

# The Corporation of the City of Kawartha Lakes Committee of Adjustment Report – Rasmussen

Report Number COA2018-012

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## Public Meeting

**Meeting Date:** February 15, 2018

**Time:** 1:00 pm

**Location:** Council Chambers, City Hall, 26 Francis Street, Lindsay

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## Ward 7 – Former Village of Bobcaygeon

**Subject:** An application to sever approximately 297 square metres of residential land with an existing residential building containing two dwelling units and retain approximately 2,311 square metres of commercial land. The property is located at 31 Main Street, former Village of Bobcaygeon (File D03-17-008).

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**Author:** David Harding, Planner II

**Signature:**

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## Recommendation:

**RESOLVED THAT** Report COA2018-012 Elizabeth Rasmussen, be received;

**THAT** consent application D03-17-008, being an application to sever approximately 297 square metres of residential land and retain approximately 2,311 square metres of commercial land, be GRANTED.

## Conditions of provisional consent:

1. This approval applies to the transaction applied for subject to the following revision:
  - a. Any minor adjustment required to the proposed western lot line to accommodate four parking spaces on the proposed severed lot. The parking spaces are to be arranged two spaces wide and two spaces deep and each space shall be not less than 2.5 metres wide and 17 square metres in area.
2. The owner shall apply for, pay the prescribed fee and obtain an amendment to the Zoning By-law respecting the lot to be severed and the lot to be retained, such that:
  - a. For the lot to be severed, that it be rezoned to an Urban Residential Type Two Exception (R2-\*) Zone to permit: the duplex use, the proposed lot area and the proposed building setbacks; and the By-law

be in effect. The Zoning By-law Amendment application shall show the dimensions of the required four parking spaces on the proposed severed lot. The draft reference plan required in condition 9 shall accompany this submission and the draft reference plan shall specify the lot area of the proposed severed land; and

- b. For the lot to be retained, that it be rezoned from Commercial Recreation (C3) Zone to a Commercial Recreation Exception (C3-\*) Zone to prohibit a dwelling unit; and the By-law be in effect.
3. Submit to the Secretary-Treasurer written confirmation from the Chief Building Official or his/her designate that the rectangular concrete pad/ramp within the proposed parking area for the residential lot to be severed, as shown in the sketch titled "A1" prepared by Kevin M. Duguay Community Planning and Consulting Inc dated January 18, 2017, has been removed.
4. Submit to the Secretary-Treasurer written confirmation from the Chief Building Official or his/her designate that the mutual lot line between the proposed severed and retained lots has been fenced to prevent vehicular trespass between the commercial and residential lots. The fencing along the mutual lot line shall be present from the existing fence abutting the southern edge of the parking lot on the subject property to the front lot line.
5. The owner shall submit to the Secretary-Treasurer written confirmation from Realty Services that a license agreement has been entered into to address the encroachment of the residential building on the proposed severed lot within the municipal road allowance.
6. The owner shall submit to the Secretary-Treasurer written confirmation from Realty Services that a license agreement has been entered into to address all encroachments into the municipal road allowance(s) on the proposed retained lot.
7. The owner shall submit to the Secretary-Treasurer written confirmation from Parks Canada - Trent Severn Waterway that its concerns, if any, respecting the presence of portions of the residential building and deck on the proposed severed lot that overhang the lot lines into the Big Bob Channel, have been resolved to its satisfaction.
8. Submit to the Secretary-Treasurer one copy of the preliminary reference plan of survey of the lot to be severed for review and endorsement and the subsequent registered reference plan of survey
9. Payment of all past due taxes and charges added to the tax roll, if any, at such time as the deeds are stamped.
10. Payment of the stamping fee prevailing at the time the deeds are stamped, for the review and clearance of these conditions. The current fee in effect is \$440. Payment shall be made by certified cheque, money order, or from a lawyers trust account.

11. Submit to the Secretary-Treasurer a deed in triplicate for endorsement with the certificate of consent which deed shall contain a registerable description of the parcel of land described in the decision.
12. The owner's solicitor shall provide a written undertaking to the Secretary-Treasurer confirming, pursuant to Subsection 53(43) of the Planning Act, that the deed in respect of this transaction shall be registered in the proper land registry office within six months from the date that the Secretary-Treasurer's certificate is stamped on the deed, failing which the consent shall lapse.
13. The owner's solicitor shall also undertake to provide a copy of the registered Transfer to the Secretary-Treasurer as conclusive evidence of the fulfillment of the above-noted undertaking.
14. The owner shall pay all costs associated with the preparation and registration of the required documents.
15. All of these conditions shall be fulfilled within a period of one year after the giving of the Notice of Decision, failing which, pursuant to Subsection 53(41) of the *Planning Act*, this consent shall be deemed to be refused.

**Background:** The application proposes to sever an existing building with two dwelling units from the commercial use on the balance of the property (the Bobcaygeon Inn). The residential building originally contained a dwelling unit on the second floor for the Inn's owner/operator and a banquet facility on the first floor for the Inn. The first floor was converted to a second dwelling unit in 2012.

The Inn owner/operator now wishes to sell the business and continue to reside in the dwelling unit, and has proposed to sever the residential building from the Inn to facilitate the sale of the commercial property.

This application is proceeding to the Committee of Adjustment for a decision due to the concerns raised by the Conservation Authority (KRCA), see Planning Division Comments on page 6 and the KRCA's comments on Appendix "F".

Owner: Elizabeth Rasmussen

Applicant: Kevin Duguay, Kevin M. Duguay Community Planning Inc.

Legal Description: Plan 70, L/T S/S Front Street, and Part Lot B S/S Front Street, former Village of Bobcaygeon, City of Kawartha Lakes

Official Plan: "Urban" – County of Victoria Official Plan

Zone: "Commercial Recreation (C3) Zone" – Village of Bobcaygeon Zoning By-law 16-78

Site Size: Severed – 297 square metres  
Retained – 2,311 square metres

Site Servicing: Full municipal services

Existing Uses: Residential, Commercial (Bobcaygeon Inn)

Adjacent Uses: North: Residential, Telecom Utility Building  
South: Big Bob Channel  
East: Open Space, Marina  
West: Residential, Commercial

**Rationale:**

**Policy Conformity**

**Growth Plan for the Greater Golden Horseshoe, 2017 (GP)**

Relevant Policies: 2.2.1 Managing Growth

Relevant Sections: 2.2.1.2(d), 2.2.1.4

The Growth Plan (GP) provides that development is to be directed to settlement areas. A mix of housing options are encouraged to support the development of complete communities. The application conforms to the GP in that the application is proposing to separate an existing residential building from a commercial use in a settlement area.

**Provincial Policy Statement, 2014 (PPS)**

Relevant Policies: 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, 1.1.3 Settlement Areas, 2.2.2 Managing Growth, 3.1 Natural Hazards

Relevant Sections: 1.1.1, 1.1.3.1, 1.1.3.2, 1.1.3.3, 1.6.6.2, 3.1.2

The subject property is within a settlement area. The PPS directs growth, development, and intensification to settlement areas for the efficient use of land and municipal services and infrastructure. The two residential dwellings are existing, and the building has a water and wastewater service independent from the Inn. The Kawartha Region Conservation Authority has raised some concern over conformity with Section 3 of the PPS, as they are concerned that the proposed severed lot may be within an area subject to flooding. Please see the Planning Division Comments section for further analysis.

**Victoria County Official Plan (VCOP)**

Land Use Designation: Urban

As the Bobcaygeon Secondary Plan is under appeal, the County of Victoria Official Plan (VCOP) applies. The property is designated “Urban” within the VCOP. While the duplex use on the property is itself classified as a low density residential use, it is located within an area that has a mix of commercial and residential uses. The residential uses in the area include a low rise apartment building, triplexes, and two dwelling units on a lot. The proposed residential lot does not need to comply with

the density requirement for a low density residential area as the area cannot be considered solely a residential area nor can the residential use in the area be classified as solely low density.

### **Zoning By-law Conformity**

The subject property is zoned “Commercial Recreation (C3) Zone” in the Village of Bobcaygeon Zoning By-law 16-78.

The lot to be severed proposes to continue the duplex use within the residential building, which is currently accessory to the commercial operation, the Bobcaygeon Inn. The existing residential building partially encroaches upon the Front Street East municipal road allowance, and has little spatial separation between it and the other proposed lot lines. Due to the location of the existing building within the proposed lot as well as the proposed use of the lot, a site-specific zone category will be required to recognize the residential building as a separate use, and a license agreement will also be required from Realty Services for the building encroachment. Staff anticipates that this zone category will be an exception to the Urban Residential Two (R2) Zone as this zone category permits a duplex use, and the proposal would comply with the lot frontage requirement of that zone category. The parking requirement will be upheld for this residential lot as sufficient space remains on the proposed severed lot to accommodate the two parking spaces each dwelling unit requires. The final reference plan is to include sufficient space to the west of the building for 4 parking spaces, arranged in a pattern that is 2 spaces wide and 2 spaces deep. Portions of the residential building also overhang the property line into the Bib Bob Channel. A condition has been included to address any potential encroachment issues with the Trent Severn Waterway concerning these building/structure overhangs.

The lot to be retained complies with the lot area requirement of the C3 Zone, but not the lot frontage. The commercial operation also does not comply with the parking requirements. However, a Zoning By-law amendment for the retained lot is not required as these two deficiencies existed prior to the creation of the Bobcaygeon Zoning By-law, and are not exacerbated as a result of the consent application. The Zoning By-law Amendment will be necessary to remove the residential permission on the Bobcaygeon Inn property. However, staff note that portions of the Inn’s infrastructure and building encroaches on City property, which includes, but is not limited to: approximately 8 parking spots and a stairway to the northwest, portions of the western building, part of the eastern parking lot, a stone wall, wood fencing, dumpsters, propane tanks, and stairs. A condition is included to address these encroachments.

### **Other Alternatives Considered:**

No other alternatives have been considered at this time.

**Servicing Comments:**

The property is within the Bobcaygeon municipal service area. The residential building has its own municipal water and wastewater service connections.

**Consultations:**

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

**Agency Comments:**

Community Services Department (May 8, 2017): A condition to collect a 5% cash-in-lieu of parkland payment is requested.

Engineering and Corporate Assets Department (May 2, August 14, and September 1, 2017): No concerns.

Public Works – Roads (September 28, 2017): No concerns.

Building Division (November 20, 2017): No concerns. Concerns originally raised in the April 24 comments have been addressed.

Trent Severn Waterway (November 21, 2017): A condition is requested to address any building/structure encroachments into Big Bob Channel.

Kawartha Region Conservation Authority (December 4, 2017): The proposal is not consistent with the PPS because the lot to be created may be within a flooding hazard. A topographic survey is required to confirm whether the proposed lot is within the flooding hazard. See Appendix “D” for more comments.

**Public Comments:**

No comments as of February 6, 2018.

**Planning Division Comments:**

Staff conferred with the applicant, and the applicant has advised that a topographic survey will not be forthcoming. In order to meet the intent of Section 3 of the PPS and thus the concerns of the Kawartha Region Conservation Authority, staff have proposed that the portion of the lot which will retain its commercial zone category be the subject of a zoning by-law amendment to prohibit the creation of a dwelling unit accessory to the commercial use. This will ensure no additional dwelling units are permitted within the potential flood risk area, should it exist. The flood risk, should it exist, is already present for the two dwelling units within the existing residential building. As the building already functions independently from the Inn, severing the building to provide a break in property ownership where there is already a transition in use does not contravene Section 3 of the PPS.

Planning staff are of the opinion that payment of cash-in-lieu of parkland in this situation is not necessary, as the residential use on the lot to be created exists, and further residential use shall be prohibited upon the proposed retained lot.

Further, planning staff are of the opinion that an easement over the parking area for the residential building in favour of the Bobcaygeon Inn is not appropriate as it

prevents the surface that the easement would exist upon to be used for parking, causing the proposed residential lot to not comply with the parking requirements. Conditions 3 and 4 are recommended to ensure that there is no trespass between the parking areas for both properties and that the required parking for the proposed severed lot is provided.

**Attachments:**



Appendices A-F to  
Report COA2018-012



Appendices A-F to  
Report COA2018-012

- Appendix "A" – Location Map
  - Appendix "B" – Aerial Photo
  - Appendix "C" – Surveyor's Sketch
  - Appendix "D" – Consent Sketch
  - Appendix "E" – Parking Plan
  - Appendix "F" – Department and Agency Comments
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