

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

## **Planning Advisory Committee Report**

**Report Number PLAN2019-066**

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**Meeting Date:**       **December 4, 2019**

### **Public Meeting**

**Description:**       An application to amend the Township of Somerville Zoning By-law 78-45 to change the zone category on the northeast portion of the property from Environmental Protection (EP) Zone to Environmental Protection Exception (EP-\*\*) Zone in order to regulate the existing development on that portion of the property that comprises a single detached dwelling, a storage building and dock installation as the only permitted uses, with specific development standards on land described as Part Lot 7 and 8, Concession 9, Part 1 on RP57R2522, geographic Township of Somerville, now City of Kawartha Lakes, identified as 466 Pinery Road (Alex Christianopoulos – Planning File D06-2019-036)

**Ward Number:**       **2 - Somerville**

**Author and Title:**   **Quadri Adebayo, Planner II**

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### **Recommendation(s):**

**That** Report PLAN2019-066, respecting Part Lot 7 and 8, Concession 9, Part 1 on RP57R2522, geographic Township of Somerville, and identified as 466 Pinery Road; Application No. D06-2019-036, be received;

**That** a Zoning By-law Amendment respecting application D06-2019-036, substantially in the form attached as Appendix F to Report PLAN2019-066, be approved and adopted by Council; and

**That** the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of this application.

**Department Head:** \_\_\_\_\_

**Legal/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

## Background:

The subject property contains an approximately 46.5 square metres detached dwelling built circa 1965 (MPAC). The owner advised that they assumed ownership of the property in 1996, following which a steel storage container (approximately 14.9 square metres in size) was placed on the property and then modified with wooden material additions plus roofing in order to convert it into a full time accessory structure for the storage of household and marine-related items. The addition (approximately 33.8 square metres) was flagged as being constructed without permit by the building division between January and February of 2019 through a complaint-driven enforcement process.

As the property carries an Environmental Protection (EP) Zone category which does not permit buildings or structures, a rezoning is required in order to recognize the development on the property.

Owner/Applicant:	Alex Christianopoulos
Legal Description:	Part Lot 7 and 8, Concession 9, Part 1 on RP57R2522, geographic Township of Somerville
Designation:	Rural and Environmental Protection in the City of Kawartha Lakes Official Plan
Zone:	Environmental Protection (EP) Zone within the Township of Somerville Zoning By-law 78-45
Lot Area:	6.68 hectares (16.5 acres) of which approximately 1,500 square metres (0.38 acres) is applicable to the portion of be rezoned
Site Servicing:	Private individual septic tank and lake water system
Existing Uses:	Residential
Adjacent Uses:	North: Pinery Road, Rural Residential and Environmental Protection East and South: Burnt River, Environmental Protection West: Pinery Road, Environmental Protection

## Rationale:

The subject property is bounded by Pinery Road on the north and west sides, and as well bounded by Burnt River on the east and south sides respectively. The northeast section of the property to be rezoned is already disturbed as it contains a residential dwelling, an accessory building, a driveway, and other ancillary installations such as a propane tank and a dock, etc. The premise for residential development within the stated section of the property was already established since approximately 1965. The existing dwelling is considered legal non-conforming since it predates the Township of Somerville Zoning By-law which was enacted in 1978.

Notwithstanding the building enforcement matter in play, if the storage container and the adjoining addition were non-existent and newly proposed today, a rezoning will still be the appropriate planning route to follow in order to permit their installation on the property.

Kawartha Conservation (KRCA) has advised of no concerns provided the accessory structure functions as a boathouse for the storage of marine-related items. The property owner has confirmed same functionality for the accessory structure in alignment with the corresponding by-law definition for a boathouse. Following the above, planning considers the proposal for rezoning as good planning as it provides the opportunity to capture the existing zoning inconsistency on the subject property that could have inadvertently gone unnoticed and also allows the opportunity to place a zone category on the subject property that will regulate any future development.

## **Provincial Policies:**

### **Growth Plan for the Greater Golden Horseshoe, 2019:**

Section 2.2.9 indicates that development outside of settlement areas may be permitted where necessary for the management of resources, and provided site-specific location with approved zoning is placed. Section 4.2.2 provides for the protection of natural heritage features and biodiversity identified within official plans. The rezoning to recognize and regulate the existing development on the northeast portion of the environmentally protected land is consistent with these policies.

Therefore, this application conforms to the policies of the Growth Plan.

### **Provincial Policy Statement, 2014 (PPS):**

Section 1.1.4 of the PPS provides that rural assets and the protection of the environment be leveraged as foundation for a sustainable economy and the conservation of biodiversity, and Section 3.1 directs development to areas outside the flood plain or wetland.

The application to rezone the disturbed portion of the subject land to permit the existing development is considered to meet these policies. The section identified for the rezoning is clearly delineated from the limits of the remaining undisturbed section of the property.

This will enable the long term protection of the undisturbed section for its environmental and social benefits. It will also limit buildings and structures which by their nature are required not to be in the environmental protection zone.

Therefore, this application is consistent with the PPS.

## **Official Plan Conformity:**

The subject land is designated Rural and Environmental Protection in the City of Kawartha Lakes Official Plan (Official Plan). The rural designation applies to

majority of the subject lands while the environmental protection designation applies to the watercourse (Burnt River) that traverses the property. The disturbed section of the subject land is contained within the rural designation which permits single detached dwellings and accessory uses. Whereas the Official Plan directs that prior to any site alteration on environmentally protected lands, an evaluation shall be undertaken by the landowner to demonstrate that the land is not subject to flooding or other physical hazard. KRCA has determined that no studies or evaluation is required for the boundaries of the section to be rezoned that abuts Burnt River.

While accessory buildings are contemplated as ancillary to principle uses in the Official Plan, this application will ensure that the accessory building does not impact the integrity of the abutting water body.

Therefore this application conforms to the policies of the Official Plan.

### **Zoning By-Law Compliance:**

The whole property is zoned Environmental Protection (EP) Zone in the Township of Somerville Zoning By-law 78-45. The EP Zone does not permit buildings or structures, except for flood and erosion control and docks. As identified in the rationale above, the existing detached dwelling is considered legal non-conforming, while the accessory building would customarily warrant a rezoning for it to be permitted, and KRCA has been able to affirm no issues with the current development state of the disturbed portion of the property.

Therefore, the northeast (disturbed) portion of the subject property is to be rezoned from Environmental Protection (EP) Zone to Environmental Protection Exception Ten (EP-10) Zone. The Somerville Zoning By-law defines a boathouse as 'a detached accessory building, or structure which is designed or used for the sheltering of a boat or other form of water transportation and/or accessory use for the storage of household equipment incidental to the residential occupancy but shall not include habitable rooms'. For the purposes of applying the accompanying draft by-law for the rezoning and in fulfillment of KRCA requirements, the storage container together with the adjoining addition shall be recognized as a boathouse. The Zoning By-law amendment will formalize the development on the disturbed portion of the subject land, thus implementing the Official Plan policies (see Appendix F).

In consideration of the above, the application meets the intent of the Zoning By-law.

### **Other Alternatives Considered:**

No other alternatives have been considered.

## **Financial/Operation Impacts:**

There are no financial considerations unless Council's decision to adopt or its refusal to adopt the requested amendment is appealed to the Local Planning Appeal Tribunal. In the event of an appeal, there would be costs, some of which may be recovered from the applicant.

## **Relationship of Recommendation(s) to the 2016-2019 Strategic Plan:**

The City's Strategic Plan outlines Council's vision for the municipality. The vision consists of three main Strategic Goals: that of a vibrant and growing economy, an exceptional quality of life, and a healthy environment. The application may align with the healthy environment goal as it promotes the health and integrity of the wetland and floodplain.

## **Review of Accessibility Implications of Any Development or Policy:**

Should a building permit be required, the accessibility standards established in the Building Code will be addressed prior to the issuance of a building permit.

## **Servicing Comments:**

The existing building on the land is serviced by private individual septic tank and Lake water system.

## **Consultations:**

Notice of this application was circulated to all land owners of record within a 500 metre radius, plan review agencies, and City Departments which may have an interest in the application. As of November 15, 2019, we have received the following comments:

Public Comments:

No comments were received.

Agency Comments:

On November 7, 2019, the Building Division advised that the property is currently in their permit system as an enforcement file, and that a building permit application needs to be made by the owner for the structures constructed without permit. Planning staff confirms that the zoning amendment will help to accelerate the enforcement process given that the appropriate zoning has to be in place before permits can be issued under the Ontario Building Code.

On November 11, 2019, the Community Services advised no concerns with the proposed application.

On November 14, 2019, the Engineering and Corporate Assets Department advised they have no objections or engineering requirements to the proposed application.

### **Development Services – Planning Division Comments:**

The application conforms to the Growth Plan and is consistent with the Provincial Policy Statement. The application also conforms to the policies of the Official Plan. The proposed Zoning By-law amendment contained in Appendix F will ensure the surrounding ecological function abutting the subject land is preserved in conjunction with the residential use and will implement Provincial and City policies.

### **Conclusion:**

The application conforms to the provincial policies concerning the protection of natural heritage systems in rural areas. The application also conforms to the Rural and Environmental Protection designation policies in the City's Official Plan. Staff support the application based on the information contained in this report and the comments received as of November 15, 2019. Staff respectfully recommends that the application be referred to Council for APPROVAL.

### **Attachments:**

Appendix A – Location Map

Appendix B – Aerial Photograph

Appendix C – Applicant Sketch

Appendix D – GIS Imagery of Approximate Area to be Rezone

Appendix E – Accessory Building Pictures



Appendices A-E to  
PLAN2019-066.pdf

Appendix F – Draft Zoning By-law Amendment



Draft Zoning  
By-law.pdf

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**Department Head:** Chris Marshall

Department File: D06-2019-036