

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Betty Ann Oliver
Report Number COA2019-010

Public Meeting

Meeting Date: June 20, 2019
Time: 1:00 pm
Location: Council Chambers, City Hall, 26 Francis Street, Lindsay

Ward: 6 – Geographic Township of Emily

Subject: The purpose and effect is to request relief from the following in order to permit an accessory building (a hot tub room) in its current location:

1. Section 3.1.2.2 to reduce the minimum side yard setback for an accessory structure from 1 metre to 0.6 metre; and
2. Section 12.2.1.3 e. to reduce the minimum water setback from 30 metres to 28.3 metres.

The variance is requested at 23 Westview Drive, geographic Township of Emily (File D20-2019-003).

Author: Quadri Adebayo, Planner II

Signature:

Recommendations:

RESOLVED THAT Report COA2019-010 Betty Ann Oliver, be received;

That minor variance application D20-2019-003 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

- 1) **That** the accessory building 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 COA2019-010, 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 in the rear yard within the 30 metre water setback 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 shed has been removed to his/her satisfaction under the Ontario Building Code;

- 3) **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
- 4) **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
- 5) **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 COA2019-010. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Background: For Committee's information, this application originated from an enforcement notice through the Building Division. The application seeks to permit an accessory hot tub room in its current location. The applicant advises that the hot tub functions as an alternative therapy to medication for their son's condition. Hence the chosen location of the structure for easy access from the house.

The Committee deferred the application for a period of three (3) to four (4) months at its March 21, 2019 public meeting in order to provide the applicant enough time to address the issues identified by the commenting agencies, and to ensure the proposal can be adequately reviewed for supportability by staff. The agencies' concern being:

- Building Division: Confirmation that the structure is actually 0.6 metres from the northerly interior lot line.
- Part 8 Sewage Systems Supervisor: Undetermined location of the existing septic system and the clearance distance from the limits of the proposed hot tub room.

On May 17, 2019 the applicant provided a survey of the neighbouring property at 25 Westview Drive that appears to demonstrate that the actual limits of the hot tub room from the northerly side lot line as being at a distance of 1.03 metres and not 0.6 metres as advertised. This in essence removes the request for the side yard relief as the new value exceeds the minimum requirement in the by-law. Staff have also confirmed this new information with the survey company (Sylvester & Brown Land Surveying) and have supplied a copy of the survey to the Building Division.

This application was deemed complete May 21, 2019.

Proposal:	To recognize an approximately 23.9 square metre (257.2.square foot) accessory building within the interior side yard area.
Owner:	Betty Ann Oliver
Legal Description:	23 Westview Drive, Part Lot 17, Concession 8, geographic Township of Emily, City of Kawartha Lakes
Official Plan:	Waterfront within the City of Kawartha Lakes Official Plan
Zone:	Rural Residential Type Three (RR3) Zone within the Township of Emily Zoning By-law 1996-30
Site Size:	2,590 square metres (27,878 square feet)
Site Servicing:	Private individual well and septic systems
Existing Uses:	Residential
Adjacent Uses:	North & South: Residential East: Residential, Agricultural West: Pigeon Lake

Rationale: As the requested relief from the side yard requirement is no longer applicable, the planning analysis is primarily focused on the relief for the water setback requirement

1) Is the variance 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 an established waterfront residential neighbourhood where accessory buildings are commonly used for storage or other ancillary purposes. The dual-functionality of the hot tub room also ensures it maintains its subordination to the residential use of the property as it partly functions as both a recreational and storage room.

In terms of the reduced water setback, given that the location of the hot tub is to enable easy access from the house, and that the facility has already been installed to accommodate for a pressing health need, relocating the hot tub room to compliance may cause undue hardship for the applicant. As KRCA comments advised that the location of the structure would not be impacted by the nearby flood plain, a 1.7 metre reduction to minimum 30 metre setback is considered reasonable and minor. This is also enhanced by the applicant's willingness to remove a shed located in the rear yard within the water setback as trade-off in order to keep the hot tub room in its current location. Condition 2 has been placed to facilitate this.

Due to the above analysis, the variance is minor in nature and desirable and appropriate for the use of the land.

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

The Rural Residential Type Three (RR3) Zone provision contemplates accessory uses as ancillary to a principle use. The accessory building under the scope of this variance application is being utilized as devoted use to the detached dwelling on the subject property. The relief requested for the hot tub room is also not anticipated to impact the function of the rear yard for drainage purposes and impact Pigeon Lake from an environmental perspective.

In all other respects, the accessory building provisions within the RR3 Zone would still be met. The subject structure in conjunction with the boathouse accounts for 2 out of a total of 3 maximum numbers of accessory buildings permitted, and 3.96% out of a maximum of 8% total lot coverage permitted for accessory buildings in the RR3 Zone.

Therefore, the variance maintains 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 Waterfront within the City of Kawartha Lakes Official Plan. Residential uses, along with accessory uses are anticipated within this designation.

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

Other Alternatives Considered:

No other alternatives have been considered at this time.

Servicing Comments:

The property is serviced by a 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:

Kawartha Conservation, KRCA (August 23, 2018 & December 10, 2018) – No concerns. See comments.

Engineering and Corporate Assets Department (March 13, 2019): No objections or engineering requirements.

Community Services Department (March 18, 2019): No comments or concerns.

Building Division, Plans Examiner (May 24, 2019) - revised: No concern with the application.

Building Division, Part 8 Sewage Systems (May 24, 2019) - revised: No concerns with the proposed variance. See comments.

Public Comments:

No comments as of June 5, 2019.

Attachments:



Appendices A-F to
Report COA2019-010

Appendix A – Location Map

Appendix B – Aerial Photo

Appendix C – Applicant's Sketch

Appendix D – Elevation Drawings

Appendix E – New Survey Document

Appendix F – Department and Agency Comments

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Department File:	D20-2019-003