

# **The Corporation of the City of Kawartha Lakes**

## **Committee of Adjustment Report – MacDonald**

Report Number COA2019-073

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### **Public Meeting**

**Meeting Date:** November 28, 2019

**Time:** 1:00 pm

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

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### **Ward: 3 – Geographic Township of Fenelon**

**Subject:** The purpose and effect is from the following provisions in order to permit the constructed detached garage:

1. Section 3.1.2.1 to permit an accessory building within a front yard whereas only an interior side and/or rear yard location is permitted; and
2. Section 3.1.3.2 to increase the height of an accessory building from 5 metres to 5.2 metres.

The variances are requested at 221 Francis Street East, geographic Township of Fenelon (File D20-2019-004).

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**Author:** David Harding, Planner II, RPP, MCIP

**Signature:**



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### **Recommendations:**

**Resolved That** Report COA2019-073 MacDonald, be received;

**That** minor variance application D20-2019-004 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 detached garage related to this approval shall proceed substantially in accordance with the sketch in Appendix C, the landscape plan sketch in Appendix D and the landscape plan elevation in Appendix E submitted as part of report COA2019-073; and
- 2) **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 COA2019-073. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.**

**Background:** This application is the result of a Building Division enforcement matter. The application had been deferred by the Committee at its February 21, May 16, July 18, and November 7, 2019 meetings.

At its November 7, 2019 meeting, the Committee received a memorandum by Richard Holy, Manager of Planning, recommending that instead of Committee contemplating the action outlined in staff report COA2019-069 prepared for that meeting, the application be deferred one further time and brought back to the November 28 meeting for a decision. Staff brought forward the memo in light of recent numerous discussions with Adam Hayter of RWH Construction.

The Committee agreed to defer the application one further time to:

- (1) Ensure the necessary fees to prepare the site plan agreement and securities were paid and the agreement executed,
- (2) Confirm the colour of the parging work to the garage foundation; and
- (3) Confirm the two faux windows had been installed, all in accordance with its endorsement of the staff memorandum at its July 18, 2019 meeting.

Staff is very pleased to announce that we have received:

- (1) Confirmation that the faux windows are installed,
- (2) Confirmation that the foundation is parged,
- (3) The applicable fees for creation of a site plan agreement along with required securities (see Appendices D and E for attached agreement schedules),
- (4) Copies of the site plan agreement signed by the owners and the Mayor and Clerk, which has been forwarded for registration; and
- (5) Payment of the application deferral fees.

**Proposal:** To recognize the construction of a 6.1 x 7.3 metre (20 x 24 foot) detached garage.

**Owner:** Nancy and Shirley MacDonald

**Applicant:** Adam Hayter - RWH Construction

Legal Description: Part 2, 57R-2234, geographic Township of Fenelon, now City of Kawartha Lakes

Official Plan: Rural within the City of Kawartha Lakes Official Plan

Zone: Rural Residential Type Two (RR2) Zone within the Township of Fenelon Zoning By-law 12-95

Site Size: 2,307 square metres (0.57 acres)

Site Servicing: Private individual well and septic system

Existing Uses: Residential

Adjacent Uses: North, South, East: Residential  
West: Shoreline Residential

**Rationale:** While the garage exists, it did not receive a building permit nor does it comply with zoning. For these reasons, the Planning Act requires that this building be presented and discussed as a proposed building.

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

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

The subject property is situated on a former County Road which is the sole access road for approximately 200 residential lots located to the south. The subject property is part of a cluster of residential properties on the east side of Francis Street East that are just outside of the Fenelon Falls Urban Settlement Area.

From the road, the subject property steadily rises up to the house, and rises more gently from the dwelling to the rear lot line. The existing dwelling is served by an attached garage at its northern end. The dwelling is built into the slope such that the west basement wall is partially to fully exposed. The attached garage is located on the basement level of the dwelling.

The detached garage is proposed to the north and east of the attached garage in a location where the existing driveway area could be utilised and where further excavation into the slope is not required. The location of the garage is appropriate in order to cluster the storage functions on the property together.

However, due to the topography and absence of vegetation, the absence of other large accessory buildings along this portion of the street, and the absence of any dwellings constructed closer to the road allowance, the garage figures prominently within the front yard when viewed from the west or south. The neighbouring lot to the north has mature deciduous and coniferous trees, which assist in providing a vegetative screen when travelling south on Francis Street East.

Vegetation has been planted around the garage. A planting plan for vegetation around the garage has been approved by the Planning Division and is

contained in a site plan agreement. The vegetation consists of five columnar maples, three serbian spruce, and two serviceberry shrubs. This vegetation ties the garage into the surrounding landscape through softening the built form by providing deciduous and coniferous screening. Two faux windows have been added to the west garage face in order to provide further visual interest to the taller west wall, as the west wall remains visible through gaps in the columnar maples when they are in leaf, and will be even more visible in the winter when the maple trees drop their leaves.

The parging of the foundation does soften the appearance of the exposed foundation that can be seen on the south and west garage walls by removing the uneven edges left by the concrete foundation forms during construction. The serviceberry shrubs will further assist in screening the visible foundation over time.

Due to the above analysis, the variances are considered 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?**  
**Yes**

The intent of the General Provisions section is to relegate the storage function of accessory buildings to the side or rear yard of a dwelling to ensure the dwelling retains its visual prominence as the primary use and building on the property. This prominence shapes the residential character of the neighbourhood.

As the gables of the garage are on the north and south walls, the tallest wall face is not proposed to directly face the road, which assists in minimizing the height and massing of the building.

Dwellings by their nature address and compliment the streetscape through the use of windows, doors, different cladding treatments and varying rooflines. When accessory buildings are proposed within side or rear yards, lack of cladding treatments, windows and/or doors usually do not impact the character of the neighbourhood as they are not usually in prominent locations and are often overshadowed by the dwelling as the main building. In this case, the garage is in a very prominent location in the front yard and some additional steps are needed to address and compliment the streetscape to make the building appear less utilitarian in nature. This neighbourhood has few accessory buildings within front yards, and none at a scale as large as what is proposed for the subject property.

Eight trees and two shrubs have been planted around the garage in accordance with the approved planting plan as contained in the site plan agreement. This vegetation ties the garage into the surrounding landscape by softening the built form through deciduous and coniferous screening. Two faux windows have also been added to add character to the wall facing the street to better address the residential nature of the streetscape.

As such, the garage compliments the character of the streetscape while providing the storage functionality within the front yard that the owners desire.

Therefore, the variances maintain the general intent and purpose of the Zoning By-Law.

**4) Does the variance maintain the intent and purpose of the Official Plan?**  
**Yes**

The property is designated Rural within the City of Kawartha Lakes Official Plan. Low density 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:**

On July 18, 2019, staff developed a memorandum for Committee's consideration based upon the applicant's request to examine alternative solutions to cladding the bottom third of the south and west garage walls in stone to match the east garage wall. An alternative solution consisting of landscaping, faux windows and foundation parging has been implemented.

**Servicing Comments:**

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

**Consultations:**

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

**Agency Comments:**

Kawartha Region Conservation Authority (February 5, 2019): No concerns.

Building Division – Part 8 Sewage Systems (February 5, 2019): No concerns.

Building Division (February 7, 2019): The building was built without a permit.

Engineering and Corporate Assets Department (February 11, 2019): No concerns.

**Public Comments:**

Judith Currie of 214 Francis Street East spoke at the previous public meeting held on February 21, 2019. She raised some concerns with the application. No comments have been received from this individual since this meeting.

## Attachments:



Appendices A-F to  
COA2019-073.pdf

Appendix A – Location Map  
Appendix B – Aerial Photo  
Appendix C – Applicant's Sketch  
Appendix D – Landscape Plan Sketch  
Appendix E – Landscape Plan Elevation  
Appendix F – Department and Agency Comments

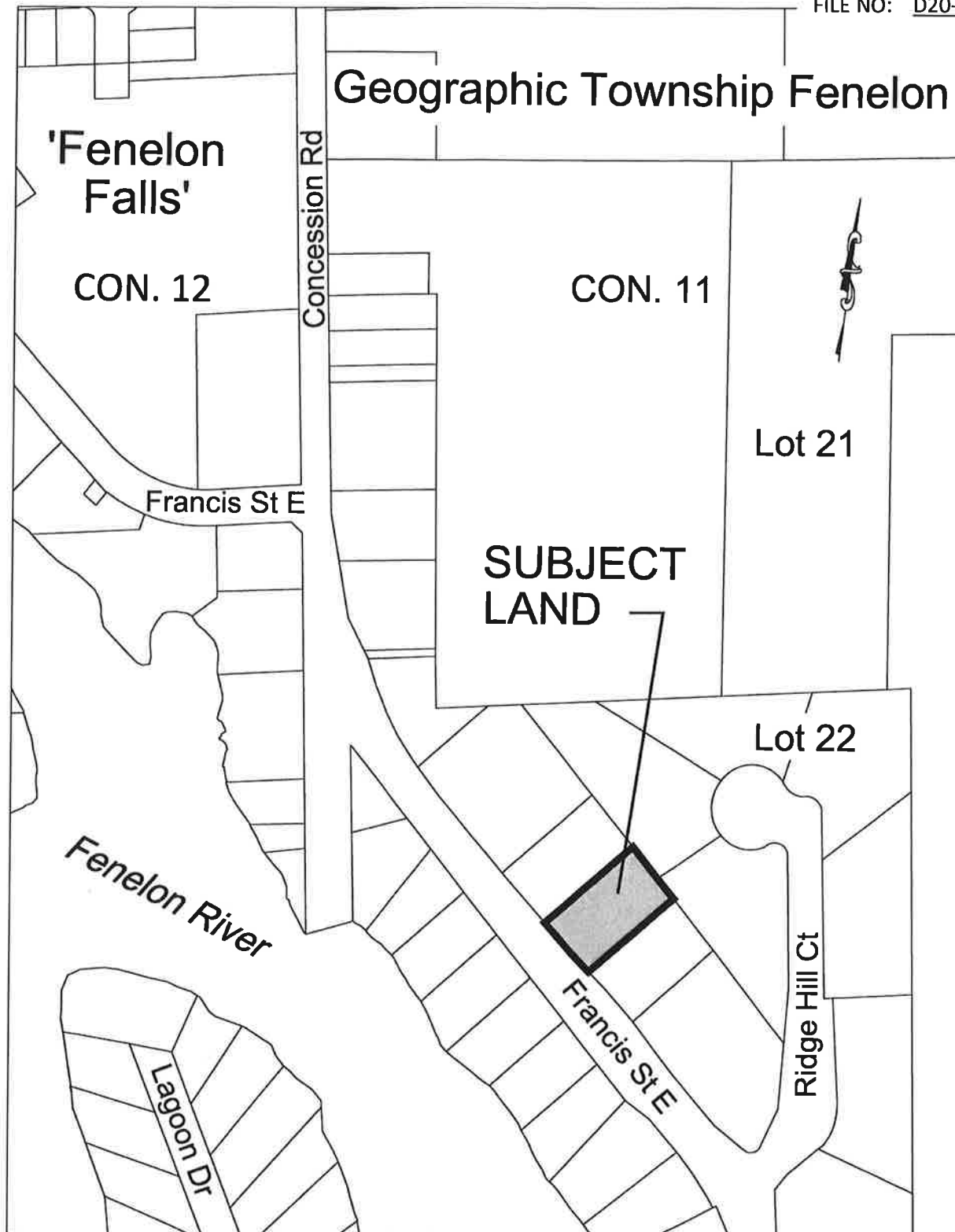
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<b>Phone:</b>	705-324-9411 extension 1206
<b>E-Mail:</b>	<a href="mailto:dharding@kawarthalakes.ca">dharding@kawarthalakes.ca</a>
<b>Department Head:</b>	Chris Marshall, Director of Development Services
<b>Department File:</b>	D20-2019-004

to

REPORT COA2019-073

FILE NO: D20-2019-004





This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR COMMERCIAL OR LEGAL PURPOSES.

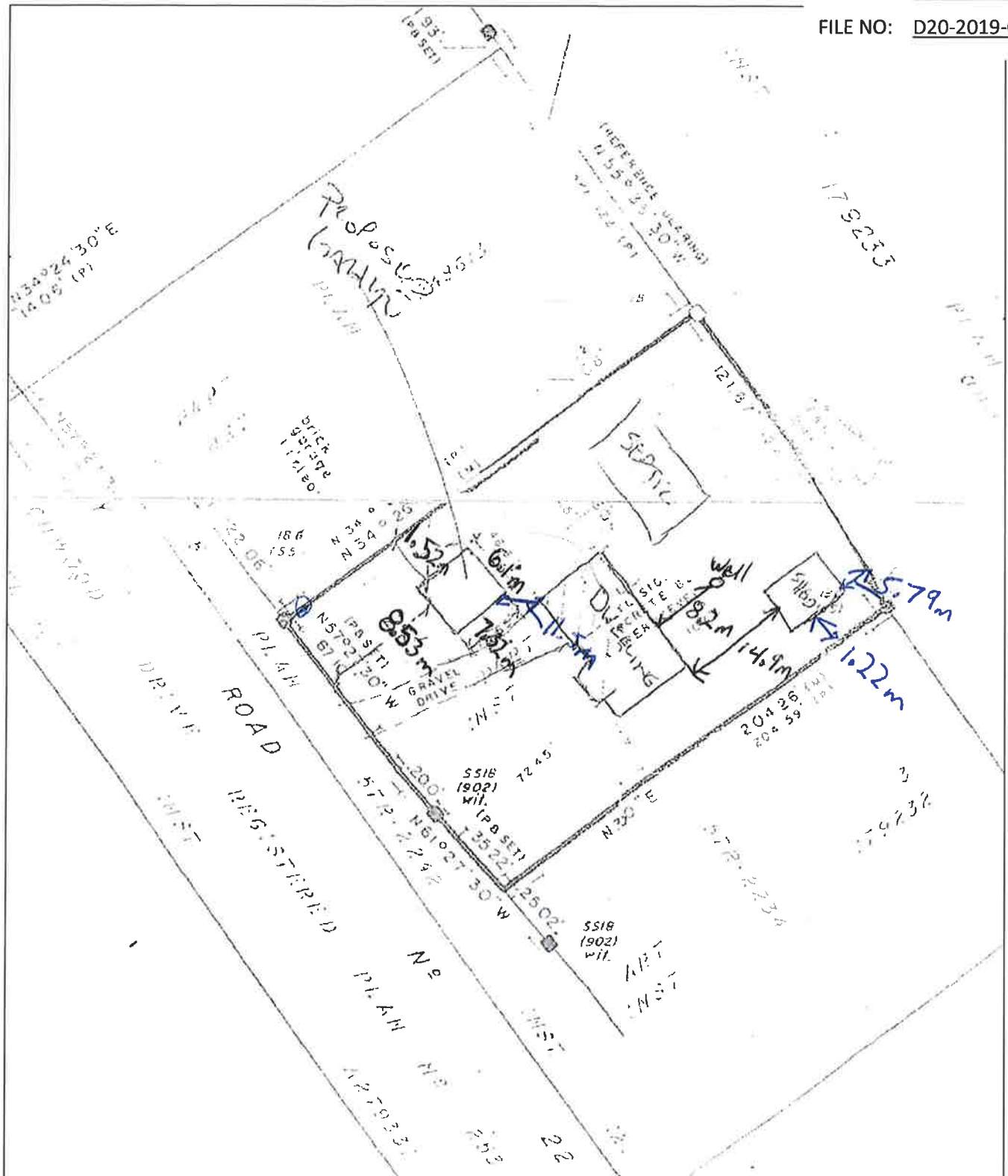


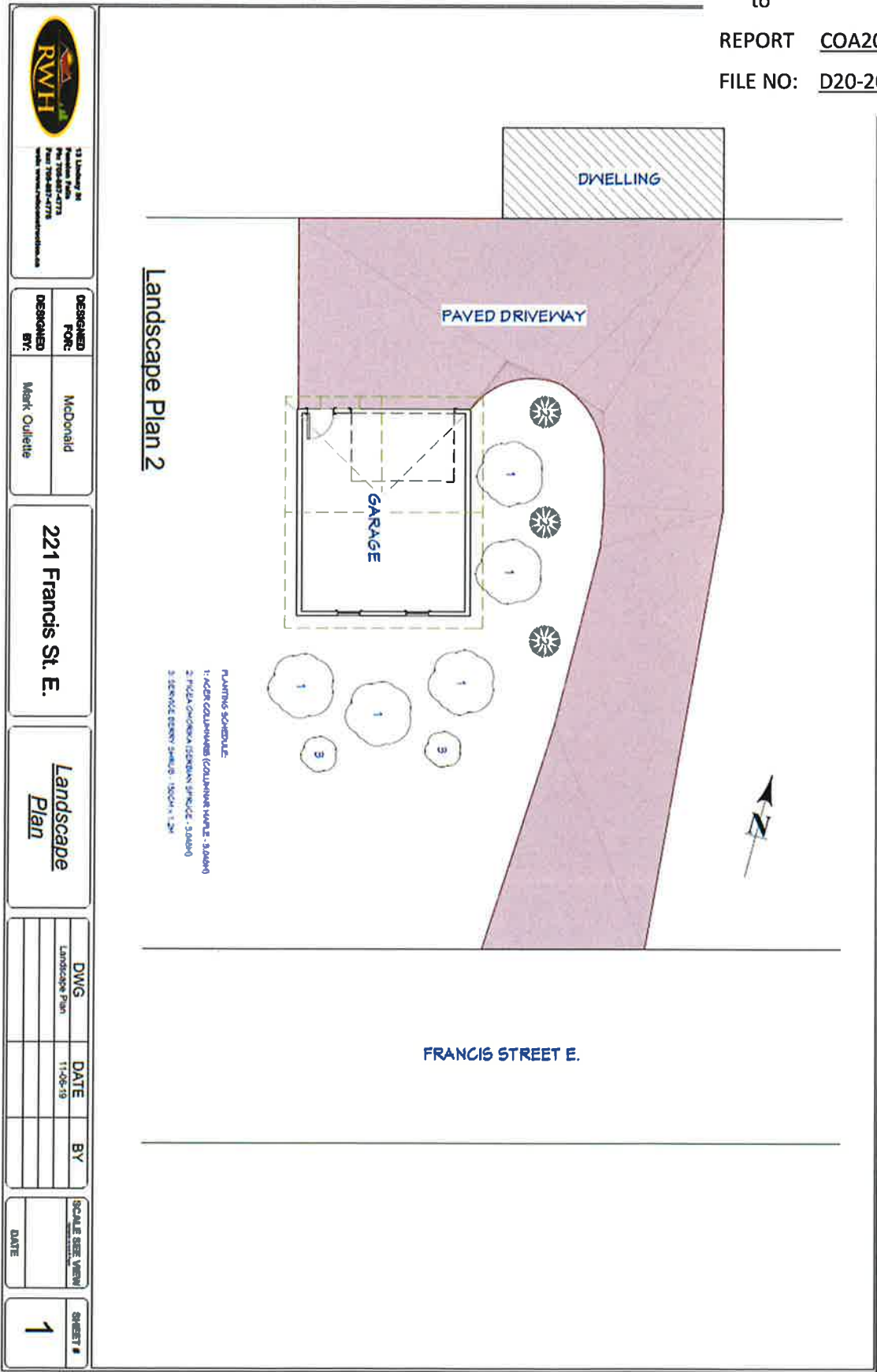
APPENDIX " C "

to

REPORT COA2019-073

FILE NO: D20-2019-004

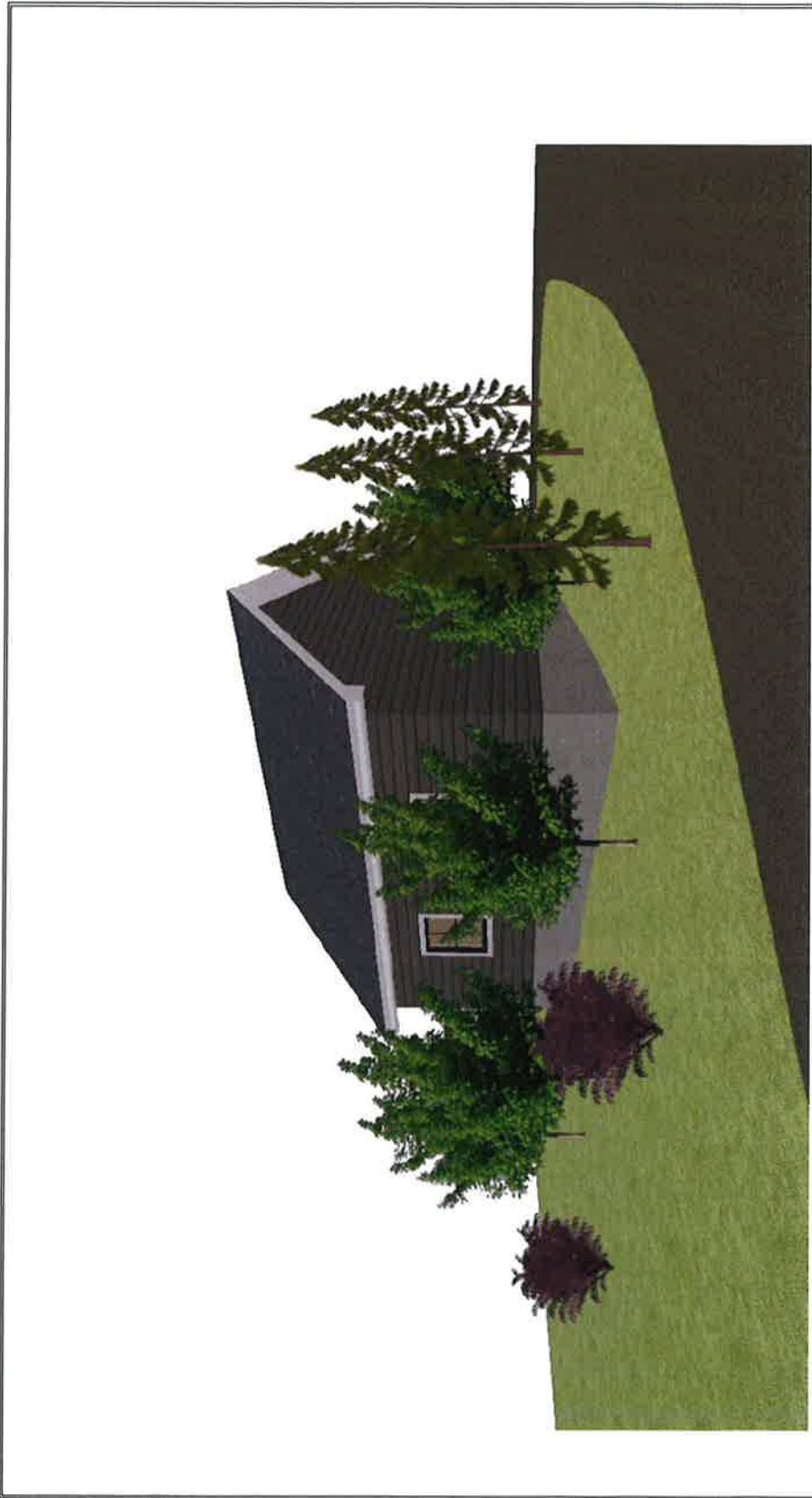




to

REPORT COA2019-073

FILE NO: D20-2019-004



 43 Leding St. P.O. Box 100 Paw 781-452-4773 web: www.rwhlandscape.com	DESIGNED FOR:	McDonald	221 Francis St. E.	<u>Landscape Plan</u>	DWG	DATE	BY	SCALE SEE VIEW 1"=10'-0"	DATE
	DESIGNED BY:	Mark Oullette			Landscape Plan	11-06-19			

**David Harding**

APPENDIX " F "

to

REPORT COA2019-073

FILE NO. D20-2019-004

**From:** Anne Elmhirst  
**Sent:** Tuesday, February 05, 2019 10:55 AM  
**To:** Erica Hallett  
**Subject:** D20-2019-004 - 221 Francis St

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello Erica,

RE: Minor Variance Application D20-2019-004  
221 Francis St., Former Fenelon Township,  
Conc. 11, Part Lot 21, Plan 57R2234, Part 2,  
Roll No. 165121006048202

I have received and reviewed the request for minor variance to allow a detached garage to be constructed in the front yard of the property and completed a site visit.

A sewage system file (F-67-91) was located for this property. The sewage system is located in the front yard adjacent to the driveway. The constructed detached garage has been maintained the required clearance distance to the distribution lines of the leaching bed.

As such, the Building Division – Sewage System Program has no objection to the proposed minor variance.

Best Regards,

**Anne Elmhirst C.P.H.I.(C), B.A.Sc., B.Sc.**  
Supervisor – Part 8 Sewage Systems  
Development Services - Building Division, City of Kawartha Lakes  
705-324-9411 ext. 1882 [www.kawarthalakes.ca](http://www.kawarthalakes.ca)



**Via E-Mail: [ccrockford-toomey@kawarthalakes.ca](mailto:ccrockford-toomey@kawarthalakes.ca)**

Charlotte Crockford-Toomey  
Administrative Assistant  
Committee of Adjustment  
City of Kawartha Lakes  
180 Kent Street West  
Lindsay, ON K9V 2Y6

**Regarding:      Application for Minor Variance – D20-2019-004  
Nancy MacDonald (Agent: Adam Hayter)  
221 Francis Street East  
Geographic Village of Fenelon Falls  
City of Kawartha Lakes**

Dear Ms. Crockford-Toomey:

This Letter acknowledges the receipt of the above noted application. Kawartha Region Conservation Authority (KRCA) staff have reviewed this application and provided the following comments:

**Application Purpose**

It is our understanding that the purpose of this application is to request the following variance from the provisions of the Village of Fenelon Falls Zoning By-law 3.1.2.1 & 3.1.3.2, as amended. The purpose and effect is to request relief from the following provisions in order to permit the construction of a single detached garage:

1. Section 3.1.2.1 to construct the detached garage in the front yard, and;
2. Section 3.1.3.2 to increase the maximum height requirement for an accessory structure from 5 metres to 5.2 metres.

**Applicable Kawartha Conservation Regulations and Policies**

**Ontario Regulation 182/ 06 (as amended):**

The subject property is within proximity to the Fenelon River and Sturgeon Lake; however, property is located outside of lands Regulated by Kawartha Conservation under Ontario Regulation 182/06. A permit is not required to facilitate the construction of the proposed detached garage.

**Application-Specific Comments**

**KRCA Memorandum of Understanding (MOU):**

The following comments are provided as per the MOU entered into between the City of Kawartha Lakes and Kawartha Conservation. The City has requested staff provide comments and analysis on the identification, function

**KAWARTHA CONSERVATION**  
277 Kenrei Road, Lindsay, ON K9V 4R1  
705.328.2271 Fax 705.328.2286  
[KawarthaConservation.com](http://KawarthaConservation.com)

***Our Watershed Partners:***

City of Kawartha Lakes • Region of Durham • Township of Seabrook • Municipality of Guelph • Township of Brock • Municipality of Trent Lakes • Township of Cavan Monaghan

and significance of natural heritage and hydrologic features and systems such as, significant woodlots, wetlands, significant wildlife habitat, fish habitat, significant habitat of endangered and threatened species, significant valleylands, areas of natural and scientific interest, surface water features and groundwater features on, or in proximity to, a proposed development site or within a study area.

#### **Water Quality**

Given the proposed works are adjacent to slope yet fragmented from the shoreline of the Fenelon River by Francis Street East, it is recommended that should the garage be constructed in the future, appropriate sediment and erosion controls (i.e. silt fencing) be implemented around the construction site to prevent sediment-laden runoff from entering the Fenelon River and Sturgeon Lake.

#### **Recommendation**

**Based on our review of the natural hazards and natural heritage features adjacent to the property, Kawartha Conservation staff has no objections to the approval of Minor Variance Application D20-2019-004, provided the proposed works are constructed as per the plans submitted to Kawartha Conservation as part of the review.**

The above comments reflect our understanding, at the time of writing, of the best available data, applicable policies and regulations. I trust this meets your information requirements at this time. Should you have any questions regarding this matter, please do not hesitate to contact this office.

Yours Truly,



Kent Stainton  
Resources Planner  
Extension 232  
kstainton@kawarthaconservation.com

cc: David Harding, City of Kawartha Lakes  
Quadri Adebayo, City of Kawartha Lakes

**Erica Hallett**

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**From:** Derryk Wolven  
**Sent:** Thursday, February 07, 2019 2:30 PM  
**To:** David Harding  
**Cc:** Erica Hallett  
**Subject:** Comm of adjustment

Please see building division comments:

D20-2019-001	No concerns
D20-2019-002	No concerns
D20-2019-003	Built without permit. Less than .6m from property line would require detailing for rating and type of construction under OBC 9.10.14.5(3)
D20-2019-004	Built without permit.
D20-2019-005	No concerns
D20-2019-006	Change of use permit required for the proposal
D20-2019-007	No concern

**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)





Engineering & Corporate Assets Department  
P.O. Box 9000, 12 Peel Street  
Lindsay ON K9V 5R8  
Tel: (705) 324-9411 Ext. 1152  
Fax: (705) 324-2982  
e-mail: [csisson@kawarthalakes.ca](mailto:csisson@kawarthalakes.ca)  
website: [www.kawarthalakes.ca](http://www.kawarthalakes.ca)

## MEMORANDUM

**TO:** Mark LaHay, Acting Secretary-Treasurer

**CC:** Kirk Timms, Senior Engineering Technician  
Kim Rhodes, Administrative Assistant  
Charlotte Crockford-Toomey, Administrative Assistant

**FROM:** Christina Sisson, Supervisor, Development Engineering

**DATE:** February 11<sup>th</sup>, 2019

**SUBJECT:** Application for Minor Variance/Permission  
D20-2019-004 – 221 Francis Street East  
Geographic Township of Fenelon, City of Kawartha Lakes

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The Development Engineering Division has reviewed the City of Kawartha Lakes Committee of Adjustment Notice of Public Hearing for Minor Variance as well as, the Application for Minor Variance/Permission received on February 7<sup>th</sup>, 2019.

It is our understanding that the applicant is requesting request relief from the following provisions in order to permit the constructed detached garage:

1. to permit an accessory building within a front yard whereas only an interior side and/or rear yard location is permitted; and
2. to increase the height of an accessory building from 5 metres to 5.2 metres.

Further to our review of the above noted application, we confirm that we have no objection to the proposed minor variance and no engineering comments related to the proposed minor variance.

We respectfully request to be circulated should additional information be brought forward through the commenting period that changes the intent of the minor variance application and the corresponding report by Planning.

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