage is located within the 30 metre setback.

Based on MNRF's direction, in cases where a site specific technical report (e.g. Environmental Impact Study) has evaluated the ecological function of the adjacent land and has demonstrated that smaller buffer widths would be appropriate to ensure no negative impacts on the fish habitat; a minimum 15 metre buffer width may be acceptable. Ultimately, redevelopment of the property closer to the shoreline, within the fish habitat buffer is contrary to provincial policy unless supported by a technical study.

It appears as though the proposed addition will not encroach further than the existing limit of development, which is approximately 15 metres from the shoreline. As such, no additional requirements in relation to the protection of fish and fish habitat are required. The applicant is encouraged to check with the MNRF regarding restrictive activity timing windows associated with in-water works (i.e. shoreline protection works) for Sturgeon Lake, a warmwater thermal classified system.

Recommendation

Based on our review of the above information and there is no new development proposed through the application, staff can advise it would foresee no issue with the approval of Minor Variance application D20-2018-057 based on consideration for natural heritage, natural hazards and water quality and quantity protection policies.

The above comments reflect our understanding, at the time of writing, of the best available data, applicable policies and regulations. I trust this meets your information requirements at this time. Should you have any questions regarding this matter, please do not hesitate to contact this office.

Yours Truly,



Kent Stainton
Resources Planner
Extension 232
kstainton@kawarthaconservation.com

cc: Stacy Porter, Kawartha Conservation
Quadri Adebayo, City of Kawartha Lakes
David Harding, City of Kawartha Lakes
Charlotte Crockford-Toomey, City of Kawartha Lakes

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Quadri Adebayo

REPORT COA2018-074

From: Derryk Wolven
Sent: Thursday, October 25, 2018 8:46 AM
To: Charlotte Crockford-Toomey
Subject: C of A

FILE NO. D20-2018-057

Please see attached comments:

D20-2018-055 No concerns

D20-2018-056 No concerns

D20-2018-057 No concerns

D20-2018-061 No concerns

Derryk Wolven, CBCO

Plans Examiner

Development Services, Building Division, City of Kawartha Lakes

705-324-9411 ext. 1273 www.kawarthalakes.ca



The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Ellenzweig
Report Number COA2018-078

Public Meeting

Meeting Date: November 8, 2018
Time: 1:00 pm
Location: Victoria Room, City Hall, 26 Francis St., Lindsay

Ward: 15 – Former Village of Omemee

Subject: The purpose and effect is to recognize the supplementary accessory buildings on the property, being a storage shed and a wood shed, in conjunction with a detached garage. Relief is sought from the following provisions:

1. Section 3.1.2.2 – to reduce the minimum interior side yard setback for an accessory building from 1.2 metres to 0.5 metres in order to permit the wood shed in its current location;
2. Section 3.1.3.1 - to increase the maximum lot coverage requirement for all accessory buildings from 40% of the gross floor area of the main building to 46.29%; and
3. Section 3.1.3.3 – to increase the maximum number of accessory buildings permitted in a residential zone from two (2) to three (3).

The variance is requested at 42 Mary Street West, former Village of Omemee (File D20-2018-061).

Author: Quadri Adebayo, Planner II

Signature:

Recommendations:

RESOLVED THAT Report COA2018-078 David Ellenzweig, be received;

THAT minor variance application D20-2018-061 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

- 1) **THAT** the accessory buildings 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 COA2018-078, 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 applicant shall remove the open-air gazebo located in the rear yard to the satisfaction of the Chief Building Official. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the Chief Building Official advising that the open-air gazebo has been removed to his/her satisfaction under the Ontario Building Code; and
- 3) **THAT** the applicant shall complete the Building Permit process to the satisfaction of the Building Division. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the Chief Building Official advising that the accessory building situation has been satisfied to his/her satisfaction under the Ontario Building Code; and
- 4) **THAT** the Building Permit process 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 receipt of a confirmation letter by the Secretary-Treasurer from the Chief Building Official.

This approval pertains to the application as described in report COA2018-078. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Background: For Committee's information, this application originated from an enforcement notice. Staff at the Building Division recently approved the construction of the newly built detached garage located in the side yard of the subject property, and upon final inspection of the structure, it was discovered that the wood shed located in the rear yard was omitted in the sketch submitted at the time of approval for the detached garage. This discovery culminated into the subject property being over the minimum in terms of accessory use coverage and a minor variance process was recommended to the applicant in order to rectify the issue. The wood shed was also determined by Planning Staff to be part the reliefs upon reviewing the application for minor variance.

This application was deemed complete October 12, 2018.

Proposal: To recognize two supplementary accessory buildings (a storage shed and a wood shed) for coverage and setback requirements in conjunction with a newly built 37.1 square metres detached garage.

Owner: David Ellenzweig

Applicant: Scott Mainhood

Legal Description: 42 Mary Street West, Part Park Lot 4, Plan 109, South Mary Street, West Sturgeon, Former Village of Omemee, City of Kawartha Lakes

Official Plan: Urban within the County of Victoria Official Plan

Zone: Residential Type One Floodplain [R1(F)] Zone within the Village of Omemee Zoning By-law 1993-15

Site Size: 0.25 acres (1,000 square metres)

Site Servicing: Private individual well and municipal sanitary sewer system

Existing Uses: Residential

Adjacent Uses: North, West & East: Residential
South: Vacant Residential lands & Wetland

Rationale:

1) Are the variances minor in nature? Yes
And

2) Is the proposal desirable and appropriate for the use of the land? Yes

The subject property is situated in an established residential neighbourhood. The rear yard location of the wood shed and storage shed ensures that they are not perceptible at human scale when viewed from the street as the massing of the newly built detached garage located in the side yard helps to screen the said accessory buildings. This also ensures that the residential character of the neighbourhood is maintained.

The location and configuration of the supplementary accessory buildings also ensures that the sufficient amenity rear yard space remains. This is also enhanced by the applicant's proposal to remove an open-air gazebo located in the rear yard. Condition 2 has been placed to facilitate this.

Further, from a property standard perspective, the storage shed use as an additional storage for utility equipment and other items that would typically lay around on the property ensures that a less cluttered appearance of the property is maintained.

As the accessory structures are existing situations and their locations have been determined by the Conservation Authority to not have any negative impact(s) in relation to the flood hazard, the variances are minor as well as desirable and appropriate for the use of the land.

3) Does the variance maintain the intent and purpose of the Zoning By-law?
Yes

The Residential Type One Floodplain [R1(F)] Zone provision contemplates accessory uses as ancillary to a principle use. The accessory buildings under the scope of this variance application are being utilized as devoted uses to the detached dwelling on the subject property.

The 6.29% increase to the 40% required for maximum accessory building lot coverage ratio of the gross floor area of the main building, if granted, is not anticipated to be perceptible. Sufficient space remains within the rear yard to facilitate access to the side and front yards respectively.

The interior side yard relief requested for the wood shed is also not anticipated to impact the function of the yard, as sufficient space will remain between the structure and the westerly interior side lot line for maintenance and drainage purposes.

Respecting the number of accessory buildings being increased from two (2) to three (3), removal of the wooden shed from the property may cause the owner undue hardship as the structural feature of the existing house appears to be an uninsulated type that requires heating in cold weathers. The current location of the wood shed also appears to be suitable because the storage shed beside it helps to conceal the visual impact than if it were to be relocated elsewhere on the property.

Therefore, the variances maintain the general intent and purpose of the Zoning By-Law.

4) Does the variance maintain the intent and purpose of the Official Plan?
Yes

As the Urban Settlement Area Designation in the City's 2012 Official Plan is under appeal, the Urban designation of the Victoria County Official Plan (VCOP) applies. As the subject property is within a neighbourhood that would be classified as Low Density Residential within VCOP, accessory buildings are permitted ancillary to residential uses. The proposed coverage of the accessory buildings is not anticipated to negatively impact the residential character of its immediate surrounding uses.

In consideration of the above the variances maintain the general intent and purpose of the Official Plan.

Other Alternatives Considered:

No other alternatives have been considered at this time.

Servicing Comments:

The property is serviced by private individual well and municipal sanitary sewer system.

Consultations:

Notice of this application was circulated in accordance with the requirements of the Planning Act. Comments have been received from:

Agency Comments:

Building Division – Plans Examiner (October 25, 2018): No concerns.

Kawartha Region Conservation Authority (October 25, 2018): No objections. See comments.

Public Comments:

No comments as of October 29, 2018.

Attachments:



Appendices A-E to
Report COA2018-078

Appendix A – Location Map

Appendix B – Aerial Photo

Appendix C – Applicant's Sketch

Appendix D – Elevation Drawing

Appendix E – Department and Agency Comments

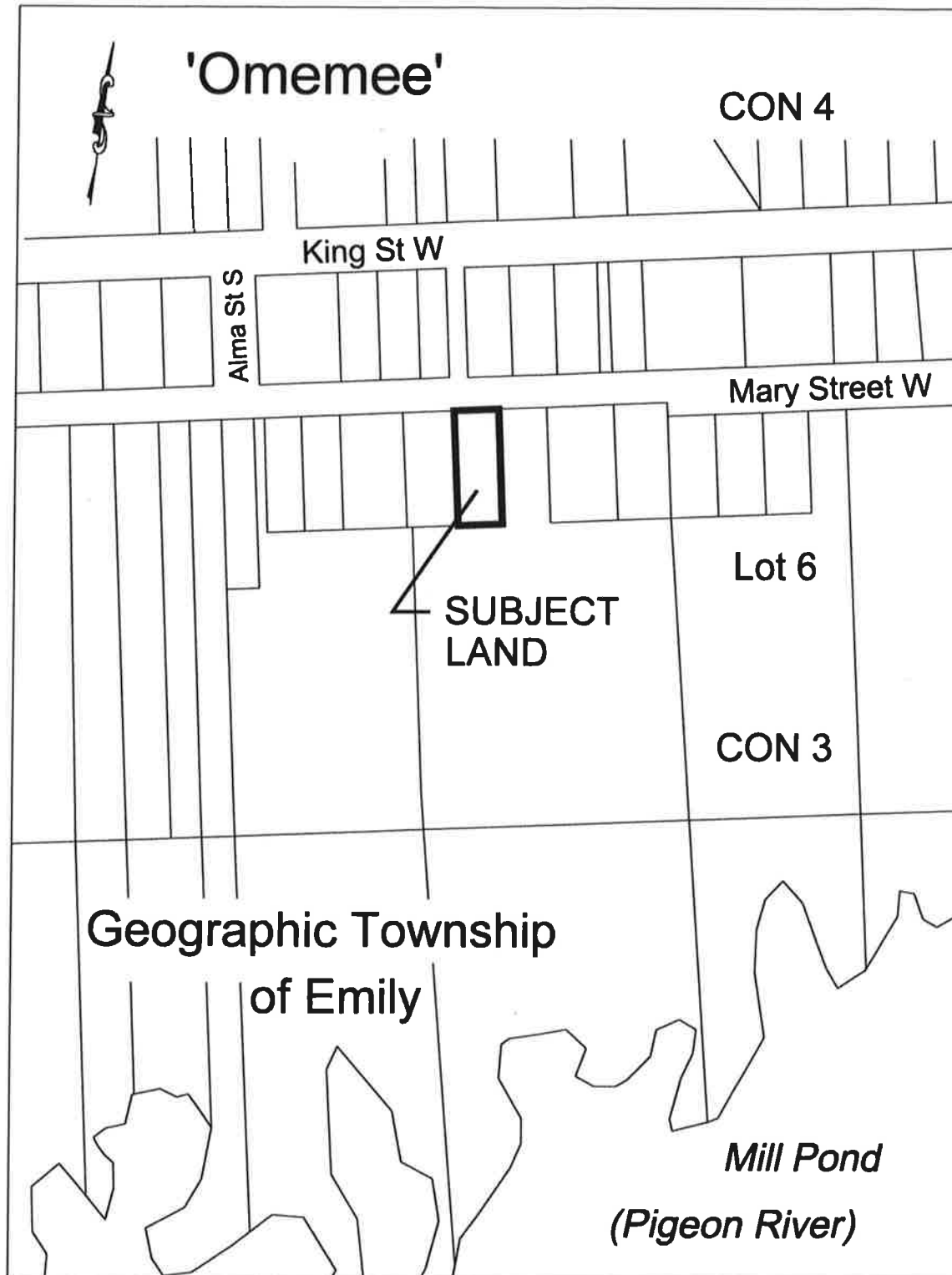
Phone: 705-324-9411 extension 1367

E-Mail: qadebayo@kawarthalakes.ca

Department Head: Chris Marshall

Department File: D20-2018-061

D20-2018-061



APPENDIX: B

to

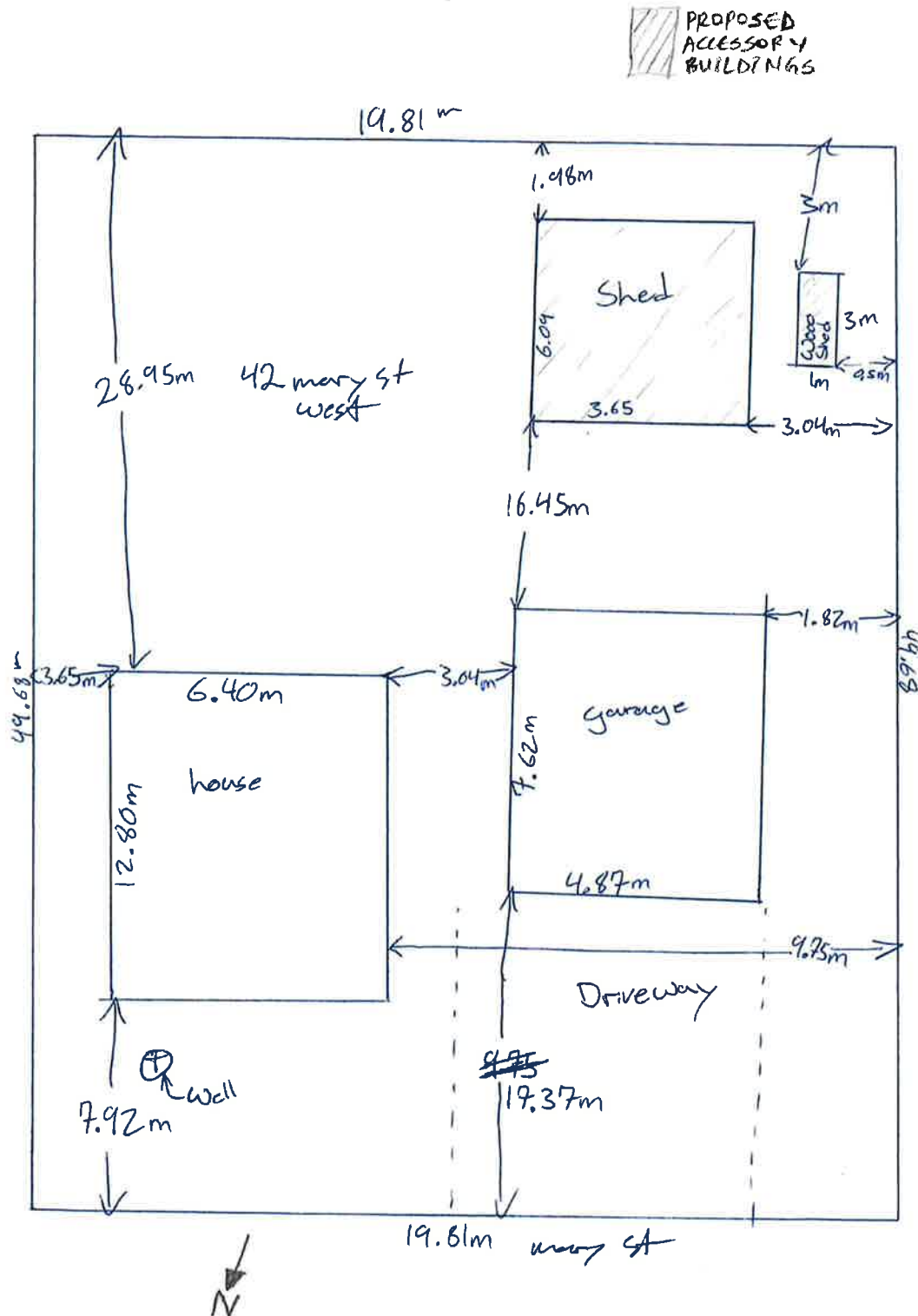
REPORT COA2018-078

FILE NO: D20-2018-061



42 Mary Street West, Former Village of Omemee



Site Plan Sketch

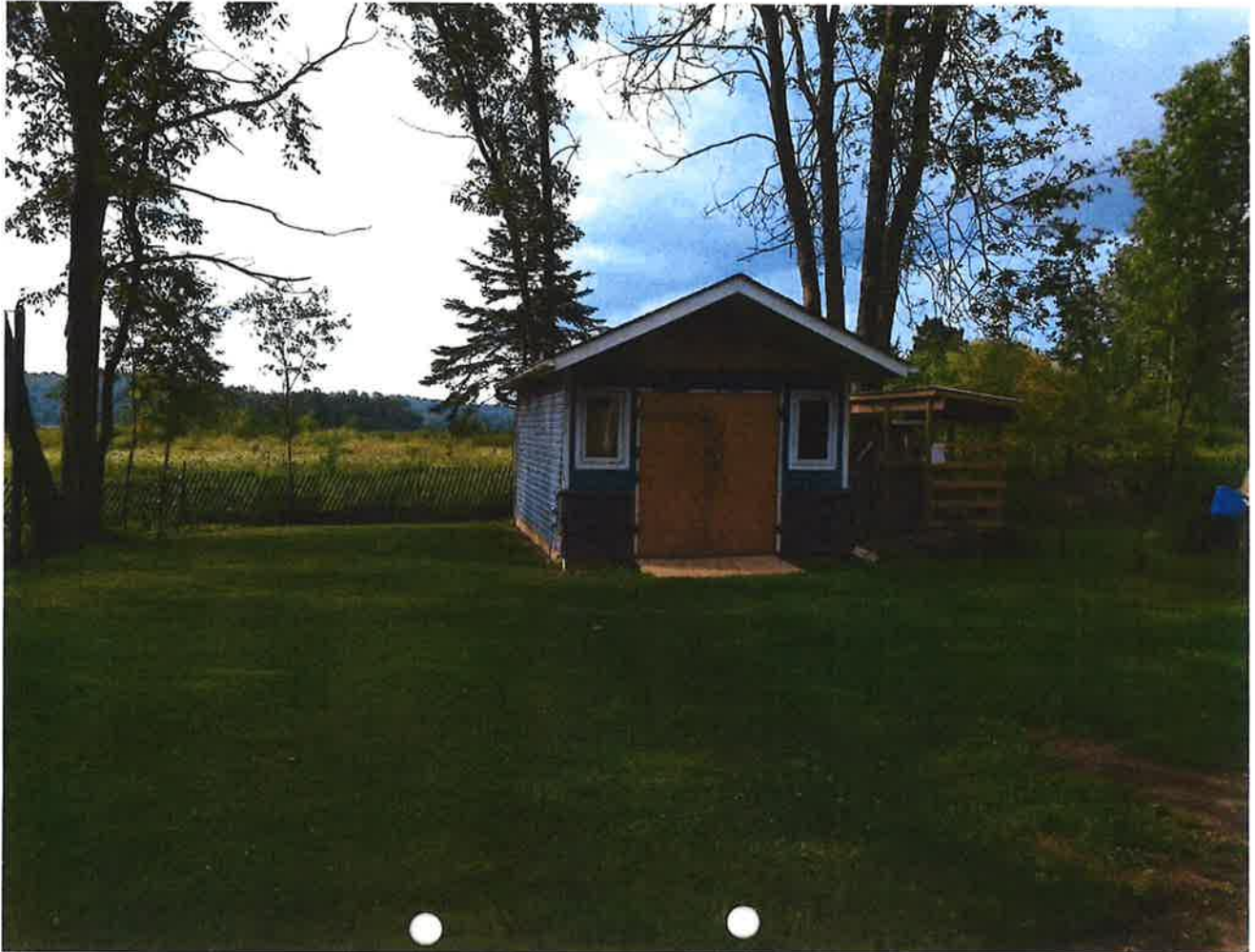
APPENDIX: D

to

REPORT COA2018-078

FILE NO: D20-2018-061

Front Elevation (North-facing)



Quadri Adebayo

From: Derryk Wolven
Sent: Thursday, October 25, 2018 8:46 AM
To: Charlotte Crockford-Toomey
Subject: C of A

FILE NO. D20-2018-061

Please see attached comments:

D20-2018-055 No concerns
D20-2018-056 No concerns
D20-2018-057 No concerns
D20-2018-061 No concerns

Derryk Wolven, CBCO

Plans Examiner

Development Services, Building Division, City of Kawartha Lakes

705-324-9411 ext. 1273 www.kawarthalakes.ca





APPENDIX " E "

to October 25, 2018

REPORT KRCA File No 16698 COA2008-078
Page 1 of 3

FILE NO. D20-2018-061

Via E-Mail: mlahay@kawarthalakes.ca

Mark LaHay

Acting Secretary-Treasurer

Committee of Adjustment

City of Kawartha Lakes

180 Kent Street West

Lindsay, ON K9V 2Y6

Regarding: Application for Minor Variance – D20-2018-061
David Ellenzweig (Agent: Scott Mainhood)
42 Mary Street West, Omemee
Geographic Township of Emily
City of Kawartha Lakes

Dear Mr. LaHay:

This Letter acknowledges the receipt of the above noted application. Kawartha Region Conservation Authority (KRCA) staff have reviewed this application and provided the following comments:

Application Purpose

It is our understanding that the purpose of this application is to request the following variance from the requirements of Zoning By-Law 1993-15, (Village of Omemee), as amended. The purpose and effect is to recognize the supplementary accessory building on the property, being a storage shed and a wood shed, in conjunction with a detached garage. Relief is sought from the following provisions:

- a) Relief from Section 3.1.2.2 – to reduce the minimum interior side yard setback for an accessory building from the 1.2 metres to 0.5 metres in order to permit the wood shed in its current location;
- b) Relief from Section 3.1.3.1 - to increase the maximum lot coverage requirement for all accessory buildings from 40% of the gross floor area of the main building to 46.29%; and,
- c) Relief from Section 3.1.3.3 – to increase the maximum number of accessory buildings permitted in a residential zone from two (2) to three (3).

It is noted that the existing wood shed was existing at the time of granting approvals for the detached garage; however, the shed was not included on the plans provided.

Applicable Kawartha Conservation Regulations and Policies

Ontario Regulation 182/ 06 (as amended):

The subject property is within the KRCA's Regulated Area, as it is located within the floodplain associated with the Pigeon River, in particular the area known as the Omemee Mill Pond. Kawartha Conservation regulates the flooding

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and erosion hazard associated with this waterbody, plus an additional setback of 15 metres from the limit of the greatest hazard. Staff note that flooding hazard associated with the Omemee Mill Pond is 250.4 metres above sea level (mASL). Moreover, the subject lands are located within the area of interference associated with the Pigeon River #23 Provincially Significant Wetland (PSW) Complex. Kawartha Conservation regulates the PSW feature and lands within 120 metres from the limit of the PSW. As such, any development (or redevelopment) on the subject lands require a Permit pursuant to Ontario Regulation 182/06 prior to development and site alteration. In accordance with Ontario Regulation 182/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), as amended, permissions are required from Kawartha Conservation prior to any of the following works taking place:

- a) straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b) Development, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of lands may be effected by the development.

Development is defined as:

- a) The construction, reconstruction, erection or placing of a building or structure of any kind,
- b) Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- c) Site grading or, the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

Application-Specific Comments

KRCA Memorandum of Understanding (MOU):

KRCA Permitting:

As noted, the subject property is within KRCA Regulated Area of the Watershed. Please be advised the applicant has been issued a permit (Permit No. 2017-015), pursuant to Ontario Regulation 182/06, issued January 24, 2017) for a 37.1 m² detached garage and associated grading for the foundation. Plans for the detached garage and grade changes were reviewed in accordance with Kawartha Conservation policies 4.5.2(24) *Accessory Buildings or Structures*. The drawings and plans submitted were reviewed and determined to be in conformance with the aforementioned policies. The applicant is reminded that the permit will expire on January 24, 2018. Should the works not be completed on/before the expiration date, an extension to the permit will be required. Please note that KRCA permits issued after January 1, 2018 are now valid for two (2) years from the date of issuance. Further information regarding a permit extension can be provided by Stacy Porter, Planning and Regulations Technician at extension 231 or via email at sporter@kawarthaconservation.com

KRCA staff would like to note that the decision of the Committee of Adjustment does not bind KRCA under the Conservation Authorities Act to approve the proposed works identified on the plans/drawings submitted with this

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application. As such, KRCA staff strongly recommends that the plans in support of the proposed development be consistent with all applications made under the *Planning Act* and the *Conservation Authorities Act*.

Hazardous Lands

To ensure conformity with Section 3.1 of the Provincial Policy Statement (PPS, 2014), Kawartha Conservation aims to prevent new development from locating in areas where there is a potential for loss of life and/or property damage from natural hazards. Moreover, KRCA Plan Review Policies (Section 2.4.2.4) for Natural Hazards identify that applications shall not create new or exacerbate existing hazardous conditions. The entire property is located within the floodplain of the Pigeon River (Mill Pond).

Notwithstanding the situation of the property in relation to the flood hazard, the increased maximum lot coverage for accessory buildings acknowledges existing structures with the exception of the detached garage, which was flood-proofed in accordance with Kawartha Conservation policies. Overall, the proposal does not present an acceptable risk to public health or safety or of property damage and does not create new or aggravate existing hazards.

Recommendation

Based on our review of the above information and there is no new development proposed through the application, staff can advise **it would foresee no issue with the approval of Minor Variance application D20-2018-061 based on consideration for natural heritage, natural hazards and water quality and quantity protection policies.**

The above comments reflect our understanding, at the time of writing, of the best available data, applicable policies and regulations. I trust this meets your information requirements at this time. Should you have any questions regarding this matter, please do not hesitate to contact this office.

Yours Truly,



Kent Stainton
Resources Planner
Extension 232
kstainton@kawarthaconservation.com

cc: Stacy Porter, Kawartha Conservation
David Harding, Kawartha Conservation
Quadri Adebayo, City of Kawartha Lakes
Charlotte Crockford-Toomey, City of Kawartha Lakes

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