

The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Barbe

Report Number COA2018-025

Public Meeting

Meeting Date: May 17, 2018

Time: 1:00 pm

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

Ward: 15 – Geographic Township of Emily

Subject: An application for minor variance to consider relief from the following provisions in order to permit the following:

Shed 1

1. Section 3.1.2.2 to reduce the side yard setback from 1 metre to 0.3 metres, and reduce the spatial separation between the deck and shed from 2 metres to 1.6 metres,
2. Section 3.18.1.1 (a) to reduce the minimum building setback from the Environmental Protection (EP) Zone from 15 metres to 14.6 metres; and
3. Section 13.2.1.3 (e) to reduce the water setback from 30 metres to 14.6 metres.

Shed 2

4. Section 3.18.1.1 (a) to reduce the minimum building setback from the Environmental Protection (EP) Zone from 15 metres to 8 metres; and
5. Section 13.2.1.3 (e) to reduce the water setback from 30 metres to 8 metres.

Shed 3

6. Section 3.18.1.1 (a) to reduce the minimum building setback from the Environmental Protection (EP) Zone from 15 metres to 14.5 metres; and
7. Section 13.2.1.3 (e) to reduce the water setback from 30 metres to 14.5 metres.

Above-Noted Accessory Buildings

8. Section 3.1.3.1 to increase the maximum permitted lot coverage for all residential accessory buildings from 8% to 11%; and
9. Section 3.1.3.3 to increase the maximum number of residential accessory buildings from 3 to 5.

Vacation Dwelling and Deck

10. Section 13.2.1.3 (b)(ii) to reduce the interior side yard setback from 5.5 metres to 3.7 metres to permit the vacation dwelling and deck; and

11. Section 13.2.1.3 (e) to reduce the water setback from 30 metres to 24.2 metres to permit the vacation dwelling and to 20.5 metres to permit the deck.

The variances are requested on the property identified as 66 Shelter Bay Street, geographic Township of Emily, (File D20-2018-015).

Author: David Harding, Planner II

Signature:

Recommendations:

RESOLVED THAT Report COA2018-025 Richard & Margaret Barbe, be received;

THAT the variances requesting relief from Sections 3.1.2.2, 3.1.3.1, 3.1.3.3, 3.18.1.1(a), 13.2.1.3(e), to reduce the water and Environmental Protection Zone setbacks from 30 and 15 metres respectively down to a total minimum of 8 metres to permit three residential accessory buildings (Sheds 1-3), reduce the interior side yard setback of a residential accessory building (Shed 1) from 1 metre to 0.3 metres, reduce the spatial separation between a residential accessory building (Shed 1) and deck attached to a dwelling to 1.6 metres, increase the accessory building lot coverage to 11%, and increase the number of permitted accessory buildings to 5 within minor variance application D20-2018-015 be **DENIED**, as the variances do not meet the four tests set out in Section 45(1) of the Planning Act; and

THAT the variances requesting relief from Sections 13.2.1.3(b)(ii) to reduce the interior side yard setback from 5.5 metres to 3.7 metres for the vacation dwelling and deck, 13.2.1.3(e) to reduce the water setback from 30 metres to 24.2 metres (vacation dwelling) and 20.5 metres (attached deck), and 3.1.3.1 to increase the maximum accessory building lot coverage from 8% to 10.2% within minor variance application D20-2018-015 be **GRANTED**, as the variances meet the tests set out in Section 45(1) of the Planning Act.

Conditions:

- 1) **THAT** the construction of the vacation dwelling and deck related to this approval shall proceed substantially in accordance with the sketch in Appendix "C-1" and "C-2" submitted as part of Report COA2018-025, which shall be attached to and form part of the Committee's Decision; and,
- 2) **THAT** the building construction related to these Minor Variances shall be completed within a period of six (6) 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 Occupancy Permit for the vacation dwelling.

This approval pertains to the application as described in report COA2018-025 approved by the Committee. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Background: The owners proposed to construct a vacation dwelling with attached deck and detached garage within the front yard. Variances were sought from the water setback, interior side yard, and accessory building lot coverage provisions in 2010 to permit the proposed buildings and structures. The Committee of Adjustment approved Minor Variance Application D20-10-019 on May 13, 2010, see Appendix “D-1”. The sketch submitted by the applicant at that time identified that the sheds on the property were to be removed, see Appendix “D-2”. The variances permitted an interior side yard setback of 4 metres, a water setback of 25 metres to the dwelling, and 21 metres to the deck, and an accessory building lot coverage of 8.3%.

An As-Constructed Foundation Control Certificate was submitted to the Building Division on October 3, 2017. The certificate identifies that the dwelling and deck were not constructed in compliance with the reduced water or interior side yard setback. The interior side yard setback is deficient by 0.22 metres, and the water setback deficient by 1.61 metres for the dwelling and approximately 0.5 metres for the deck. The applicant filed a variance application to address the deficient setbacks.

A site visit by Planning Staff identified that the two sheds that were declared to be removed had remained on the lot, and were relocated to new positions close to the eastern lot line. The applicant has identified that they would like to continue to keep the accessory buildings, and construct a third one (shed 3). Planning Staff further identified that insufficient relief had been requested to permit the two residential accessory buildings (boathouse and detached garage). Staff has added some tolerance to this number to permit the applicant to construct a third shed, or relocate one of the two existing ones to a location that complies.

This application was last amended April 13, 2018.

Proposal: To recognize the locations of the constructed vacation dwelling with attached deck, two sheds, and accessory building lot coverage. Relief is sought to also permit the construction of a fifth residential accessory building.

Owner: Richard & Margaret Barbe

Applicant: Richard Barbe

Legal Description: Lot 2, Plan 369, geographic Township of Emily, City of Kawartha Lakes

Official Plan: “Waterfront” – City of Kawartha Lakes Official Plan

Zone: "Limited Service Residential Exception Four (LSR-4) Zone" – Township of Emily Zoning By-law 1996-30

Site Size: 1501.5 square metres (6,162 square feet)

Site Servicing: Private individual well and septic system

Existing Uses: Shoreline Residential

Adjacent Uses: North: Pigeon River
East: Shoreline Residential
South: Residential Backlot
West: Shoreline Residential

Rationale:

1) Are the variances minor in nature?

And

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

A. Variances for the dwelling, attached deck, and revised accessory building lot coverage. **Yes**

B. All other requested variances for residential accessory buildings. **No**

The vacation dwelling with attached deck is constructed. The moderate reduction in water setback is not anticipated to impact the amount of rear yard amenity space available to the dwelling as the majority of improved recreational space within the rear yard is contained upon the deck and the patio beneath it.

The additional storage buildings (both existing and proposed) would/do occupy the rear yard amenity space area. The rear yard is entirely within the water setback. Buildings, other than a boathouse, are not anticipated within the water setback in order to keep as much space as possible available for infiltration. Such accessory building uses that cannot meet the water setback are intended to be relegated to an interior side yard on waterfront lots, as such yards often serve a utilitarian function. Permitting an accessory building with a side yard setback of 0.3 metres also does not provide sufficient space for maintenance or drainage.

Based on the above, the variances supported by staff 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?

A. Variances for the dwelling, attached deck, and revised accessory building lot coverage. **Yes**

B. All other requested variances for residential accessory buildings. **No**

The subject property is zoned "Limited Service Residential Exception Four (LSR-4) Zone" – Township of Emily Zoning By-law 1996-30. A vacation dwelling, and accessory uses are permitted.

The dwelling and deck, notwithstanding the incorrect siting of the foundation, provide as much spatial separation as possible from the shoreline given the location of the septic system and detached garage within the front yard. No adverse impacts are anticipated by permitting a further slightly reduced interior side yard setback. This further reduction is not anticipated to be perceptible.

The zoning by-law has established minimum setbacks from the shoreline to provide a sufficient buffer of landscaped open space between the water and built form to improve water quality and habitat. Permitting additional buildings between the dwelling with deck and the shoreline runs contrary to the intent of the zoning by-law to provide this increased spatial separation from Pigeon River.

The zoning by-law has also established a maximum lot coverage provision and restricted the total number of residential accessory buildings in order to ensure that storage does not become the primary use on a residential lot. Standards were also provided as to where such accessory buildings are to be located. Given that the garage and boathouse already provide approximately 145 square metres (9.66% lot coverage) of storage space, staff do not believe it is in keeping with the intent of the zoning by-law by permitting two additional sheds (for a total of three sheds), all of which are to be located within the water setback.

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

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

- A.** Variances for the dwelling, attached deck, and revised accessory building lot coverage. Yes
- B.** All other requested variances for residential accessory buildings. No

The subject property is designated Waterfront in the City of Kawartha Lakes Official Plan (Official Plan). Residential uses are anticipated within this designation. The intent of the Official Plan, particularly policy 3.11 is that development should be located 30 metres from the shoreline where possible. When it is not possible, development shall be located no less than 15 metres from the shoreline to provide a sufficient buffer of landscaped open space between the water and built form to improve water quality and habitat.

The original 2010 submission ensured a net improvement to the water setback by converting the original cottage into a boathouse, constructing a larger vacation dwelling further away from the shoreline, and removing all other buildings between the new dwelling and shoreline. Maintaining the sheds within the water and Environmental Protection Zone setbacks does not meet the intent of the Official Plan. Should the owners desire, they may relocate/construct a shed within the western interior side yard. The detached garage is also available for further storage.

The constructed dwelling and deck were constructed as far away from the shoreline as possible, notwithstanding the incorrect siting of the foundation.

Given the location of the septic system within the front yard and garage, limited opportunity remained to site the dwelling in a more favourable location.

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

Other Alternatives Considered:

Staff identified that one of the two sheds may be relocated into the western interior side yard. The applicant advised that this was not preferable, as grade alterations would be necessary.

Servicing Comments:

The property is serviced by 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 – Part 8 Sewage Systems (March 29, 2018): No concerns.

Engineering and Corporate Assets Department (May 8, 2018): Objection to the variance sought from Section 3.1.2.2 to permit an accessory building with an interior side yard setback of 0.3 metres as that setback is insufficient to install any drainage feature between the building and lot line.

Public Comments:

No comments as of May 8, 2018.

Attachments:



Appendices A-E to
Report COA2018-025.

Appendix “A” – Location Map

Appendix “B” – Aerial Photograph

Appendix “C” – Applicant’s Sketch

Appendix “D” – Decision Letter and Sketch for Application D20-10-019.

Appendix “E” – Department and Agency Comments

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Department File: D20-2018-015