

**The Corporation of the City of Kawartha Lakes**  
**Committee of Adjustment Report – Moynes Leasing Limited**  
Report Number COA2019-056

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**Public Meeting**

**Meeting Date:** September 19, 2019  
**Time:** 1:00 pm  
**Location:** Council Chambers, City Hall, 26 Francis Street, Lindsay

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**Ward 7 – Geographic Township of Ops**

**Subject:** The purpose and effect is to request relief from Section 10.1.2 to permit an approximately 278 square metre addition to a legal non-conforming body shop use.

The permission/variance is requested at 344 Lindsay Street South, geographic Township of Ops (File D20-2019-039).

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**Author:** David Harding, Planner II

**Signature:**



**Recommendations:**

**Resolved That** Report COA2019-056 Moynes Leasing Limited be received;

**That** permission/minor variance application D20-2019-039 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

**Conditions:**

- 1) **That** the construction of the addition related to this approval shall proceed substantially in accordance with the sketch in Appendix C and elevations in Appendix D of report COA2019-056, which shall be attached to and form part of the Committee's Decision;
- 2) **That** prior to the issuance of a building permit the owners shall submit to the Secretary-Treasurer a Section 59 Notice for the permission/variance application;
- 3) **That** prior to the issuance of a Building Permit the Building Division-Part 8 Sewage Systems submit written approval of the permission/variance proposal to the Secretary-Treasurer; and
- 4) **That** the building construction related to the permission/minor variance shall be completed within a period of 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 completion of the first Building Inspection.

**This approval pertains to the application as described in report COA2019-056. Fulfillment of all conditions is required for the Permission/Minor Variance to be considered final and binding.**

**Background:** The owners propose demolish a 150 square metre Quonset building at the business operating as Moynes Collision and construct a 278 square metre addition in its place. The addition will permit for the relocation and enlargement of the operation's spray booth facilities. The spray booth service is found in the southeast side of the building.

**Owners:** Moynes Leasing Limited

**Applicant:** Mark Wilson, MVW Construction and Engineering Inc.

**Legal Description:** Part Lot 16, Concession 6, geographic Township of Ops, now City of Kawartha Lakes

**Official Plan:** Highway Commercial within the City of Kawartha Lakes Official Plan

**Zone:** Highway Commercial (CH) Zone within the Township of Ops Zoning By-law 93-30

**Site Size:** 6,846 square metres

**Site Servicing:** Private individual well and sewage system.

**Existing Uses:** Body Repair Shop

**Adjacent Uses:** North: Vacant Commercial, Agricultural, Creek  
South: Commercial  
East: Commercial  
West: Cemetery

**Rationale:** Section 45(2)(a)(i) of the Planning Act permits the Committee of Adjustment to consider an expansion to a legal non-conforming use. The tests of 45(1) of the Planning Act are not prescribed for applications considered under 45(2). However, the application must be analysed to determine whether the proposal meets good planning principles. The four tests for minor variance shall be used a guide to establish good planning principles.

Prior to examining the tests, the circumstances must be established to lay the foundation upon which legal con-conforming use may be demonstrated.

MPAC information identifies the existence of service garage buildings as early as 1940, well in advance of the Township of Ops Council's approval of its first comprehensive zoning by-law 78-14 on January 15, 1979.

Within By-law 78-14, the property was zoned Highway/Tourist Commercial (C1) Zone. In By-law 78-14, motor vehicle body shop was not a defined use. Within the

C1 Zone, public garage and automobile service station were permitted uses. The motor vehicle body shop use would have been captured under the broad definition for public garage, which is defined as: "...a building other than a private garage which is used for the servicing and equipping of motor vehicles or where such vehicles are parked or stored for remuneration, but does not include an automobile washing establishment, a motor vehicle sales lot, an automobile service station, an automobile gas bar or an automobile service centre." Automobile service centre is not a defined use nor is it listed as a permitted use in any zone.

MPAC records the construction of an auto body shop building in 1986. The construction of this building during the existence of By-law 78-14 reinforces the view that the motor vehicle body shop operation was permitted under the public garage use. Staff has requested a search of records to identify if the 1986 building permit file remains within City records to further substantiate this analysis.

The current owner acquired the property in 1987. The owner has been advised to produce an affidavit to assist in establishing the length of time the motor vehicle body shop use has existed.

On January 7, 1988, the Township of Ops Council repealed By-law 78-14 and adopted comprehensive zoning by-law 88-27. By-law 88-27 created a definition for motor vehicle body shop: "...a building or structure used for the painting or repairing of motor vehicle bodies, exterior and undercarriage, and in conjunction with which there may be a towing service and motor vehicle rentals for customers while the motor vehicle is under repair, but shall not include any other use or activity otherwise defined or classified in this By-law." Motor vehicle body shop was a permitted use within the General Industrial (M2) Zone.

Within By-law 88-27, the property was zoned Highway Commercial (C1) Zone. Motor vehicle service station, and motor vehicle repair garage were permitted uses. A motor vehicle body shop was not a permitted use in the C1 Zone.

By-law 88-27 was repealed and replaced with the current comprehensive zoning by-law, By-law 93-30, on September 20, 1993. The motor vehicle body shop use was re-labelled body shop, and the definition was adjusted to read the following: "an establishment where vehicle bodies, exteriors or undercarriages are painted or repaired. Accessory uses may include a towing service and the rental of vehicles to customers whose vehicles are being repaired. This definition shall not include a salvage yard as defined herein." The body shop use is listed as a permitted use in the General Industrial (M) Zone.

The subject property was re-zoned to Highway Commercial (CH) Zone. A commercial garage is listed as a permitted use within the CH Zone, but not a body shop.

Provided the affidavit is provided which demonstrates continuity of the use, and the records search does not return contrary information, the factual information is established for Committee of Adjustment to find the use legal non-conforming.

The below analysis is provided to examine the appropriateness of the expansion should Committee deem it legal non-conforming.

- 1) Is the permission sought minor in nature? And**
- 2) Is the proposal desirable and appropriate for the use of the land?**

The subject property has been an established motor vehicle body shop for a substantial number of years. The addition is proposed behind the existing building in a location that is not readily visible from the street. Additionally, the property is screened on the north, east, and south sides by a continuous line of trees and/or forest vegetation, screening the lot from the abutting properties and uses.

The majority (53.9%) of the 278 square metre expansion is proposed upon the Quonset building footprint. The balance of the addition is proposed over gravelled parking lot.

The expansion is also proposed in the centre of the lot, abutting the existing building. Keeping the expansion central to the lot ensures that any resulting increase in activity is kept away from the lot lines. As such, the addition and any activity it generates is not anticipated to adversely impact any of the abutting properties as the activity is not proposed in close proximity to the lot lines.

The expansion proposal is minor and desirable and appropriate for the use of the land.

- 3) Does the permission sought maintain the intent and purpose of the Zoning By-law?**

Non-conforming uses by their nature cannot comply with the zone category because the use is not permitted. However, analysis may be performed to determine whether the request for expansion is a substantial deviation from the direction the zoning by-law intends.

The property is zoned Highway Commercial (CH) Zone within the Township of Ops Zoning By-law. While body shop is not listed as a permitted use, the CH Zone does permit some other automotive service uses. A commercial garage, and a motor vehicle dealership are permitted uses within the CH Zone, the later which permits a motor vehicle body shop as an accessory function to the dealership. While a body shop use as a principle use does more intensive and extensive structural and aesthetic repair work to vehicles than the two listed permitted uses, work and repair functions involving vehicles is one of the anticipated uses of the CH Zone category.

The proposed addition exceeds the yard requirements for the CH Zone, also ensuring minimal impact to abutting properties.

Further, the proposed addition will contain an existing component of the business (spray booth), albeit over more floor area. As identified in the prior section, the expansion is proposed in the centre of the lot. Since the spray booth activity exists and the expansion is proposed in the centre of the property, no substantial change in the way activity is carried out on the property is anticipated.

The proposal attempts to meet the intent of the zone category uses and provisions as much as it possible for a non-conforming use.

#### **4) Does the permission sought maintain the intent and purpose of the Official Plan?**

The property is designated Highway Commercial within the City of Kawartha Lakes Official Plan. The objective of the Highway Commercial designation is to recognize existing small commercial operations present along arterial roads that provide convenient access and exposure to clients. Anticipated automobile-oriented uses are service stations and fuel bars. A body shop use has activities that could be considered commercial and industrial, and requires ready access to road networks to have vehicles in various states of repair to delivered to their office. As such, the use may be considered to be anticipated under the Highway Commercial designation.

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

No other alternatives were considered at this time.

#### **Servicing Comments:**

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

#### **Planning Division Comments:**

Staff has analysed the proposal both in light of the circumstances required to establish legal non-conforming use as well as analyse the proposal using the tests for minor variance and has determined that the expansion of the auto body use is appropriate for the site and represents good planning provided the owner provides an affidavit and the records search for a building permit circa 1986 does not return contrary information.

#### **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 (September 9, 2019): No concerns

Engineering and Corporate Assets Department (September 6, 2019): No concerns.

#### **Public Comments:**

No comments received as of September 10, 2019.

#### **Attachments:**



Appendices A-E to  
Report COA2019-056.

Appendix A – Location Map

Appendix B – Aerial Photo  
Appendix C – Applicant's Sketch  
Appendix D – Proposed Elevations  
Appendix E – Department and Agency Comments

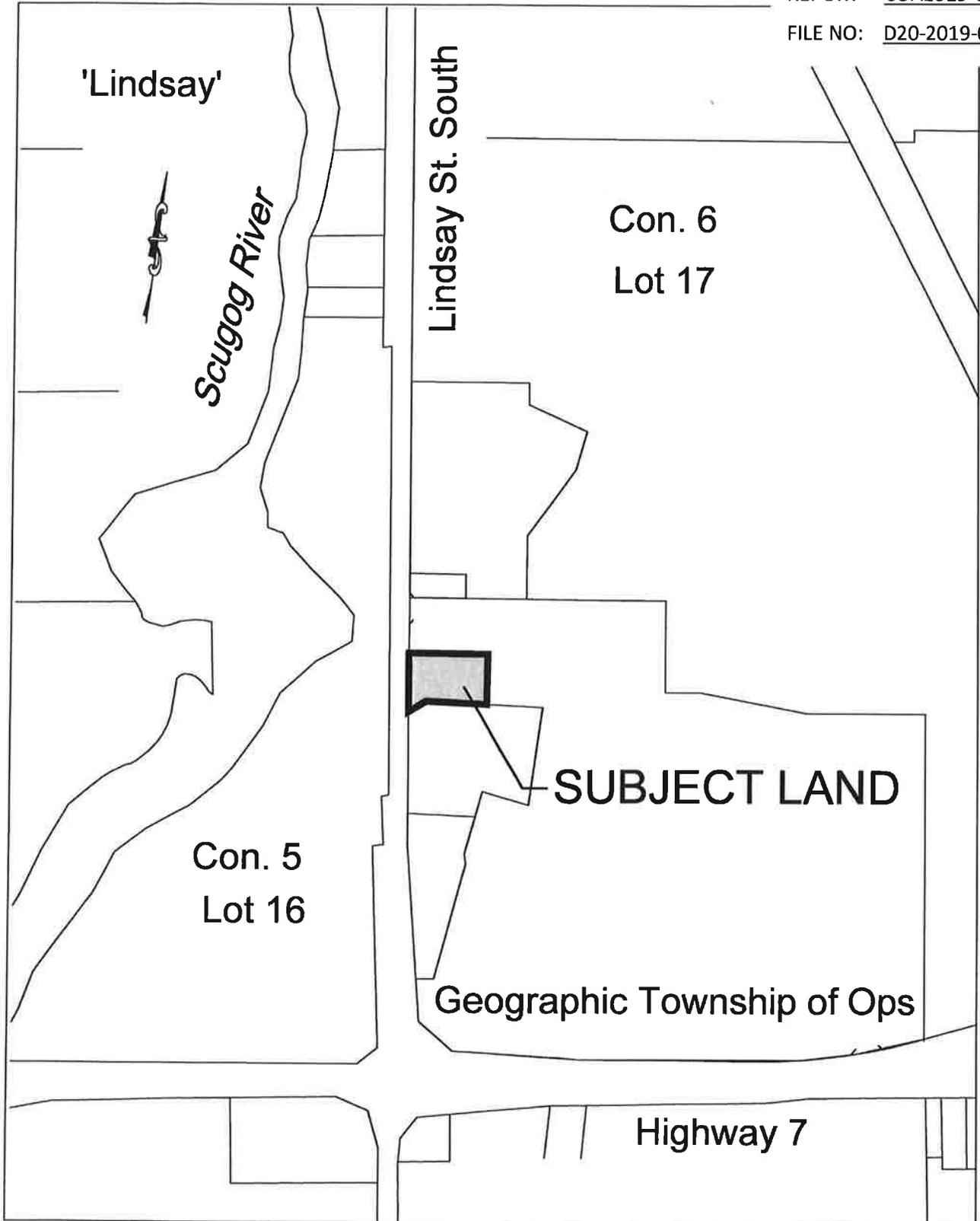
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**Phone:** 705-324-9411 extension 1206  
**E-Mail:** [dharding@kawarthalakes.ca](mailto:dharding@kawarthalakes.ca)  
**Department Head:** Chris Marshall, Director of Development Services  
**Department File:** D20-2019-039

to

REPORT COA2019-056

FILE NO: D20-2019-039



# 344 Lindsay Street South, former Twp. of Ops



0.17

Kilometers

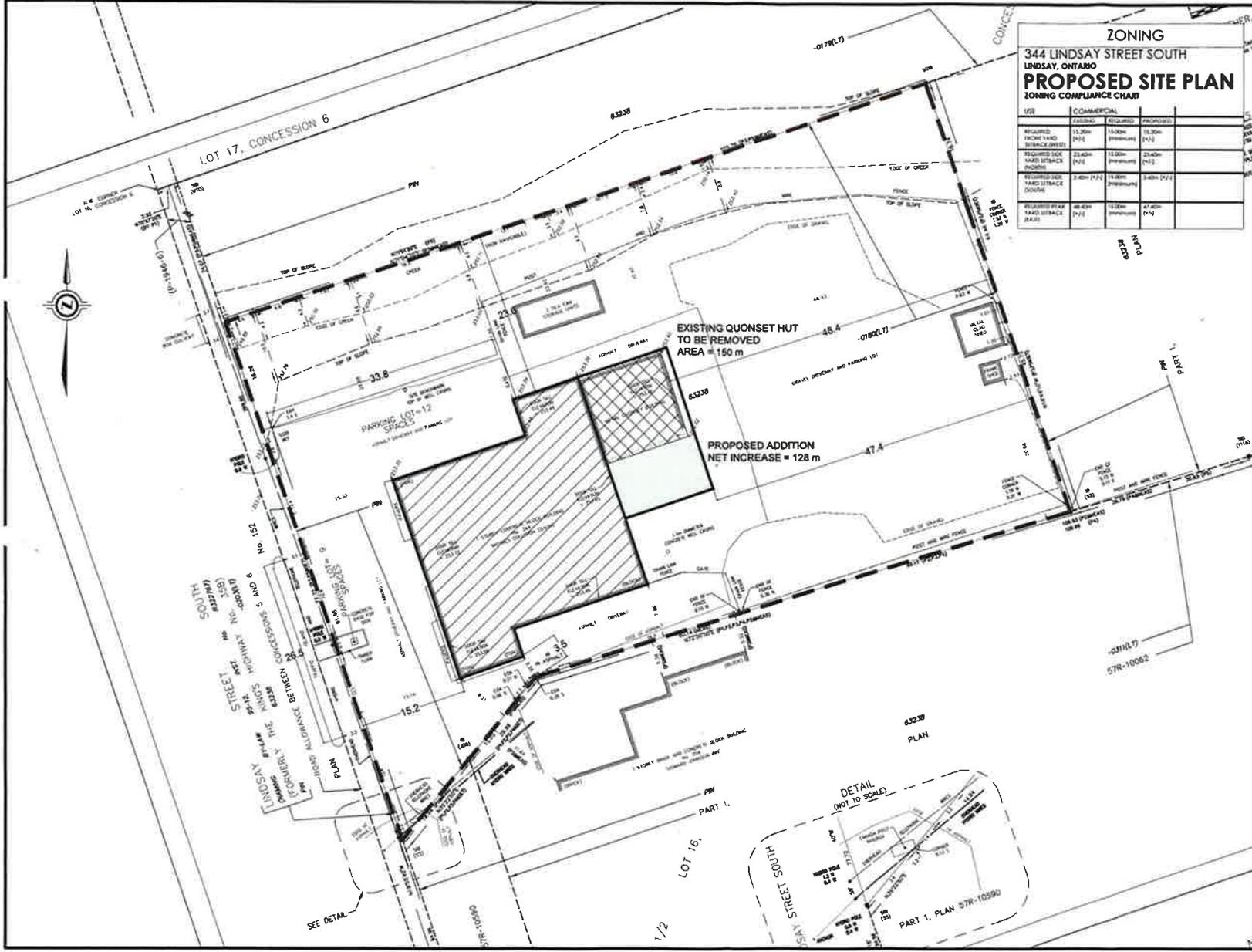
WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© City Of Kawartha Lakes



This map is a user generated static map output and is for reference only. / data, layers and text that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP MAY NOT BE USED FOR COMMERCIAL OR LEGAL PURPOSE

APPENDIX " B "  
to  
REPORT COA2019-056  
FILE NO: D20-2019-039



**ZONING**  
344 LINDSAY STREET SOUTH  
LINDSAY, ONTARIO  
**PROPOSED SITE PLAN**  
ZONING COMPLIANCE CHART

USE	COMMERCIAL	PROPOSED
REQUIRED FRONT YARD SETBACK (METS)	11.20m (P/E)	11.20m (P/E)
REQUIRED SIDE YARD SETBACK (METS)	23.40m (P/E)	23.40m (P/E)
REQUIRED SIDE YARD SETBACK (METS)	9.10m (P/E)	9.10m (P/E)
REQUIRED REAR YARD SETBACK (METS)	9.10m (P/E)	9.10m (P/E)

- EXISTING MAIN BUILDING AREA = 856 M
  - EXISTING QUONSET HUT (TO BE REMOVED) AREA = 150 M
  - PROPOSED ADDITION AREA = 278 M
- TOTAL EXISTING BUILDING AREA INCLUDING QUONSET HUT = 1006 M
- PROPOSED ADDITION NET INCREASE = 128 M
- TOTAL INCREASE = 13%

NOT FOR CONSTRUCTION

ENGINEER:  
**M.V. Wilson Engineering Inc.**  
245 Kent Street West, Lindsay  
Ontario, Canada  
K3V 2Z3  
Tel: (709) 324-8338  
Fax: (709) 328-1289

NO.	DESCRIPTION	DATE	BY
1.	PRELIMINARY DESIGN	22.03.18	BC
2.	ISSUED FOR PRICING	09.04.18	BC
3.	ISSUED FOR REVIEW	18.05.18	SC
4.	ISSUED FOR TENDER	12.07.18	SC

PROJECT  
MOYN  
ADDI  
344 LINDS  
K3V 4R4  
TITLE  
**SITE**

SCALE  
DRAWN BY  
PLOT DATE  
PROJECT

FILE NO: **D20-2019-039**

REPORT **COA2019-056**

APPENDIX " C "

to

APPENDIX " D "

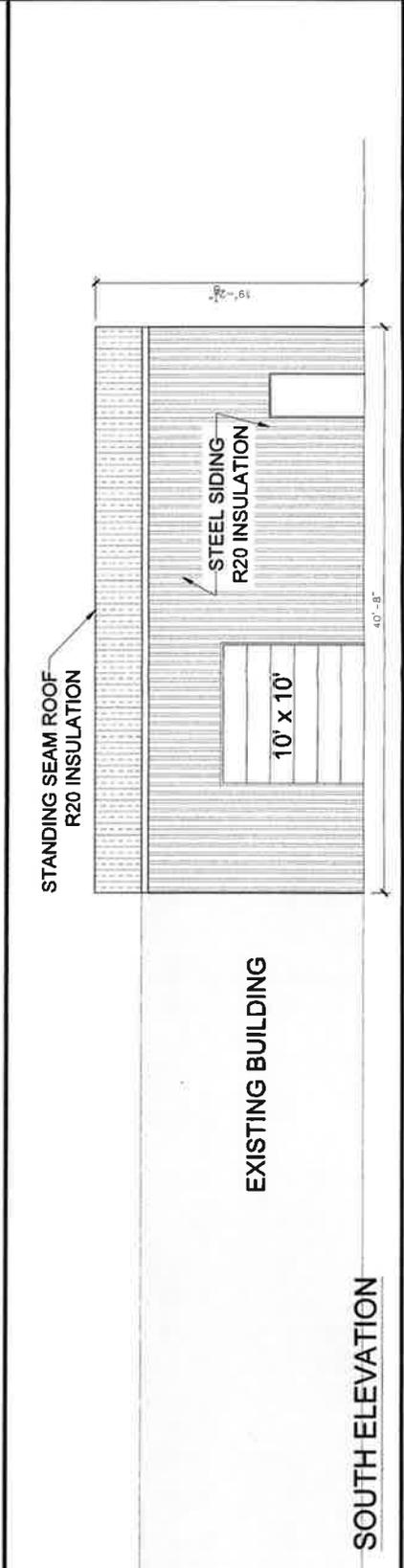
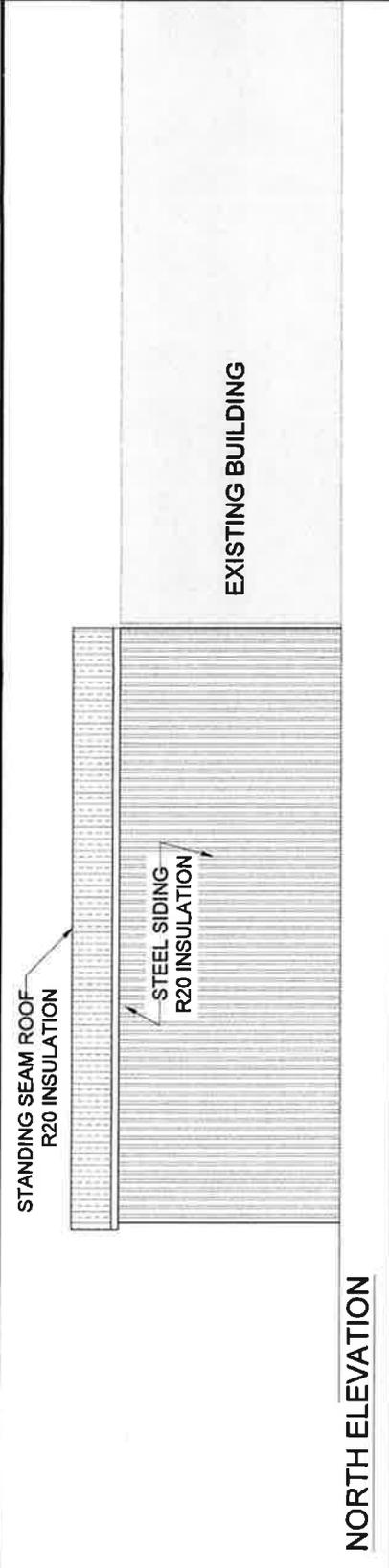
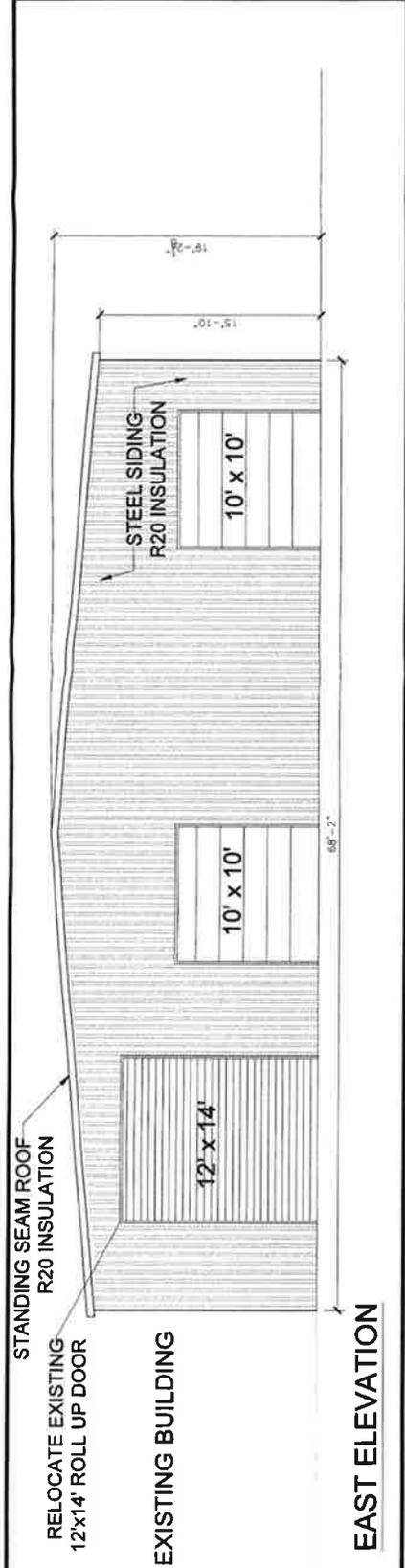
to  
REPORT COA2019-056  
FILE NO: D20-2019-039

NOT FOR CONSTRUCTION

ENGINEER  
**M.V. Wilson Engineering Inc.**  
245 Ford Street West, Lindsay  
Ontario, Canada  
N4Y 2Z5  
Tel: (709) 324-4336  
Fax: (709) 328-1288



NO.	DESCRIPTION	DATE	BY
1	ISSUED FOR TENDER	12.07.18 SC	
2	ISSUED FOR REVIEW	18.04.18 SC	
3	ISSUED FOR PRICING	20.04.18 SC	
4	PRELIMINARY DESIGN	22.03.18 SC	



E N A R K E E N I S I E

APPENDIX " E "

to

REPORT COA2019-056

FILE NO. D20-2019-039

**David Harding**

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**From:** Derryk Wolven  
**Sent:** Monday, September 09, 2019 3:44 PM  
**To:** Charlotte Crockford-Toomey  
**Subject:** Cof A

Please be advised building division has the following comments.

D20-2019-038 No concerns

D20-2019-039 No concerns

D20-2019-040 Surface runoff to be managed to the satisfaction of the Chief Building Official

D20-2019-041 No Concerns

Kind regards,

**Derryk Wolven, CBCO**

Plans Examiner

Development Services, Building Division, City of Kawartha Lakes

705-324-9411 ext. 1273 [www.kawarthalakes.ca](http://www.kawarthalakes.ca)



## David Harding

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**From:** Christina Sisson  
**Sent:** Friday, September 06, 2019 3:32 PM  
**To:** Mark LaHay  
**Cc:** Kirk Timms; Kim Rhodes; Charlotte Crockford-Toomey  
**Subject:** 20190906 D20-2019-039 Engineering Review

**Importance:** High

**Please see the message below from Christina Sisson:**

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Good Afternoon Mark - further to our engineering review of the following:

Minor Variance – D20-2019-039  
344 Lindsay Street South  
Part Lot 16, Concession 6  
Geographic Township of Ops

It is the understanding by Engineering that the purpose and effect is to request relief from Section 45(1) of the Planning Act to request relief to permit an approximately 278 square metre addition to a legal non-conforming body shop use.

*From an engineering perspective, we have no objection to the proposed Minor Variance.*

Please do not hesitate to contact our office if you have any questions.

Thanks,

**CHRISTINA**

**Christina Sisson, P.Eng.**  
Supervisor, Development Engineering  
Engineering & Corporate Assets, City of Kawartha Lakes  
705-324-9411 ext. 1152 [www.kawarthalakes.ca](http://www.kawarthalakes.ca)

