

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – 8536945 Canada Inc.
Report Number COA2019-014

Public Meeting

Meeting Date: March 21, 2019
Time: 1:00 pm
Location: Council Chambers, City Hall, 26 Francis Street, Lindsay

Ward: 1 –Geographic Township of Laxton

Subject: The purpose and effect is to request permission and relief from the following provisions in order to permit the replacement of the existing motor vehicle gasoline bar and accessory convenience store use with a larger accessory convenience store, a restaurant and a dwelling unit:

1. Section 11.1 to allow an approximately 100.0 square metre footprint expansion to the legal non-conforming convenience store use from 53.49 square metres to 153.0 square metres;
2. Section 11.2 d. to reduce the north side yard setback from 12.0 metres to 10.1 metres;
3. Section 11.2 e. to reduce the rear yard setback from 12.0 metres to 11.9 metres; and
4. Section 18.13 b. v. to reduce the number of required parking spaces from 18 to 17.

The variances are requested at 7843 Highway 35, geographic Township of Laxton (File D20-2019-007).

Author: Ian Walker, Planning Officer – **Signature:**
Large Developments

Recommendations:

Resolved That Report COA2019-014 8536945 Canada Inc., be received;

THAT minor variance application D20-2019-007 be GRANTED, as the application meets the tests set out in Section 45(1) and Section 45(2) of the Planning Act.

Conditions:

- 1) **That** the building construction related to this approval shall proceed substantially in accordance with the sketch in Appendix 'C' submitted as part of Report COA2019-014, which shall be attached to and form part of the Committee's Decision; and

- 2) **That** the Site Plan Agreement for the subject property be executed and registered on title within 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 registration of the Site Plan Agreement on title.

This approval pertains to the application as described in report COA2019-014. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Background:

The applicant proposes to demolish the existing motor vehicle gasoline bar and convenience store kiosk, known as the Congo gas bar, and to construct a new 8 pump motor vehicle gasoline bar with a one storey convenience store, restaurant, and attached dwelling unit. Staff have discussed alternatives for the convenience store use variance with the applicants regarding their proposal (see Other Alternatives Considered).

This application was last amended February 7, 2019.

Proposal:	To construct an 8 pump motor vehicle gasoline bar with associated one storey building containing a restaurant, an approximately 153.0 square metre convenience store, and an attached dwelling unit with a total of 17 parking spaces for all uses.		
Owner:	8536945 Canada Inc.		
Legal Description:	7843 Highway 35, Part Lot 11, Concession 11, geographic Township of Laxton, City of Kawartha Lakes		
Official Plan:	Rural within the City of Kawartha Lakes Official Plan		
Zone:	Highway Commercial (C2) Zone within the United Townships of Laxton, Digby and Longford Zoning By-law 32-83		
Site Size:	3,716.12 square metres (40,075 square feet – MPAC)		
Site Servicing:	Private individual well and septic systems		
Existing Uses:	Motor Vehicle Gasoline Bar		
Adjacent Uses:	North, South, West:	Vacant (Forest)	
	East:	Highway 35; Vacant (Forest)	

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 situated in a rural area north of Norland, with no other development abutting this property. This specific parcel is surrounded by vacant wooded rural lands to the north, south and west, and bounded by Highway 35 on the east. The parcel east of Highway 35 is also vacant wooded rural lands.

The subject property currently contains an aging motor vehicle gasoline bar, which is proposed to be demolished with the original fuel tanks being removed and replaced with new ones complying with current Technical Standards and Safety Authority (TSSA) standards. As part of the reconstruction and replacement of tanks, the owner will need to apply to the TSSA for a license, and submit an appropriate environmental assessment report to ensure the site meets the current guidelines for potential contamination. If any contamination has occurred on this site from the current fuel tanks, the site will be rehabilitated and brought up to current standards as part of this development.

The proposed variances will result in a new development which will service the travelling public and local area by providing gasoline, a convenience store, and a restaurant (Pizza Pizza). The dwelling unit will likely provide an opportunity for an employee of the restaurant or commercial use to live on site. The traffic consultant, TranPlan, has indicated that the variance to reduce the parking from 18 spaces to 17 spaces would not create a traffic issue. They had anticipated that 16 spaces would be sufficient for all uses, and provided 5 comparative motor vehicle gasoline bars in similar scenarios, all fronting on Ministry of Transportation Ontario (MTO) highways, having 16 or less parking spaces.

The rear yard setback is a reduction of approximately 1% (0.1 metres), and the side yard setback is a reduction of approximately 16% (1.9 metres). Both are required, as the site is fairly constrained in area, and the MTO requires a minimum 14 metre setback from the front lot line. The variance to allow the expansion of the legal non-conforming convenience store use is minor, as the use is established, and is typical of modern-day gasoline bars. Since the current Zoning By-law came into effect circa 1983, the variances will permit a modern operation on the property.

The development still complies with the maximum lot coverage provisions of the By-law.

Due to the above analysis, the variances are minor in nature and 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 Highway Commercial (C2) Zone permits a range of commercial uses, including: automobile service stations and motor vehicle gasoline bars; restaurants; retail sales with indoor and/or outdoor display of products and

indoor servicing of motor vehicles, recreational vehicles, etc.; retail sales of major appliances, furniture, etc.; hotels, motels, or motor hotels; and also permits a dwelling unit. No zone category expressly permits a convenience store use, nor does the By-law define it. As the site has a number of constraints and large setbacks, the development envelope is reduced. The proposed design will result in minor setback reductions to the north side lot line and west rear lot line setbacks. There is still a significant distance (greater than 10 metres) between the proposed building and the abutting property. Section 18.11 a. of the By-law allows for legal non-conforming uses. This application will allow for the expansion of the convenience store use. The By-law requires off-street parking for all uses. Based on the traffic study, the reduction of parking by 1 space will still maintain the intent of the By-law.

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 Rural within the City of Kawartha Lakes Official Plan. Section 34 of the Official Plan allows for the recognition of existing uses on a property. The C2 zone permits the motor vehicle gasoline bar, restaurant, and dwelling unit uses. The Official Plan allows rezoning of a property to recognize existing uses. Therefore, a minor variance to expand a legal non-conforming use can accomplish the same intent.

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

Other Alternatives Considered:

Staff originally discussed a rezoning with the applicant, to permit the convenience store use as a right within the Zoning By-law, prior to filing for Site Plan Approval. The applicant demonstrated that the convenience store use was established on the property as a legal non-conforming use. As such, staff considered that the applicant could pursue an application to expand the legal non-conforming use under Section 45(2) of the Planning Act.

Servicing Comments:

The property is serviced by a private individual septic system which will be replaced with a new private individual septic system, and a private individual well.

Consultations:

Notice of this application was circulated in accordance with the requirements of the Planning Act. Comments have been received from:

Agency Comments:

Ministry of Transportation Ontario (February 4 and 7, 2019): Provided comments on recent site plan submission, confirmed no issues with proposed variances.

Building Division – Part 8 Sewage System Program (February 5, 2019): No issues.

Kawartha Conservation (February 6, 2019): Not regulated by Kawartha Conservation, have reviewed natural heritage and natural hazard features, no objections to proposed variances.

Engineering and Corporate Assets Department (February 11, 2019): No objection and no engineering comments related to the proposed variances.

Technical Standards and Safety Authority (March 1, 2019): The applicant will be required to apply for a TSSA license and submit a site plan for review for the new gas bar, and will need to submit an environmental assessment report once the current underground tanks and piping are removed. TSSA will review for compliance with Ministry of the Environment, Conservation and Parks (MECP) guidelines.

Building Division (March 7, 2019): No concerns.

Public Comments:

Alan Percy on behalf of 821798 Ontario Inc. (February 21, 2019): Requested a notice of decision, and advised his only concern is potential contamination on the abutting property from the existing fuel tanks.

Attachments:



Appendices A-D to
Report COA2019-014

Appendix A – Location Map

Appendix B – Aerial Photo

Appendix C – Applicant's Sketch

Appendix D – Department and Agency Comments

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Department File:	D20-2019-007