

# The Corporation of the City of Kawartha Lakes Committee of Adjustment Report – S & C Dugas

Report Number COA2018-016

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## Public Meeting

**Meeting Date:** March 15th, 2018

**Time:** 1:00 pm

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

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**Ward: 8 – Geographic Township of Mariposa**

**Subject:** The purpose and effect is to permit the construction of a single detached dwelling with garage and deck on the subject property by requesting relief from:

1. Section 14.2.1.4 to reduce the minimum water setback required from 30 metres to 21.5 metres; and
2. Section 14.2.1.7 to reduce the minimum gross floor area of a dwelling unit from 93 square metres to approximately 78.70 square metres.

The property is located at 154 Ball Point Road, geographic Township of Mariposa (File D20-2018-009).

**Author:** Quadri Adebayo, Planner II

**Signature:**

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## Recommendations:

**RESOLVED THAT** Report COA2018-016 Serge & Catheryn Dugas, be received;

**THAT** minor variance application D20-2018-009 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 COA2018-016, 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 shed located on the property be relocated and stored on the property in a compliant manner at a minimum water setback of 30 metres;

- 3) **THAT** the proposed holding tank maintain a minimum water setback of 30 metres;
- 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 buildings between the rear wall of the dwelling and the water's edge; and
- 5) **THAT** the building construction related to the minor variances shall be completed within a period of twelve (12) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This condition will be considered fulfilled upon completion of the first Building Inspection and/or upon the issuance of an Occupancy Permit.

**This approval pertains to the application as described in report COA2018-016. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.**

**Background:** This application proposes to construct a single detached residential dwelling with a walkout basement, deck and garage. The Committee of Adjustment previously granted a 15 metre water setback as variance to construct the residential dwelling on May 19, 2016, (application D20-16-021), and provided two years to complete the first building inspection. The applicant recently communicated that they will not be able satisfy the condition before the required two year time frame lapses by May 18, 2018.

In response to staff findings that the house plan submitted by the applicant did not meet the corresponding zoning by-law requirement for minimum gross floor area, the Committee deferred the application at its February 15<sup>th</sup> meeting to allow for a revised variance request for relief from the minimum gross floor area, and a new reduced water setback of 21.5 metres respectively. The water setback measurement proposed accounts for the distance between the elevated side stairs, which projects further than the rear wall of the dwelling, and the water's edge.

The applicant has advised that they intend to proceed with construction immediately after half-load restrictions on Ball Point Road are lifted in Spring of 2018 should the Committee reinstate the approval. This revised reliefs to the application was established February 1, 2018.

**Proposal:** To construct an approximately 149.35 square metre (1607.59 square foot) single detached dwelling consisting of a walkout basement, a deck and garage.

Owner: Serge Dugas and Catheryn Dugas.

Applicant: Serge Dugas

Legal Description: Concession C, Part Lot 18, Plan 425, Lot 37, geographic Township of Mariposa, City of Kawartha Lakes

Official Plan: "Waterfront" – City of Kawartha Lakes Official Plan

Zone: "Rural Residential Type Three (RR3) Zone" – Township of Mariposa Zoning By-law 94-07

Site Size: 1128.54 square metres (12,147.5 square feet)

Site Servicing: Private individual holding tank and well

Existing Uses: Vacant

Adjacent Uses: North & South: Residential  
East: Residential  
West: Lake Scugog

**Rationale:**

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

The 21.5 metre water setback relief sought ensures that the subject property is further away from the shoreline, which is an improvement from the initial 15 metre water setback that was granted through the previous Minor Variance application D20-16-021 as relief from the water's edge to the upper deck of the dwelling. The proposed water setback measurement through this application essentially accounts for the measurement between the water's edge and the elevated side stairs that projects further than the upper deck and the building wall collectively. The rear of the building boundary as staked-out, also appears to be consistent with the general water setback established by the dwellings on the east side of Ball Point road, and equally appears to match the established water setback of the adjacent dwellings on either side of the subject property to the north and south respectively.

The rear yard also functions as naturalization space that can retain and infiltrate surface water run-off before discharging it into the abutting waterbody, thereby facilitating the protection of the integrity of Lake Scugog. This is in conjunction with conditions 4, mirrors Kawartha Region Conservation Authority recommendations which the applicant has partly fulfilled through the completion of an Environmental Impact Statement, and the installation of silt-fencing around the construction area.

Regarding the reduced minimum gross floor area, the subject property is currently a vacant lot in a shoreline residential neighbourhood, and the proposal will be improving the lot with a dwelling. The proposal as is, also appears to be a modest sized structure, and complimentary with the prevailing residential

dwelling sizes in the neighbourhood. As a result, no adverse land use compatibility issues are anticipated.

Therefore, the variances are minor in nature.

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

In terms of scale, the massing of the proposed structure will ensure the dwelling blends in with the existing residential character of the neighbourhood. The proposed rear yard setback will also ensure the dwelling aligns with the immediate residential building north of the subject property, as well as the seasonal cottage south of the subject property respectively.

Further, the proposed height is also not anticipated to pose a negative visual impact, as observations from site visit by staff suggest that the proposed building boundaries as staked-out, demonstrates views to the lake will be maintained. The proposed placement of the structure on the property also ensures that the septic bed will be located in an appropriate location. The proposed location of the holding tank and septic maintains a water setback greater than the 30 metres required. The configuration is likewise determined to be suitable, per Building Division - Sewage System comments, as they have raised no objections to the proposal.

The front yard and water setback relief requested for the dwelling are not anticipated to impact the function of the said yards, as sufficient space remains between the proposed structure and the lot lines for maintenance and drainage purposes. Accordingly, sufficient space also remains within the proposed interior side yards to facilitate access to the rear yard from the front yard.

More so, it is not anticipated that there will be limitations to the available yard amenity and vegetative landscaping space as the proposed front yard provides for sufficient setback from the road allowance, and ensures sufficient driveway surface outside of the road allowance is available for parking.

Based on the above analysis, the variances are minor as well as 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 8.5 metre water setback relief from the 30 metres required, and the 14.3 square metres relief from the 93 square metres minimum gross floor area required, proposed for the dwelling are not anticipated to impact their function as the scale of the reductions, if granted, are not anticipated to be perceptible. Sufficient space remains within the side yards to facilitate access to the rear yard. The proposed shed relocation in conjunction with condition 2 will also ensure compliance with water setback requirements.

The property has a legal non-conforming frontage of 33.3 metres on Ball Point Road, 5.3 metres of that value is expected to account for interior side yard requirements, while the remainder 28 metres is expected to fit a residential dwelling and servicing. Also, the property has a lot depth of approximately 44

metres, and 37.5 metres of the lot depth value is expected to account for both rear yard and front yard setbacks respectively, leaving about 6.5 metre length for a building, and servicing; whereas, the septic bed and well must also meet appropriate setback requirements from the building and lot lines respectively.

Therefore, the ability of the proposal to meet the zoning provisions as exactly set out in the corresponding zoning by-law is hypothetically not attainable.

Regarding the building placement, the grading plan shows that the rear wall of the proposed structure will actually be 25.83 metres from the water's edge, while the upper deck will be setback at 24 metres from the water's edge.

Section 14.2 of the Township of Mariposa Zoning By-law ensures that a review is done when development is proposed upon undersized lots of record to ensure the proposed construction is appropriate for the neighbourhood, and can be adequately serviced.

Considering the fact that the proposal has not fully exercised the zoning provision privileges, utilizing a lot coverage of 13% from a possible 30% maximum, a 6 metre building height from a possible 11 metre maximum, and a lesser gross floor area than the 93 square metres minimum required, the applicant has reasonably demonstrated that it is possible to develop the lot,

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

The reduced gross floor area variance meets the intent and purpose of the Official Plan as low density residential development is contemplated within the "Waterfront" designation.

Policy 3.11 provides for the redevelopment of existing lots of record where there is insufficient area to accommodate a 30 metre water setback provided that there is no alternative to the expansion or reconstruction, and in no case shall the said development, including sewage infrastructure, be less than 15 metres to the high water mark. The proposed development in conjunction with conditions 3, and 4, ensures the development is reasonably located outside of the water setback.

Staff is of the opinion that when an already undersized lot is further constrained by physical site conditions such as the embankment at the rear of the property that slopes downwards towards the abutting waterbody, permitting a water setback of 21.5 metres is acceptable, as it enables more amenity space and minimizes risk from a safety standpoint that may result from the closeness of an access point to a steep gradient. However, the gradient of the topography in conjunction with conditions 2, and 4 apparently does not encourage any form of

development in the rear yard amenity space. This will presumably provide an opportunity to naturalize the area between the rear of the building and the water's edge with manicured vegetation where possible.

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

**Other Alternatives Considered:**

On January 25, 2018, staff was able to confirm from the applicant, through the new grading plan that was submitted that the accurate water setback measurement is between the water's edge and the stairs instead, rather than upper deck as initially proposed. A review of the elevation drawings suggested the steps appear to be of sufficient height, and projected further than the upper deck.

The applicant indicated that the revised setback taking into account the stairs will be approximately 22.5 metres, and following staff direction, the applicant opted for a 1 metre reduction to the 22.5 metres distance, for tolerance in the event that the foundation of the home is poured in a different direction than as pinned by the surveyor and to account for the variation in the summer water level of Lake Scugog. Hence, the revised 21.5 metre water setback relief, and the resulting reduced minimum gross floor area of 78.70 square metres as requested through this application.

The applicant also confirmed in the same email correspondence with staff on January 25, 2018, per the grading plan, that the rear wall of the proposed structure will be 25.83 metres from the water's edge, while the upper deck will be setback at 24 metres from the water's edge.

**Servicing Comments:**

The property will be serviced by a private individual well and holding tank.

**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 (February 28, 2018): No concerns.

Building Division - Sewage System (December 20, 2017 & February 5, 2018): No concerns.

Community Services – (February 9, 2018): No concerns.

Engineering & Corporate Assets (February 7, 2018): No objection to the proposed variance.

Kawartha Conservation Authority (February 5, 2018): No objection to the proposed variance.

**Public Comments:**

No additional comments as of March 6, 2018.

**Public Comments:**

1) Opposed, 149 Ball Point Road (February 9, 2018):

They stated that they do not believe the water setback should be changed, and that for the 20-year period they have been residents on Lake Scugog, all the houses built in the neighbourhood have adhered to the by-law specifications.

Staff response:

- i.) Per rationale 3, the 21.5 metre relief is the water setback relief from the side stairs, and not the dwelling wall. Whereas, a 15 metre water setback could have been established if the dwelling were built following Committee decision in 2016. Therefore, a change from the 15 metre that was initially granted as setback from the upper deck, compared to the 24 metres water setback from the upper deck through this proposal is considered an improvement. This translates into a difference and lesser impact of 9 metres from the water's edge.
- ii.) Also, measurements from satellite imagery and observations from site visit suggest that the configuration of most dwellings in the neighbourhood do not generally comply with the 30 metre setback requirement. The lot depth in the general neighbourhood randomly averages out to approximately 45 metres, and per rationale 3 analysis above, the ability of a potential development to meet the provisions as exactly set out in the corresponding zoning by-law does not seem to be achievable in most other cases along the road. Additionally, the shape of the peninsula narrows towards the south where the proposal is located, which presents another challenge for the proposal to fully comply with the water setback requirement.

2) Opposed, 150 Ball Point Road (February 13, 2018):

The owner of the property, as represented by a lawyer, and following consultations with the Ward Councillor where the proposal is located, expressed that two out of the four tests as prescribed in the *Planning Act* for minor variance applications were not met (i.e. that the variance is not minor in nature, and that the variance is not appropriate for the use and development of the land).

Staff response:

- i.) *That the application is not minor.* Per rationale 1, 2 and 3 above, the proposed structure as staked out appears to align with Mr. Mollins' property, and given that the proposed structure will have a reduced minimum gross floor area than required, the massing of the proposed dwelling is neither anticipated to negatively impact views to the lake, nor is it anticipated to obstruct sightlines to and from Mr. Mollins' property. Regarding a potential lack of privacy in Mr. Mollins' back yard due to the site grading plan not depicting the rear of Mr. Mollins' house, the proposed dwelling location will be compliant with the interior side yard setback from the side lot line adjacent to Mr. Mollins' property by the 3 metres specified in the corresponding zoning by-law, and pictures from site visit, including the building stakes, also suggests that the configuration of the proposed

structure will maintain approximately the same rear alignment with Mr. Mollins' property. Therefore, no negative impacts are anticipated.

- ii.) *That the variance is not appropriate for the use and development of the land:* Per rationale 1 and 2 above, development applications are treated on a case-by-case basis, which precludes precedence setting as proposals are evaluated based on site-specific merits only.

Regarding the protection of the environmental integrity of Lake Scugog, the applicant has completed a pre-requisite scoped Environmental Impact Statement under the directive of the Kawartha Region Conservation Authority (KRCA), being a condition of approval for the proposed minor variance. KRCA have also expressed satisfaction that the proposed dwelling location from the water's edge will pose no negative impact to fish habitation in Lake Scugog provided that the applicant implements recommended mitigation measures. The applicant has subsequently begun fulfillment of these recommendations through the installation of silt fencing around the construction area. This is substantiated by a "no objection" comment to this application by the KRCA, and a subsequent final permit issuance by the KRCA upon completion of the dwelling construction.

## Attachments:



Appendices A-E to  
Report COA2018-016

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

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**Phone:** 705-324-9411 ext. 1367  
**E-Mail:** qadebayo@kawarthalakes.ca  
**Department Head:** Chris Marshall  
**Department File:** D20-2018-009