

The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Park

Report Number COA2019-047

Public Meeting

Meeting Date: July 18, 2019

Time: 1:00 pm

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

Ward 6 – Geographic Township of Somerville

Subject: Applications to sever one residential lot on about 15,000 square metres of land, one shoreline access parcel on about 441 square metres of land to be added to a rural backlot, and to create an easement over land known as Shadow Lake Road 16 to provide the rural backlot with access to the shoreline access parcel, and retain approximately 45,000 square metres of vacant rural land (the rural backlot). The property is located at 41 Shadow Lake Road 16, geographic Township of Somerville (Files D03-2018-012, D03-2018-013, 2018-014).

Author: David Harding, Planner II

Signature:

Recommendations:

Resolved That Report COA2019-047, Geoffrey Park, be received;

That consent application D03-2018-012, being an application to sever approximately 441 square metres of land, with the conditions of provisional consent substantially in the form attached as Appendix E1 to Report COA2019-047, be **Granted**;

That consent application D03-2018-013, being an application to sever approximately 15,000 square metres of residential land, with the conditions substantially in the form attached as Appendix E2 to Report COA2019-047, be **Granted**;

That consent application D03-2018-014, being an application to grant an easement over lands known Shadow Lake Road 16 to provide a rural backlot with shoreline access, with the conditions substantially in the form attached as Appendix E3 to Report COA2019-047, be **Granted**; and

That the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of these applications.

Background:

The owner has applied to separate the existing cottage on the subject property, located near the shoreline, from the balance of the rural lands (the rural backlot). In order to provide the rural backlot with access to the shoreline, applications D03-2018-012 and D03-2018-014 have been applied for to create the shoreline access parcel and provide the rural backlot with an easement for a right-of-way over Shadow Lake Road 16 to access the shoreline parcel. The easement will also permit the rural backlot to conduct maintenance along its lands bordering the easement.

Shadow Lake Road 16 is a private road that provides access to addresses 29, 31, 33, 39, and 45 Shadow Lake Road 16. From Base Line Road, Shadow Lake Road 16 proceeds west and forks to provide access to the shoreline lots along Silver Lake. One side of the fork is a small laneway that provides access to 29 and 31 Shadow Lake Road 16. This shoreline access parcel abuts this laneway. The applications originally proposed to convey the smaller laneway with the shoreline access parcel. The other wider side of the fork provides access to the cottage on the subject property and civic numbers 33, 39 and 45.

In response to comments received from the landowners of 29 and 31 Shadow Lake Road 16, the owner amended applications so that ownership of the laneway would stay with the parcel proposed to contain the existing cottage (cottage parcel) since the cottage parcel is proposed to retain ownership of the rest of Shadow Lake Road 16.

Aside from the land immediately around the cottage on the subject property and the easement, the property is forested.

These applications were last amended March 4, 2019.

Owner:	Geoffrey Park
Applicant:	Pamela Park
Legal Description:	Part of Lot 54, Front Range, geographic Township of Somerville, now City of Kawartha Lakes
Official Plan:	Waterfront & Rural – severed lands with cottage Waterfront – severed shoreline access parcel Rural – retained rural backlot City of Kawartha Lakes Official Plan
Zone:	Limited Service Residential (LSR) Zone and Rural General (RG) Zone – severed lands with cottage Limited Service Residential (LSR) Zone – severed shoreline access lands Rural General (RG) Zone – retained rural backlot Township of Somerville Zoning By-law 78-45

Site Size: Existing – 6.05 hectares

Application	Severed (hectares)	Retained (hectares)
D03-16-012 (shoreline access parcel)	0.044	6.006
D03-16-013 (cottage parcel)	1.5	4.506
D03-16-014 (easement)	1.2	n/a

Site Servicing: Cottage Parcel: Private individual well and septic system
Shoreline Access Parcel and Rural Backlot: None

Existing Uses: Shoreline Residential, Forest

Adjacent Uses: North: Shoreline Residential, Forest
East: Forest, Rural Residential
South: Shoreline Residential, Forest
West: Silver Lake

Rationale:

Policy Conformity

Provincial Policy Statement, 2014 (PPS)

The PPS recognizes the importance of rural areas to the quality of life of its residents. Under the PPS, the subject property is considered to be rural land within a rural area of the City. Policies 1.1.4 and 1.1.5 support development on rural lands provided it pertains to the management or use of resources, resource-based recreational activities, limited residential development and/or other land uses and development compatible with the rural landscape that can be sustained by rural service levels.

The applications propose to utilise the recreational resource of Silver Lake.

The proposal is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan)

The Growth Plan provides a framework to plan for growth and development in urban areas, rural towns and villages that are able to support surrounding rural and agricultural areas. Policy 2.2.9 of the Growth Plan provides for development on rural lands outside of rural settlement areas for resource-based recreational uses provided the use is compatible with the scale, character, and capacity of the resource and surrounding landscape.

The applications propose to separate an existing cottage from the balance of its rural lands within a shoreline residential area, and provide a rural backlot with shoreline access.

The proposal conforms to the policies of the Growth Plan.

City of Kawartha Lakes Official Plan (Official Plan)

In keeping with provincial policies and plans, the strategic direction in the Official Plan is to direct development to settlement areas where practical. The lakes and rivers within the City are valuable environmental and recreational resources to its residents and visitors.

Low density residential development has historically been and continues to be the primary land use around many of the City's lakes and rivers. Most of these shoreline areas fall outside of the City's settlement areas. Development is permitted within the City's shoreline areas provided the lands are within the Waterfront designation. The portions of the subject property near the shoreline are designated Waterfront. All of Shadow Lake Road 16, with the exception of the laneway providing access to civic numbers 29 and 31, is within the Rural designation. The rural backlot is within the Rural designation. The Rural designation recognizes the value of non-prime agricultural lands, being soil classes 4-7, for various uses which require large tracts of land outside of urban settlement areas. Such uses are: golf courses, ski resorts, ecotourism, agricultural-related commercial/industrial uses, and agricultural uses that can be sustained on class 4-7 soils.

As the existing cottage is part of a continuous line of shoreline development, application D03-2018-013 is considered a shoreline infill lot. Consent policies contained within Section 20.4 and 33.3 specify that shoreline infill lots shall have a minimum road frontage of 30 metres and minimum lot area of 3,000 square metres. The proposed severed lands maintain the intent of the policies as sufficient land is being severed and the property will maintain ownership over the entirety of Shadow Lake Road 16, which is used to provide access to the other shoreline residential uses.

The shoreline access parcel proposed in Application D03-2018-012 is designated Waterfront and will be tied to the rural backlot. The rural backlot will be the retained (remnant) lands after Application D03-2018-013 is finalized. The shoreline access parcel's location is isolated from the existing cottage. The shoreline access parcel's width is already defined by the abutting lots on either side, being civic numbers 31 and 33, and its useable depth is defined by the laneway to the southeast. The shoreline access parcel, through Condition 4 in Appendix E1, is proposed to be rezoned to clarify only shoreline residential accessory uses are permitted and it will be tied to the rural backlot via a merger agreement specified in Condition 2 in Appendix E1. The intent of the Waterfront designation is to maintain lots of a minimum size and frontage to ensure appropriate density and massing along the shoreline, and in turn protect the long term ecological health of the City's waterbodies. As a result of above-noted conditions proposed, the intent of the Waterfront designation is maintained as the shape of the shoreline access parcel is already defined, it will not be a separately conveyable piece of land nor will any new dwelling be constructed on it. The shoreline access parcel to be created will provide water access for the rural backlot and may also be used to provide storage for items that are more suitably kept closer to the water.

Once Application D03-2018-013 is finalized, a lot line will separate Shadow Lake Road 16 from the retained lands (rural backlot). Application D03-2018-014 will permit the

owner of the rural backlot to travel along Shadow Lake Road 16 in order to access the shoreline as well as to inspect and perform maintenance along the mutual lot lines.

While the overall area of land within the Rural designation is being reduced, the contiguous lands on the north and east side of Shadow Lake Road 16 are being retained in a single parcel, in keeping with the intent of the Rural policies to retain large tracts of land for various rural uses.

Zoning By-law Conformity

The severed lands in Application D03-2018-012 are zoned Limited Service Residential (LSR) Zone in the Township of Somerville Zoning By-law 78-45. Condition 4 in Appendix E1 will require the lands be rezoned to recognize its size, permit only shoreline residential accessory uses, and specify the development requirements of those uses.

The severed lands in Application D03-2018-013 are zoned Limited Service Residential (LSR) Zone and Rural General (RG) Zone. The RG Zone applies to Shadow Lake Road 16. Condition 3 in Appendix E2 is proposed to have one zone category apply to the entire severed lot in order to unify and standardize the yard and frontage provisions that apply to an irregularly-shaped parcel abutting Base Line Road that also contains an easement known as Shadow Lake Road 16.

The lands to be retained in Application D03-2018-013 are zoned Rural General (RG) Zone. The minimum area and frontage requirements are 10 hectares and 230 metres respectively. The retained lands will have frontage on Base Line Road and Shadow Lake Road 16. The retained lot will not comply with either requirement. Condition 4 in Appendix E2 is proposed to recognize the reduced lot area and frontage and standardize the provisions which apply to a lot which abuts Base Line Road and is subject to an easement known as Shadow Lake Road 16.

Other Alternatives Considered:

In response to Mr. Brand's comments (see Public Comments below), the applicant amended the proposal so that the severed lands in D03-2018-012 applied solely to the shoreline access piece rather than also apply to the laneway portion of Shadow Lake Road 16 which provides access to civic addresses 29 and 31. This amendment also required updates to applications D03-2018-013 and 014 to accommodate this adjustment.

Servicing Comments:

The severed land proposed in D03-2018-013 is serviced by an individual well and septic system, the shoreline access parcel to be created by D03-2018-012 will not be serviced. Application D03-2018-014 is for an easement to establish a right-of-way. As such, application D03-2018-014 does not propose development which has or requires services.

Consultations:

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

Agency and City Comments:

Building Division – September 27, 2018): No concerns

Building Division – Part 8 Sewage Systems (October 4, 2018): No concerns.

Development Engineering Division (October 1, 2018): No concerns.

Kawartha Region Conservation Authority (October 11, 2018): No concerns. See comments.

Public Comments:

Tony Medeiros (October 11, 2018): Concern over the future subdivision of the rural backlot into multiple lots, concerns over the maintenance of Shadow lake Road 16, concern over the use of the shoreline access parcel. See comments.

Stephanie Briley and Carl Brand (October 11, 2018, April 2, 2019): Concerns with the removal of vegetation and site alteration to the shoreline access parcel to provide water access for the rural backlot, concern over another person having use of the laneway leading to their property. See comments.

Planning Analysis:

Staff corresponded with Mr. Brand regarding his concerns. The shoreline access parcel is a privately owned unencumbered portion of land, which could be improved by the current property owner at any time to provide additional shoreline access for their exclusive use. In order to ensure that the shoreline access parcel is used to provide water access and some storage for water-related activities, staff is proposing Condition 4 in Appendix E1 to permit a zone category which would restrict the permitted uses to accessory buildings and structures. Staff is recommending Condition 2 in Appendix E1 to ensure that the shoreline access parcel is always conveyed with the rural backlot.

Staff also corresponded with Mr. Medeiros regarding his concerns. The rural backlot is designated Rural within the City of Kawartha Lakes Official Plan. As such, the further subdivision of the rural backlot is not permitted under the current Official Plan policies.

While the proposals do further reduce the area of a subject property, and thus reduce the area of land within the Rural designation, the area of land being removed from the Rural designation is already encumbered by or otherwise separated from the majority of the rural backlot due to the existence of Shadow Lake Road 16. It is good planning for all of Shadow Lake Road 16 to remain under the ownership of the cottage parcel rather than the owner of the rural backlot, which is not anticipated to use the easement as frequently since driveway access is anticipated to be gained from Base Line Road.

On the proposed cottage parcel, staff noted the presence of a wood shed to the east of the dwelling and detached garage. Through Condition 3 in Appendix E2, staff recommends the location of the accessory building be recognized as it appears to

maintain sufficient spatial separation from Shadow Lake Road 16 and is modest in scale.

Based on the foregoing, staff recommends that these applications be approved with conditions as:

1. the applications are consistent with the applicable policies of the Provincial Policy Statement 2014; and,
2. the applications conform with the Growth Plan for the Greater Golden Horseshoe, 2019 and City of Kawartha Lakes Official Plan policies.

Conditions to address the above and to ensure the lands will be developed appropriately include:

1. zoning by-law amendment for:
 - a. the shoreline access parcel to a Limited Service Residential Exception (LSR-*) Zone to restrict development to shoreline residential accessory uses,
 - b. the cottage parcel to Limited Service Residential Exception (LSR-*) Zone to standardize and streamline the zone provisions that apply on an irregularly-shaped parcel with frontage on a municipal road, that is also subject to easements, and to permit an accessory building within the front yard, and
 - c. the retained rural backlot to a Rural General Exception (RG*-) Zone to recognize the further reduced lot area and frontage to be created;
2. a merger agreement be registered to ensure the rural backlot and shoreline access parcel are always conveyed together;
3. entrance permit for the rural backlot can be achieved from Base Line Road; and
4. cash in lieu of parkland for the cottage parcel to be severed.

Attachments



Appendices A-G to
Report COA2019-047.

Appendix A – Location Map
Appendix B – Aerial Photograph
Appendix C – Applicant’s Original Sketches
Appendix D – Applicant’s Amended Sketches
Appendix E – Proposed Conditions of Provisional Consent
Appendix F – City and Agency Comments
Appendix G – Public Comments & Planning Staff Responses

Phone: 705-324-9411 extension 1206
E-Mail: dharding@kawarthalakes.ca
Department Head: Chris Marshall
Department Files: D03-2018-012, D03-2018-013, D03-2018-014