

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Grant and Nancy Calberry
Report Number COA2018-071

Public Meeting

Meeting Date: November 29, 2018
Time: 1:00 pm
Location: Victoria Room, City Hall, 26 Francis St., Lindsay

Ward: 15 – geographic Township of Emily

Subject: The purpose and effect is to recognize an accessory building, being a school portable, in conjunction with supplementary accessory structures on the property. Relief is sought from the following provisions:

1. Section 10.3.1.1(b) – to reduce the minimum water setback from the limits of a wetland feature from 45 metres to 25 metres;
2. Section 3.1.2.1 – to permit an accessory building in the front yard where it is only permitted in an interior side or rear yard;
3. Section 3.1.3.1 - to increase the maximum lot coverage requirement for all accessory buildings from 225 square metres to 386 square metres; and
4. Section 3.1.3.3 – to increase the maximum number of accessory buildings permitted from three (3) to six (6).

The variance is requested at 4284 Highway 7, geographic Township of Emily (File D20-2018-054).

Author: Quadri Adebayo, Planner II

Signature:

Recommendations:

RESOLVED THAT Report COA2018-071 Grant and Nancy Calberry, be received;

THAT minor variance application D20-2018-054 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

- 1) **THAT** the accessory buildings related to this approval shall proceed generally in accordance with the sketch in Appendix C submitted as part of Report COA2018-071, 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** the applicant shall remove the shed located adjacent to the main dwelling in the front yard to the satisfaction of the Chief Building Official. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the Chief Building Official advising that the said shed has been removed to his/her satisfaction under the Ontario Building Code;
- 3) **THAT** notwithstanding the definition of front yard, the granting of the variance for the location of the school portable will not be interpreted to permit the placement of any other accessory building or structure between the front yard depth established by the nearest front wall of the dwelling and the front lot line;
- 4) **THAT** the owner acknowledge through the granting of this approval that the accessory structure (school portable) shall not be used for human habitation, nor shall it be connected to water or septic facilities. Similar wording shall be placed on the required building permit;
- 5) **THAT** the applicant shall complete the Building Permit process to the satisfaction of the Building Division. This condition will be considered fulfilled once the owner submits to the Secretary-Treasurer written confirmation from the Chief Building Official advising that the accessory building situation has been satisfied to his/her satisfaction under the Ontario Building Code; and
- 6) **THAT** the Building Permit process 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 receipt of a confirmation letter by the Secretary-Treasurer from the Chief Building Official.

This approval pertains to the application as described in report COA2018-071. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Background: This application originated from a building enforcement issue in 2017 when the school portable building was flagged by the Building Division as being cited in a manner non-compliant with the Emily Zoning By-law. As such, a minor variance process was recommended. The water setback, lot coverage and number of accessory buildings formed part of the necessary relief upon review of the application by planning staff.

This application was deemed complete August 16, 2018.

Proposal: To recognize approximately 71.3 square metre (767.1 square foot) school portable building in its current location, in conjunction with five (5) other accessory buildings.

Owners: Grant and Nancy Calberry

Applicant: Nancy Calberry

Legal Description: Part Lot 12, Concession 3, RP 57R-7726, Parts 1 to 3, geographic Township of Emily, City of Kawartha Lakes

Official Plan: Sand and Gravel Resource within the City of Kawartha Lakes Official Plan

Zone: Rural Residential Type One Exception One (RR1-1) Zone in the Township of Emily Zoning By-law 1996-30

Site Size: 1.2 hectares (3 acres)

Site Servicing: Private individual well and septic system

Existing Uses: Residential

Adjacent Uses: North: Highway 7, Agricultural and Community Facility
East: Residential, Agricultural
South & West: Agricultural

Rationale:

1) Are the variances minor in nature? Yes
And

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

The subject property is mostly surrounded by non-residential uses. There appears to be sufficient vegetation along the easterly lot line to sufficiently screen the subject property from the closest residential use on the abutting property to the east. As such, the visual impact that may result from the accessory situation on the said property is minimized.

The property fronts on a provincial highway (Highway 7). The embankment of the gradient that slopes downward from the road towards the location of the school portable ensures that the structure is not easily discernible. This is further capacitated by the fact that vehicular traffic moves at an 80 kilometer per hour speed limit which prevents the massing of the structure from being noticed. Permits were also issued to the applicant through the Ministry of Transportation Ontario to permit the structure in its current location.

The applicant has already started implementing measures to screen the other accessory structures located at the rear of the property through the installation of framing for a fence that is anticipated to limit further visual impacts that may result at human scale.

Regarding the separation distance between the structure and the wetland feature, the Kawartha Region Conservation Authority (KRCA) issued approval permits to the applicant which suggests that the current location of the school portable was considered appropriate by the KRCA.

According to the applicant, the school portable is being utilized as a photo studio for arts and craft which is considered a home occupation under the zone provisions. The applicant also indicated that the current location of the structure was preferred due to the proximity of the Hydro line. A letter from Hydro One also suggests that there were no issues with the placement of the structure.

Based on above, the variances are minor as well as desirable and appropriate for the use of the land.

3) Does the variance maintain the intent and purpose of the Zoning By-law?
Yes

Rural Residential Type One Exception One (RR1-1) Zone contemplates accessory uses as ancillary to a principle use. The Zoning designation also contemplates the operation of home occupation within accessory buildings.

Although the school portable which is located approximately 7.6 metres from the front lot line is compliant with the zoning by-law minimum requirement of 7.5 metres, as an accessory building, it cannot be placed in the front yard.

The zoning by-law defines a Front Yard as the minimum depth on a lot between the front lot line and the nearest main wall of the main dwelling. Whereas the dwelling is approximately 13.38 metres from the front lot line, the school portable is considered to be located in the front yard because it is closer to the front lot line than the main building on the property.

However, given that the irregular shape of the lot depicts a kink in the front lot line from east to west, staff is of the opinion that it presents a constraint for the location of the portable from being compliant as it would have been compliant at a matching front yard depth with the dwelling if the front lot line was a regular straight line. Site observations also suggest that the front wall limits of the dwelling and the front wall limits of the school portable appears to be somewhat aligned.

Equally, the location of the school portable also ensures that it does not encroach further within the setback distance of the well and septic systems respectively. As well, comments received from the Sewage Systems Supervisor indicated no objection to the location of school portable.

With regards to the proposed total floor area of all accessory building being increased to 386 square metres, where only a maximum of 225 square metres is permitted, the proposed total lot coverage for all accessory buildings permitted would still be met, as the proposal for the six (6) accessory structures will account for only 3.11%, where a maximum of 8% total lot coverage is permitted.

In all other respects the height of the school portable complies with the Zoning By-law provisions for accessory buildings at 4 metres where 5 metres maximum is permitted.

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

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

Yes

The property is designated Sand and Gravel Resource, in the City of Kawartha Lakes Official Plan. As the property is a lot of record with the residential use established on the property circa 1954 (MPAC), staff is of the opinion that the current use is in keeping with sand and gravel resource designation which recognizes rural clusters within the designation. The designation also contemplates alternative uses that are consistent with surrounding uses or alternative uses that conform to abutting designations. Thus; the proposal maintains the general intent and purpose of the City's Official Plan.

Other Alternatives Considered:

No other alternatives have been considered at this time.

Servicing Comments:

Private individual well and septic systems.

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 – (November 15, 2018): No concerns.

Kawartha Region Conservation Authority Permits - (September 13, 2017 & August 9, 2018).

Ministry of Transportation Ontario - (August 3, 2018): No concerns. See comments.

Hydro One Networks - (November 17, 2017): No Issues.

Public Comments:

No comments as of November 19, 2018.

Attachments:



Appendices A-E to
Report COA2018-071

Appendix A – Location Map
Appendix B – Aerial Photo
Appendix C – Applicant's Sketch
Appendix D – Wetland Feature Mapping
Appendix E – Department and Agency Comments

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