

# The Corporation of the City of Kawartha Lakes

## Committee of Adjustment Report – Frank Danek

Report Number COA2019-017

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### Public Meeting

**Meeting Date:** April 18, 2019

**Time:** 1:00 pm

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

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### Ward: 2 – Geographic Township of Somerville

**Subject:** The purpose and effect is to request relief from the following in order to permit the construction of a boat house:

1. Section 18.1.5(c) to increase the maximum number of storeys allowed from one-storey to two-storeys;
2. Section 18.1.5(c)(i) to increase the maximum height for a structure adjacent to or within 3 metres of the lake from 4.5 metres to 6.8 metres; and
3. Section 18.1.5(d) to permit any portion of a boathouse on a lot fronting on Four Mile Lake to extend beyond the high water mark.

The variances are requested at 20 Griffin Drive, geographic Township of Somerville (File D20-2019-009).

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**Author:** Quadri Adebayo, Planning II

**Signature:**

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### Recommendations:

**Resolved That** Report COA2019-017 Frank Danek, be received;

**That** minor variance application D20-2019-009 be DEFERRED until such a time when the applicant brings forward a revised application supportable by staff, as parts of the application does not meet the tests set out in Section 45(1) of the Planning Act.

**This approval pertains to the application as described in report COA2019-017. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.**

**Background:** The proposal seeks to replace and enlarge a dilapidated 1-storey upland boat house built circa 1955 (MPAC) with a 2-storey partially in-water boat house that comprises an ancillary covered deck. This application was deemed complete January 14, 2019.

**Proposal:** To construct an approximately 92 square metre (989 square foot) two-storey boat house with an ancillary covered deck on the waterside.

**Owner:** Frank Danek

**Applicant:** Philip Danek

**Legal Description:** Part of Lot 19, Concession 7, Lot 4 on Plan 327, geographic Township of Somerville, now City of Kawartha Lakes

**Official Plan:** Waterfront and SP-1 (Special Lake Policy Area)

**Zone:** Limited Service Residential (LSR) Zone in the Township of Somerville Zoning By-law 78-45

**Site Size:** 0.46 acres (1,851.1 square metres)

**Site Servicing:** Private individual septic and lake water systems

**Existing Uses:** Residential

**Adjacent Uses:** North: Residential and Agricultural

East: Four Mile Lake

South: Residential and Four Mile Lake

West: Agricultural

**Rationale:**

**1) Are the variances minor in nature?**

- (i) **Two-Storey Boat House and Height - No**
  - (ii) **Extension beyond the high water mark - Undetermined**
- And**

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

- (i) **Two-Storey Boat House and Height - No**
- (ii) **Extension beyond the high water mark - Undetermined**

(i) Two-Storey Boat House and Height:

The proposed boat house will translate into a larger structure than the former single-storey boat house on the property that is currently dilapidated. As such, in terms of scale, the proposed two-storey boat house is anticipated to be

visually more imposing when compared to the design-character of most boat houses on Four Mile Lake. Most boat houses on Four Mile Lake are single-storeys with flat-top roof designs but the massing of the proposed design under this application is anticipated to present negative land use compatibility issues considering the potential for human habitation. This is substantiated by the Kawartha Conservation (KRCA) concerns regarding the entirety of the property as being in a flood plain hazard area. KRCA have also expressed preference for an amendment to the size of the boat house subject to revised proposal being able to meet their policy conditions (see KRCA comments below).

In terms of the proposed height, Four Mile Lake is a special policy area and developments along its shoreline are directed to be of a modest nature. In keeping with this policy, standards were put in place for boat house heights and how the height should be determined. The Somerville By-law provides that the maximum height for a structure adjacent to or within 3 metres of a lake shall be measured as the vertical distance from the normal water level. Rather, the height proposed under this application was measured from finished grade on land.

Although the applicant stated the second storey is supposed to function as storage for marine rail systems, it is clear that the proposed design was chosen out of preference because it does not appear to correspond with the alternative design advised by staff that demonstrates storage functionality within the confines of the by-law that can be supported.

Based on this, provided the proposed number of storeys for the boathouse is reduced to less than two-storeys and the height measurement revised to comply with the standards allowed in the by-law, the variances for the boat house will be considered minor as well as desirable and appropriate for the use of the land.

(ii) Extension beyond the high water mark:

It is evident that the proposed structure will be replacing an already dilapidated structure on an entirely new and larger building footprint. The shoreline edge also appears to be irregular hence the constraint of achieving a completely inland boat house design. The northerly interior side yard setback is compliant and not anticipated to impact the function as the yard will still serve as naturalization space that can retain and infiltrate surface water run-off before discharging it into the abutting lake.

Overall, KRCA has stated that provided an Environmental Impact Study (EIS), demonstrates no impact to fish habitat, and that necessary permits are obtained from the Ministry of Natural Resources and Forestry (MNRF) prior to any in-water works, the variance for the extension of portions of the boat house over the high water mark 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?**

- (i) Two-Storey Boat House and Height - No**
- (ii) Extension beyond the high water mark – Undetermined**

(i) Two-Storey Boat House and Height:

The Somerville Zoning By-law is clear in the standards allowed for boat houses. It defines *normal water level* as the usual or average summer elevation of the water surface of a body of water or a watercourse as maintained for navigational purposes, as specified by a Conservation Authority with jurisdiction or the Ministry of Natural Resources. It further provides that in the absence of a controlled elevation, the usual elevation of the water surface of a body of water or watercourse exclusive of seasonal flooding shall be adopted.

The By-law also prescribes that only in a situation whereby a structure is constructed more than 3 metres away from the shore lot line shall the height be measured from finished grade (on land).

Staff in conjunction with the KRCA have advised their receptiveness to the unofficial water levels provided by the applicant's designer. They will support a boat house height measured from the average point between the unofficial high water level and the unofficial normal water level following the applicant's concern that adopting the unofficial normal water level may put their proposed boathouse at risk of flooding.

Given that staff have demonstrated reason by working with applicant and their designer to achieve a boat house design that would be supportable within the confines of the corresponding zoning by-law provisions, provided the proposed number of storeys for the boat house is reduced to less than two-storeys and the height measurement revised to comply with standards prescribed in the by-law, the variances for the boat house will be considered to meet the general intent and purpose of the Zoning By-Law.

(ii) Extension beyond the high water mark:

By-law 2001-155 which was passed in November of 2001 by Council was specifically enacted for Four Mile Lake to insure boat houses are not constructed substantially in the water with a minimal amount being on the actual lot.

For clarity, *high water mark* is defined as the highest elevation of the water surface of a body of water or watercourse, including seasonal flooding, as evidenced by changes in shoreline or residual water marks left on buildings, structures, vegetation or other shoreline features.

As explained in Rationale 1 and 2 above, the configuration of the shoreline edge presents a physical constraint. Provided an EIS demonstrates no impact to fish habitat, and necessary permits are obtained from the Ministry of Natural Resources and Forestry (MNR) prior to any in-water works, the variance for the extension of portions of the boat house over the high water mark will be considered to meet the general intent and purpose of the Zoning By-Law.

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

- (i) **Two-Storey Boat House and Height - No**
- (ii) **Extension beyond the high water mark – Undetermined**

The property is designated Waterfront and SP-1 Special Lake Policy Area within the City of Kawartha Lakes Official Plan. Residential uses, along with accessory uses (e.g. boat houses) are anticipated within the designations.

The Special Lake Policy Designation speaks to the fact that the Lake is a relatively shallow warm water with a closed system that has no navigable access to or from the Trent River System or other lakes. As well, that volume of water in the lake has a very slow flushing rate of once in five years and its small drainage area directly influences it.

The current health of the lake and quality of life in the community is linked to the undeveloped rural character of the watershed. Four Mile Lake residential community is deemed to be 'at capacity' for new recreational development and activities as the entire shoreline has been heavily developed with over 450 residential dwellings. In addition, that the character and geology of the shoreline and surrounding watershed is unique and quite diverse and provides for a wide range fish and wildlife species and landscapes. However, it is recognized that this diversity is fragile and may be threatened from any new development.

Therefore, the designation policy directs that in order to protect the integrity and character of this residential community, new shoreline and backlot residential development must occur in accordance with standards.

In consideration of the above, provided the proposed number of storeys for the boat house is reduced to less than two-storeys and the height measurement revised to comply with standards prescribed in the by-law, and the EIS advised by the KRCA demonstrates no impact to fish habitat, the variances will maintain the general intent and purpose of the Official Plan.

#### **Other Alternatives Considered:**

- (i) The applicant supplied pictures of the former boat house which appears to be a one-storey design and compliant with the by-law requirement for height and number of storeys (see Appendix H). Staff have been able to demonstrate reason by recommending an alternative boat house design that can achieve a safety and storage functionality while still meeting the tests set out in Section 45(1) of the Planning Act (see Appendix F);
- (ii) Staff have confirmed with the KRCA that the alternative boat house designs recommended in accordance with the by-law provisions will still require an EIS to be done for the in-land works at the shoreline with respect to fish timing windows;
- (iii) The applicant supplied pictures along with their application form which they claim to have downloaded from social media showing boat houses on Four Mile with two-storeys. Staff opine that it is premature to rely on information that does not have a reliable source or municipal address associated with it. Moreover, observation from site inspection also verified

- that the picture supplied by the applicant as being 'The Boathouse from our Neighbor's Deck' does not physically exist (see Appendix I); and
- (iv) The applicant supplied additional pictures on April 2, 2019 labelled 'Other of Boathouse on Lake' showing boat houses with two-storeys (see Appendix I). Staff maintains that it is premature to rely on information that does not have a reliable source or municipal address associated with it. The applicant also supplied an elevation drawing for a two storey boat house on the same day labelled 'Previous Pass Drawing'. The applicant claimed the drawing was done by their designer and that it was approved by the City of Kawartha Lakes. Staff have reviewed the drawing dated July 20, 2009. The property is municipally addressed as 102 Romany Ranch Road in Fenelon Township and fronts on Balsam Lake. Staff maintain that a different zoning by-law jurisdiction applies in this situation and thus, does not hold enough traction as a valid comparable to what is being proposed under this application.

**Servicing Comments:**

The property is serviced by private well and lake 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 – Sewage System Program (March 1, 2019): No concerns. See comments.

Building Division – Plans Examiner (April 4, 2019): No concerns. See comments.

Kawartha Conservation (KRCA - April 4, 2019): KRCA advised they are not supportive of the request of the minor variance at this time until the following recommendations are addressed to their satisfaction:

- A revised boat house design to a single storey, flat roof configuration in accordance with the previous boathouse design in order to prevent an increase in habitable space in a known flood hazard where none previously existed, and
- The applicant submits an Environmental Impact Study (EIS) conducted by an environmental professional and scoped by Kawartha Conservation staff to ensure the construction and situation of the boathouse presents no negative impacts to fish and fish habitat in accordance with the Natural Heritage System policies of the Growth Plan for the Greater Golden Horseshoe (2017) and Section 2.1.6 of the Provincial Policy Statement (2014).

KRCA also emphasized that, in-water works should only be conducted from July 15th to October 1st. Additional permissions in relation to in-water works surrounding fish-timing windows and Crown land work permits may be required. See Appendix E for Comments.

**Public Comments:**

Marg and Ken Inglis, Owners - 16 Griffin Drive (Received April 2, 2019): They expressed support for the proposed boathouse as it will ensure a safe and proper building. They also added that they have reviewed the plans and toured the proposed location and that they are satisfied that the proposed height of the boat house will not affect their view or enjoyment of the lake.

**Attachments:**



Appendices A-G to  
Report COA2019-017



Appendix H to  
Report COA2019-017



Appendix I to Report  
COA2019-017.pdf

Appendix A – Location Map

Appendix B – Aerial Photo

Appendix C – Applicant’s Sketch

Appendix D – Elevation Drawings

Appendix E – Department and Agency Comments

Appendix F – Staff Recommended Boat House Design

Appendix G – Public Comments

Appendix H – Applicant’s Old Boat House Pictures and Supporting Pictures  
showing Height of Proposed Boat House

Appendix I – Applicant’s Pictures of Comparable Boathouses

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**Department File:** D20-2019-009