

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Ryan McKnight
Report Number COA2018-015

Public Meeting

Meeting Date: March 15th, 2018
Time: 1:00 pm
Location: Council Chambers, City Hall, 26 Francis Street, Lindsay

Ward: 15 – Geographic Township of Emily

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 12.2.1.3e to reduce the water setback from 30 metres to 15 metres; and
2. Section 12.2.1.3b.ii to reduce the required interior side yard from 5.5 metres to 4.5 metres on both sides, in order to permit the construction of a two storey single detached dwelling and deck on the property.

The property is located at 25 Westview Drive, geographic Township of Emily (File D20-2018-012).

Author: Quadri Adebayo, Planner II

Signature:

Recommendation:

RESOLVED THAT Report COA2018-015 Ryan McKnight, be received;

THAT minor variance application D20-2018-012 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 COA2018-015, 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 the owner shall submit a to the Secretary-Treasurer a confirmation from Hydro One Networks Incorporated that no part of the proposed development is upon or overhangs onto the registered/unregistered easement for the overhead hydro line to the

east of the proposed building or otherwise would interfere with said hydro line. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the Building Division advising that the Hydro line swing allowance and setback are appropriate for the proposed development;

- 3) **THAT** prior to the issuance of a Building Permit the owner shall submit a floodplain topographic survey prepared by a Registered Ontario Land Surveyor, and shall submit a scoped Environmental Impact Study (EIS) prepared by a professional to the satisfaction of the Kawartha Region Conservation Authority (KRCA) which demonstrates no negative impact to fish habitat. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the KRCA advising that the EIS has been completed to its satisfaction.
- 4) **THAT** the proposed septic system maintain a minimum water setback of 30 metres;
- 5) **THAT** notwithstanding the yard requirements within 3.1.4.1(c), a deck or unenclosed porch of not more than 1.2 metres in height shall comply with the 15 metre water setback established by this variance;
- 6) **THAT** prior to the issuance of an Occupancy permit for the proposed dwelling, the accessory structure (shed) be removed from the property;
- 7) **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
- 8) **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 COA2018-015. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Background: The application proposes to demolish an old existing one-storey single detached dwelling and deck, and replace the structure with the construction of a two-storey single detached residential dwelling with deck and garage.

The applicant is seeking to reconfigure the existing building footprint for the proposed two-storey dwelling due to a Hydro line that traverses close to the proposed building area as shown in Appendix "C". The 15 metre water setback proposed accounts for the measurement between the closest point of the water's edge underneath the in-water boathouse to the

covered deck. The application was deemed complete February 15, 2018.

Proposal: To construct an approximately 255 square metre (2,743.80 square foot) two-storey single detached dwelling with deck and garage.

Owner: Joan MacGillivray

Applicant: Ryan McKnight

Legal Description: Concession 8, Part Lot 17, geographic Township of Emily, City of Kawartha Lakes

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

Zone: "Rural Residential Type Three (RR3) Zone" – Township of Emily Zoning By-law 1996-30

Site Size: 2,218 square metres (23,865.68 square feet)

Site Servicing: Private individual septic system and well

Existing Uses: Residential

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

Rationale:

1) Are the variances minor in nature? Yes

The 15 metre water setback measurement proposed through this application actually accounts for the measurement between the closest point of the water's edge underneath the in-water boathouse to the covered deck. The proposed covered deck location also appears to have a lesser proximity to Pigeon Lake than the water setback established by the structures on adjacent properties to the north and south of the subject property respectively.

Comparatively, the rear wall of the proposed dwelling wall is actually 26.8 metres from the Pigeon Lake shoreline, and 3.2 metres lesser than the 30 metres required. The rear yard also functions as naturalization space that can retain and infiltrate surface water run-off before discharging it into the abutting waterbody. This is in conjunction with conditions 3, 5, 6, and 7, will also serve to facilitate the protection of the integrity of Pigeon Lake.

Regarding the reduced interior side yard setback on both sides, they are not anticipated to impact their function as the 1 metre 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.

In terms of appearance, the subject property is currently occupied by a near obsolete structure within a shoreline residential neighbourhood. This proposal will be improving the lot with a new structure that will be complimentary with the prevailing residential use 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 is not anticipated to pose a negative visual impact, as observations from site visit by staff suggests there is adequate vegetation on the property to screen the proposed dwelling from Westview Drive and Pigeon Lake respectively. Substantiated by the sufficient amenity space between the yards and proposed building footprint. Further, the existence of other two-storey residential dwellings in the neighbourhood (two properties to the north, and three properties to the south of the subject property) will ensure the proposed structure blends in with the existing residential character of the neighbourhood.

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 septic system maintains a water setback greater than the 30 metres required.

Accordingly, the interior side yard and water setback reliefs 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. Sufficient space also remains within the proposed interior side yards to facilitate access to the rear yard from the front yard as well.

Consequently, the proposed rear yard and front yard setback will also ensure the dwelling conforms with the residential properties immediately to north and south of the subject property.

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 15 metre water setback relief from the 30 metres required, and the 1 metre relief from the 5.5 metres required, as 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. The proposed shed removal in conjunction with conditions 6, and 7 will also ensure that the water setback and interior side yard requirements are regarded.

Per the building placement, the grading plan shows that the rear wall of the proposed structure will actually be 26.8 metres from the water's edge.

The property is a pie-shaped lot, and the kink of the interior side lot line at the rear of the property narrows the width of the property on the south side of the property. As a result, the ability of the proposal to meet the zoning provisions as exactly set out in the corresponding zoning by-law is hypothetically not attainable. Consequently, the configuration of the proposed structure however, ensures that the 4.5 metres proposed for the interior side yard on the south lot line is being improved from the approximately 3 metres that currently exists.

Section 12.2 the Township of Emily Zoning By-law ensures that a review is done when development is proposed upon 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 exhausted the zone provision privileges by utilizing a lot coverage of 12.3% from a possible 30% maximum, a 9.1 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 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 1, 2, 3, 4, 5, 6, and 7, ensures the development is reasonably located outside of the water setback.

Staff is of the opinion that when an irregular sized lot is further constrained by physical site conditions such as the hydro line easement that cuts through the front yard of the property, and requires a right-of-way swing allowance, permitting a water setback of 15 metres is acceptable, as it enables more amenity space and minimizes risk from a safety standpoint. However, with

conditions 6, 7, and 8 which ensures Policy 20.2 and 20.3 objectives are met, discouraging any form of development in the rear yard amenity space 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.

The reduced interior side yard is also not anticipated to present a negative impact as sufficient space still remains within the side yards to facilitate access between the front and rear yards.

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

Other Alternatives Considered:

The water setback indicated in the drawing as the distance between the covered deck and the water's edge of the in-water boathouse is actually 15.2 metres. The 15 metres being considered through this application represents an 0.2 metre reduction to the 15.2 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 Pigeon Lake.

Servicing Comments:

The property will be serviced by a private individual well and septic 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 (February 28, 2018): No objection. Provided a confirmation from Hydro One per the 3 metre sway allowance is submitted by the applicant. Hydro One's literature indicates a 4.8 metre setback for sway allowance.

Kawartha Conservation Authority (March 1, 2018): Expressed some concerns. A permit from their office is required for the proposed works. The proposed development is identified to be encroaching into the floodplain associated with Pigeon Lake, and encroaching into the 15 metre fish habitat buffer. A condition for a scoped EIS is recommended to ensure there are no adverse impacts to fish habitat.

Public Comments:

No comments as of March 6, 2018.

Attachments:



Appendices A-E to
Report COA2018-015

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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