

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Scott Meier
Report Number COA2018-038 (Revised)

Public Meeting

Meeting Date: July 19, 2018
Time: 1:00 pm
Location: Victoria Room, City Hall, 26 Francis Street, Lindsay

Ward: 5 – Geographic Township of Fenelon

Subject: The purpose and effect is to request relief from the following provisions to permit:

Two-Storey Residential Dwelling

1. Section 3.11.1 to reduce the minimum lot area from 745 square metres to 283 square metres;
2. Section 3.18.1.1 to reduce the minimum building setback from the Environmental Protection (EP) Zone from 15 metres to 9.45 metres;
3. Section 13.2.1.3(e) to reduce the water setback from 15 metres to 9.45 metres; and
4. Section 13.2.1.3(b)(ii) to reduce the interior side yard from 2.3 metres to 2 metres.

Shed

5. Section 3.1.2.1 to permit an accessory structure in a front yard, where it is only permitted in the side or rear yards;
6. Section 3.1.2.2 to reduce the side yard setback from 1.2 metres to 0.41 metres; and
7. Section 13.2.1.3(a) to reduce the front yard depth from 7.5 metres to 0.91 metres.

The property is located at 15 Manor Road, geographic Township of Fenelon (File D20-2018-019).

Author: Quadri Adebayo, Planner II

Signature:

Recommendation:

RESOLVED THAT Report COA2018-038 Scott Meier, be received;

THAT minor variance application D20-2018-019 be GRANTED, as the application meet the tests set out in Section 45(1) of the Planning Act.

Conditions:

- 1) **THAT** the construction of the single detached 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 COA2018-038, 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 obtain all necessary permits required by the Kawartha Region Conservation Authority (KRCA) which demonstrates that the proposed dwelling size and height is appropriate for the property. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the KRCA advising that the proposed dwelling size and height or an amended dwelling size and height pose no negative impact to the floodplain associated with Sturgeon Lake;
 - (i.) **THAT** should an amended dwelling size and height be approved by KRCA, prior to the issuance of a Building Permit, the owner shall submit to the Secretary-Treasurer a revised proposal sketch and elevations showing the amended dwelling size and height. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the Building Division advising that the amended dwelling size and is appropriate for the proposed development.
- 3) **THAT** prior to the issuance of a Building Permit the owner shall submit to the Secretary-Treasurer a vegetative shoreline buffer plan to the satisfaction of the KRCA and the City;
- 4) **THAT** prior to the issuance of an occupancy permit for the proposed dwelling, the shed located in the northerly interior side yard be removed from the property;
- 5) **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;
- 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;

- 7) **THAT** prior to the issuance of an Occupancy Permit, the owner shall submit to the Secretary-Treasurer and Building Division confirmation from the Kawartha Region Conservation Authority and the City that the vegetative shoreline buffer identified in Condition 3 has been planted to their satisfaction. This condition related to these 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; and
- 8) **THAT** the planting plan shall be completed, planted and inspected for release of securities 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 the successful completion of the Planning Inspection.

This approval pertains to the application as described in report COA2018-038. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Background: The proposal seeks to reconstruct and enlarge an existing 59.74 square metre (642 square foot) 1-storey house with a 2-storey house of approximately 119.48 square metres (1,285.60 square foot) that comprises a front porch, a Juliette balcony (rear), and a stone terrace landscape (rear).

In response to staff recommendation that the applicant come forward with a revised proposal supportable by staff, the Committee deferred the application at its June 21, 2018 meeting to allow for a revised variance request that addresses the proposed number of storeys and the proposed number parking spaces in conjunction with the undersized configuration of the subject property.

The applicant has responded by obtaining a letter from the Kawartha Region Conservation Authority to support their revised application, and likewise demonstrated that they are able to meet the two (2) parking space requirement. This revised application was deemed complete June 26, 2018.

Proposal: To construct an approximately 119.48 square metre (1,285.60 square foot) 2-storey residential dwelling.

Owner: Scott Meier
Applicant: Scott Meier
Legal Description: Part Lot 9, Concession 8, Plan 164, Parts Lot 9 and 10,
geographic Township of Fenelon, City of Kawartha Lakes
Official Plan: Waterfront - City of Kawartha Lakes Official Plan
Zone: Rural Residential Type Three (RR3) Zone - Township of
Fenelon Zoning By-law 12-95
Site Size: 283 square metre (3,045.08 square foot)
Site Servicing: Lake water system and holding tank
Existing Uses: Residential
Adjacent Uses: North: Residential; East: Sturgeon Lake; South: 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

(i) Two-Storey Detached House:

Regarding the relief being sought for the reduced lot area, it is evident that the property is an existing lot of record. As such, the undersized nature of the lot is not anticipated to be discernible as the applicant has been able to demonstrate that the property can be adequately developed, by ensuring that the replacement building maintains the established building footprint.

Consequently, the reduced water/environmental protection zone setback, and the reduced interior side yard setback are not anticipated to impact their function as the yards still serve as naturalization space that can retain and infiltrate surface water run-off before discharging it into the abutting waterbody.

The proposed house will translate into a larger structure than what already exists on the property. In terms of scale, the massing of the proposed dwelling is anticipated to be more visually imposing when compared to the residential dwellings directly adjacent to the north and south of the subject property respectively.

Likewise, the additional massing on the undersized lot may be problematic as the Kawartha Region Conservation Authority (KRCA) have identified that the entire property is in the flood plain. An amendment to the increased dwelling size may be necessary in order that the proposal is able to meet their policy conditions.

Based on this, provided the dwelling size as proposed meets KRCA's Board-approved policies, the variance for the detached house will be considered minor as well as desirable and appropriate for the use of the land.

(ii) Shed:

The front yard relief requested for the shed is an existing situation. It is not anticipated to impact the functioning of the yard as sufficient space remains between the shed and the front lot line for maintenance and drainage purposes. Although the reduced side yard setback is also an existing situation, it is recognized that the property is undersized. An observation from the site visit also suggests that there may not be sufficient space to relocate the shed to a more complying location. Moreover, the applicant has advised that they will be following staff recommendation by removing the second existing shed located in the northerly interior side yard from the property as trade-off to gain staff support for the relief sought for the shed located in the front yard.

Based on this, the variance for the shed will be considered 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 general provisions within Section 3.11 of the Zoning By-law ensure that development on existing undersized lots may occur provided that the lot meets a minimum area and frontage requirement. Lots along the east side of Manor Road were created and built upon prior to the former Township of Fenelon's endorsement of its first zoning By-law in 1979. These lots have insufficient area to comply with Section 3.11. Proposals on lots which cannot meet those provisions are to be evaluated through a Planning Act application on their own merits. The proposal will be improving the property with a newer dwelling on an established building footprint and ensure that the on-site two (2) parking space requirement is met in conformity with the By-law.

The 5.55 metre setback relief from 15 metres required from the water/environmental protection zone, and the 0.3 metre relief from the 2.3 metres required for the interior side yard are not anticipated to impact their function as the scale of reductions is an already existing situation. If granted, they are not anticipated to be perceptible.

Since the proposal has not exhausted the zone provision privileges by utilizing a lot coverage of 22% from a possible 30% maximum, the applicant has reasonably demonstrated that it is possible to develop the lot.

Unquestionably, the shed is an existing structure. Section 3.1.3.1 in conjunction with Section 3.4.2 of the Township of Fenelon Zoning By-law exists to ensure that a review is done when development is proposed upon lots of record to ensure the proposed construction is appropriate for the use. Substantiated by the fact that the coverage requirements are being met, the total lot coverage for accessory uses is 2%, where 8% maximum is permitted.

The setback from the Environmental Protection (EP) Zone is intended to ensure sufficient vegetated space between a building and shoreline for the infiltration of storm water. The Kawartha Region Conservation Authority (KRCA) has recommended a planting plan be implemented in order to improve shoreline habitat within the rear yard and maintain the intent of the EP Zone to mitigate the impacts of development on Sturgeon Lake. A condition has been incorporated to reflect KRCA's comments. A planting plan would be enforced through an appropriate form of site plan approval and the owner will need to provide securities to ensure that the works are completed.

Overall, the variances maintain the general intent and purpose of the Zoning By-Law for the house and shed.

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

(i) Two-Storey Detached House:

The property is designated Waterfront, within the City of Kawartha Lakes Official Plan (OP). 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 lot 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.

Staff opines that when an undersized lot is further constrained by physical site conditions of only being able to maintain an established building footprint for a proposed redevelopment, permitting a setback of 9.45 metres from the water/environmental protection zone, and an interior side yard setback of 2 metres is acceptable, as it still enables functional amenity and naturalization space.

Policy 20.5 states that density and massing of buildings and structures shall maintain a low profile and blend with natural surroundings and that development will minimize visual impact and not dominate the landscape.

In addition, Policy 20.3.6 contemplates that development shall be compatible with the surrounding character and not result in adverse environmental impacts.

Therefore, provided the dwelling size as proposed, meets KRCA's Board-approved policies, the variance for the detached house will maintain the general intent and purpose of the Official Plan.

(ii) Shed:

The Waterfront designation permits accessory uses as secondary to a single detached dwelling. This is supported by Section 34.1 which acknowledges uses in instances of unnecessary hardship. This is recognizable through the location of the existing shed in the front yard.

As such, the variance for the shed maintains the general intent and purpose of the Official Plan.

Other Alternatives Considered:

The small lots upon the east side of Manor Road have led to the establishment of modest dwellings on shoreline residential lots, which have led to the development of a unique character.

Although the Zoning By-law permits a two-storey dwelling but given the undersized lot and building height of the surrounding neighbourhood, Staff would encourage that a more modest-sized structure in form of one and half storey would be considered by the owner for the proposed development following past variances approved in the same neighbourhood which were based on the fulfillment of a low-profile dwelling size.

However, the applicant has been proactive by obtaining a letter from KRCA to support their revised application, and likewise demonstrated that they are able to meet the on-site two (2) parking space requirement, which shall bring the lot closer to conformity with respect to the parking requirements within the zoning by-law. Therefore, staff would consider the proposal for approval provided the proposed dwelling size can meet KRCA's policies.

Servicing Comments:

The property is serviced by water drawn from the lake and a holding tank (septic).

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 – Building Inspection/Plans Examiner (July 6, 2018): No concerns.

Kawartha Conservation Authority (June 25, 2018): No objections subject to the proposed dwelling size and flood proofing measures meeting Board-approved policies. A permit from their office is also required prior to the issuance of a Building permit. See comments.

Public Comments:

No comments as of July 10, 2018.

Attachments:



Appendices A-E to
Report COA2018-038

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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Department File: D20-2018-019