

The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Hadi

Report Number COA2019-043

Public Meeting

Meeting Date: July 18, 2019

Time: 1:00 pm

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

Ward: 7 – Geographic Township of Mariposa

Subject: The purpose and effect is to request relief from the following zone provisions in order to permit the detached garage to be converted to a single detached dwelling:

1. Section 14.2.1.3 (a) to reduce the front yard setback from 7.5 metres to 0 metres,
2. Section 14.2.1.7 to reduce the minimum gross floor area from 93 square metres to 86.9 square metres; and
3. Section 3.1.4.1 (c) to permit an unenclosed deck/porch with steps to project into an interior side yard such that the built features are 0.6 metres from the east lot line whereas the by-law requires such projections to be at least 1.5 metres from a lot line.

The variances are requested at 45 Marsh Creek Road, geographic Township of Mariposa (File D20-2019-030).

Author: David Harding, Planner II

Signature:

Recommendations:

Resolved That Report COA2019-043 Ahmad Jawad Hadi, be received;

That relief requested from Section 3.1.4.1 (c) in minor variance application D20-2019-030 be DENIED, as the application meets the tests set out in Section 45(1) of the Planning Act.

That all requested variances save an except relief requested from Section 3.1.4.1 (c) in minor variance application D20-2019-030 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

- 1) **That** the variances to permit the conversion of the detached garage into a single detached dwelling shall proceed substantially in accordance with the

sketch in Appendix C to Report COA2019-043, which shall be attached to and form a part of the Committee's Decision;

- 2) **That** notwithstanding Section 3.1.2.1 of the Zoning By-law, the relief granted by this minor variance decision shall not be interpreted to permit an accessory building to be constructed any closer to the front lot line than 7.5 metres;
- 3) **That** prior to the issuance of a building permit the owner shall submit written confirmation from the Realty Services Division that all encroachments onto municipal property, namely the driveway, front building wall and fencing, have been addressed to its satisfaction;
- 4) **That** the owner shall ensure to the satisfaction of the Building and Planning Divisions that the door, porch and stairs on/near the east wall of the building have been removed; and
- 5) **That** the building construction related to the minor variances shall be completed within a period of four (4) 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.

This approval pertains to the application as described in report COA2019-043. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Background:	<p>The proposal is subject to an active Building Division enforcement matter.</p> <p>The subject property contains an existing detached garage, which was constructed prior to the passing of the Township of Mariposa's first Zoning By-law in 1978.</p> <p>On or about April 2018, it was discovered that the detached garage was being converted into a dwelling without permits.</p> <p>A pre-screening application took place on July 25, 2018, outlining the additional steps and revisions that would need to be undertaken prior to submitting the variance application.</p> <p>The variance application was filed on June 13, 2019.</p>
Proposal:	<p>To recognize the conversion of a detached garage to a single detached dwelling.</p>
Owner:	<p>Ahmad Jawad Hadi</p>
Legal Description:	<p>Concession B and C, Part Lot 23 and Part Road Allowance, Part 1, 57R-8393, geographic Township of Mariposa, now City of Kawartha Lakes</p>
Official Plan:	<p>Waterfront within the City of Kawartha Lakes Official Plan</p>

Zone: Rural Residential Type Three (RR3) Zone within the Township of Mariposa Zoning By-law 94-07

Site Size: 1,270 square metres

Site Servicing: Private individual well and septic system

Existing Uses: Shoreline Residential

Adjacent Uses: North: Agricultural
South: Lake Scugog
East: Shoreline Residential
West: Shoreline Residential

Rationale:

- 1) Are the variances minor in nature? Yes**
And
- 2) Is the proposal desirable and appropriate for the use of the land?**
A) For the Dwelling Side and Front Yard Setback Reduction Yes
B) For the Side Yard Projections No

The subject property is located within a shoreline residential neighbourhood comprised of single detached dwellings used on a seasonal and year round basis. The waterfront lots are located along a somewhat winding road. There are no waterfront backlots in this area. Instead, the lands on the other side of the road are cultivated.

The proposed dwelling is a two-bay detached garage with a porch and stairs on the east wall. Primary access to the proposed dwelling will be gained from the north wall. Secondary access points are proposed on the east wall, which contains a door, small porch and stairs, and the south wall, which contains a sliding door. As the sliding door is higher than the rear yard, it is anticipated that steps or a deck will be constructed at a later date to provide access to that yard.

The proposal makes use of an existing building, located to the extreme northeast of the subject property. As such, it preserves a great degree of rear and western side yard amenity space for recreational and landscaping purposes.

The proposed dwelling is approximately 6.04 square metres smaller than the minimum dwelling unit size of 93 square metres. This deficiency works out to about 65 square feet, or one 8 foot by 8 foot room. Given the modest height (3.35 metres), footprint (7.93 metres x 10.97 metres) and rectangular shape of the proposed dwelling, an addition to provide the additional 6.04 square metres will not perceptibly increase the size of the dwelling in relation to the other dwellings along the street.

The housing stock along this portion of the street varies in age, height, and size. Several dwellings to the west appear to be of a similar footprint to the

existing garage. Therefore, the modest stature of the dwelling does not appear out of place with the other older building stock along the road.

Due to the garage's modest stature, its increased proximity to the travelled portion of the road does not generate an adverse massing impact.

The requested projections into the interior side yard result in about 0.6 metres of space between the stairs and the side lot line. This reduced proximity makes it difficult for occupants to navigate the stairs, and also forced individuals to travel up against the side lot line whether they are accessing the proposed dwelling to walking through to the rear yard.

All variances except for the relief sought to permit the side yard projections 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?

A) For the Dwelling Side and Front Yard Setback Reduction Yes

B) For the Side Yard Projections No

The property is zoned Rural Residential Type Three (RR3) Zone within the Township of Mariposa Zoning By-law 94-07.

The intent of the zoning by-law is, amongst other matters, to ensure adequate separation between buildings and lot lines to avoid adverse land use conflicts between lots. The porch and stair projections are regulated to reduce the proximity of access points to abutting residential uses to maintain privacy and avoid land use conflicts caused by the increased activity doorway use brings. In this case, the porch and stair on the subject property are in line with the front wall of the abutting property, 43 Marsh Creek Road. There are bedroom windows along the front wall of 43 Marsh Creek Road. Staff has been advised that activity within the east side yard has greatly increased since the modifications to the garage began. This increased activity is generating adverse land use conflicts in the form of loss of privacy and general noise disturbance to the users of these bedrooms.

Condition 4 is recommended to ensure the removal of the door along with the connected porch and stairs.

The north garage wall, identified as being within the Marsh Creek road allowance, is an existing condition, though for a storage rather than habitation use. Provided the applicant is able to obtain a license agreement authorizing the encroachment of the dwelling wall, there is no issue with permitting the encroachment to continue.

The north dwelling wall is approximately 9.7 metres from the municipal road allowance. As such, the building maintains a sizeable setback to the travelled portion of Marsh Creek Road.

While formalised surface parking is present in-front of the proposed dwelling within the road allowance in the form of an interlock driveway, there remains space on the property, west of the dwelling, where parking can be accommodated in compliance with the zoning by-law. Provided the owner can address any concerns Realty Services may have with using the interlock

driveway within the road allowance as the primary parking area, staff see no concern with permitting its continued existence.

Therefore, the variances, save and except the one requested for the side yard setback projections 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 Waterfront within the City of Kawartha Lakes Official Plan. The designation anticipates residential uses.

Policy 3.11 of the Official Plan encourages a 30 metre water setback where possible in order to provide the greatest rear yard depth for vegetation and stormwater attenuation/infiltration. The proposed dwelling exceeds the 30 metre setback.

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 with the applicant at this time. Staff are of the opinion that should the variances not be granted, the only alternative would be to:

1. demolish the existing building and construct a single detached dwelling in compliance with the applicable zone provisions; or
2. restore the existing building to a garage that would support a single detached garage elsewhere on the parcel.

Servicing Comments:

The property is serviced by a private individual well and sewage system.

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 – Part 8 Sewage Systems (July 3, 2019): Should a variance be granted to permit the conversion of the garage, a sewage system assessment will be conducted to ensure the installed sewage system can service the proposal.

Building Division (July 4, 2019): Confirm the dimensions of the steps and landing and their setbacks to the east lot line.

Engineering and Corporate Assets Department (July 5, 2019): No concerns.

Realty Services Division (July 9, 2019): Modifications may be needed to the driveway. An entrance permit is to be applied for. The owner is to clarify how much of the garage is encroaching into the road allowance.

Public Comments:

Mark & Jo-Ann Wieleba (July 10, 2019): Letter of objection and concern. See comments.

Planning Comments:

Staff has discussed the application with Mrs. Wieleba, and has proposed Condition 4 as a way to mitigate the loss of privacy concern.

The conversion of the garage into a dwelling will make a good interim residential use of the property.

Further horizontal and/or vertical extensions to the building must either be in compliance with the applicable zone provisions or be reviewed in the context of the variance process.

In the event that a new single detached dwelling is proposed on the property, the existing building would need to be converted from a dwelling back into a garage to support the new dwelling, or be demolished.

Attachments:

Appendices A-E to
Report COA2019-043.

Appendix A – Location Map

Appendix B – Aerial Photo

Appendix C – Applicant's Sketch

Appendix D – Department and Agency Comments

Appendix E – Public Comments

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Department File:	D20-2019-030