

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Darren and Gillian Wilkinson
Report Number COA2020-007

Public Meeting

Meeting Date: March 19, 2020
Time: 1:00 pm
Location: Council Chambers, City Hall, 26 Francis Street, Lindsay

Ward: 3 – Geographic Township of Fenelon

Subject: The purpose and effect is from the following provisions in order to permit the construction of a single detached dwelling with a deck and screened porch:

1. Section 3.18.1.1 to reduce the minimum setback to the Environmental Protection (EP) Zone from 15 metres to 6.3 metres,
2. Section 15.2.1.3(e) to reduce the minimum water setback from 15 metres to 6.3 metres; and
3. Section 15.2.1.3(b)(ii) to reduce the north interior side yard setback from 2.3 metres to 1.3 metres

The variance is requested on Vacant land on Sugar Bush Trail, geographic Township of Fenelon (File D20-2020-003).

Author: David Harding, Planner II, RPP, MCIP

Signature: 

Recommendation:

Resolved That Report COA2020-007 Darren and Gillian Wilkinson, be received;

That minor variance application D20-2020-003 be DENIED, as the application is not minor in nature, not desirable and appropriate for the use of the land, does not maintain the intent of the zoning by-law and does not maintain the intent of the Official Plan. The four tests for minor variance are set out in Section 45(1) of the Planning Act.

Background: The application was submitted January 21, 2020. No consultation through our pre-screening process occurred with the Planning Division prior to the submission of the application.

Proposal: To permit the construction of a single detached dwelling inclusive of a screened porch, deck, and attached garage.

Owners: Darren and Gillian Wilkinson

Applicant: Doug Carroll, DC Planning Services Inc.

Legal Description: Part Lot 26, Concession 10, geographic Township of Fenelon, City of Kawartha Lakes

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

Zone: Limited Service Residential (LSR) Zone within the Township of Fenelon Zoning By-law 12-95

Site Size: 1,089.59 square metres (11,728.3 square feet)

Site Servicing: Private individual well and septic system proposed

Existing Uses: Vacant Land

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

Rationale: Analysis of the requested relief for the interior side yard reduction shall be tied to the reliefs being sought to the water and EP Zone setbacks as all three variances are related to the same built form proposal.

While analysing the application, Planning Staff have identified that relief from the minimum front yard requirement in Section 15.2.1.3(a) was not sought. Therefore, if the application as applied for is approved, the deck could be no closer than 7.5 metres to the shoreline. A pre-screening application was not filed for this property. One of the functions of the pre-screening process is to allow Planning Staff to conduct a review of the application to determine the variances required.

1) Are the variances minor in nature? No
And

2) Is the proposal desirable and appropriate for the use of the land? No

The subject property is located upon a peninsula on the east side of Cameron Lake. The peninsula is accessed via a private easement for a right-of-way known as Sugar Bush Trail. The neighbourhood is composed of seasonal and year-round residential uses. Sugar Bush Trail does not run down the centre of the peninsula, resulting in deeper lots on the west side and shallower lots on the east side. The subject property is the last undeveloped lot on the east side. Single storey, 1.5 storey and two storey dwelling designs are found on the east side of Sugar Bush Trail. Some of these dwellings also have walkout basements, which are defined as an additional storey.

While it is recognized that the shoreline of the subject property runs at an angle, the application proposes a built form substantially closer to the water than any recent construction and proposes a built form that covers approximately 303.28 square metres (303.28 square feet) or about 27.9% of the lot. This calculation includes deck coverage as per the zoning by-law. The maximum lot coverage permitted is 30%. While the proposal is under the maximum permitted coverage, the reliefs are sought on the basis of permitting a dwelling footprint

which spans the width of the lot. As per the zoning by-law, private rights-of-way are not defined as streets. Therefore, the shore lot line is also considered the front lot line. Due to the location of the front yard, it is anticipated that it will function as a rear yard. Rear yards contain and function primarily as private recreational and amenity spaces related to the dwelling. The footprint restricts amenity and recreational uses solely to the front (water side) yard as the rear yard as defined is occupied by the septic system and driveway.

The front yard recreational and amenity area ranges in depth from about 15 metres at its northeastern corner down to 6.3 metres near its southeastern corner. This results in a front yard area where there is less landscaped open space available for recreational and amenity uses.

A review of more recently constructed dwellings in the vicinity identified that they maintain or exceed the minimum water and EP setback provisions. The application proposes a built form which is out of character with the neighbourhood by bringing the built form closer to the shoreline than what is found in any of the modern builds. Massing impacts are anticipated.

Other designs should be considered. See the Other Alternatives Considered section.

Due to the above analysis, the variances are not minor in nature nor desirable and appropriate for the use of the land.

3) Do the variances maintain the intent and purpose of the Zoning By-law?
No

The property is zoned Limited Service Residential (LSR) Zone within the Township of Fenelon Zoning By-law 12-95. The zone category permits seasonal and year round residential uses.

The intent of the interior side yard is to provide sufficient space for: passage between the front and rear yards, building maintenance, and the buffering of uses between properties. The reduction to the northern interior side yard is not anticipated to affect the ability to permit passage between the front and rear yards nor is it anticipated to reduce the ability to perform dwelling maintenance. The reduction is also not anticipated to adversely affect the use on 27 Sugar Bush Trail as the dwelling is located at the opposite end of that lot and there is a line of trees which run along the mutual lot line, providing a vegetative buffer.

The intent of EP Zone setback is to protect built form from natural hazards, and protect and enhance the ecological function of waterbodies by creating a buffer between built form and water for the establishment of vegetation. The role of this vegetative buffer is examined more within the Official Plan test. The setback reduction contradicts the intent of maintaining this buffer.

Further, the water setback is often found within what functions as the rear yard. The rear yard primarily functions as a private recreational and amenity space for the dwelling. As such, the area in which the water setback applies also functions as the rear yard even though it is by definition the front yard. Reducing the water and EP Zone setbacks reduces the area of available front

(rear) yard amenity space and brings the built form closer to the water. This causes the recreational and amenity activities associated with the built form to be concentrated in a smaller space closer to the water because there is no other place for these activities to occur, save the rear yard, which is nearly entirely occupied by the driveway and septic system. Given that the property abuts a long and narrow bay where dwellings on the opposite sides are less than 200 metres away, there may be adverse impacts related to noise that could be magnified by the water.

Other designs should be considered. See the Other Alternatives Considered section.

Therefore, the variances do not maintain the general intent and purpose of the Zoning By-Law.

4) Do the variances maintain the intent and purpose of the Official Plan? No

The property is designated Waterfront within the City of Kawartha Lakes Official Plan. Residential uses are anticipated within this designation.

The Official Plan establishes water setback policies to provide sufficient spatial separation to protect development from erosion hazards and protect and enhance the ecological function of the waterbody. Through the creation of a water setback, a buffer is created between the built form and waterbody for the establishment of vegetation to protect and enhance the ecological function of the waterbody. This vegetation provides the following benefits to the waterbody: attenuation of warm water runoff, trapping of sediments and nutrients carried by storm water runoff, enhancement to water quality, and habitat enhancement in the riparian area.

Policy 3.11 permits development within 30 metres of the shoreline on existing lots of record where it is demonstrated that all of the following criteria are met:

A. The 30 metre water setback cannot be met.

As the property is a depth of 28.82 metres on one side and 43.22 metres on the other side, staff is of the opinion that this condition is met.

B. Development is to be directed away from the shoreline as much as possible.

The proposal is a rectangular design on a lot with a diagonal shoreline and the building's footprint spans the entire width of the lot. The proposal does not propose a footprint that attempts to direct the built form away from the shoreline. See Other Alternatives Considered for further staff analysis on this point.

C. A vegetation protection zone be established to the maximum extent possible.

As the proposal does not propose a footprint that attempts to direct the built form away from the shoreline, there is additional area which could be utilized to establish a vegetation protection zone with a depth greater than 6.3 metres. As such, the vegetation protection zone has not been

established to the maximum extent possible. See Other Alternatives Considered for further staff analysis on this point.

D. The septic system be elevated 0.9 metres above the water table.

The site grading plan shows this criterion is met.

E. The impact of the expansion or reconstruction is minimized to the maximum extent possible.

This criterion is not applicable as the proposal is not an expansion or reconstruction.

F. In no case shall development be less than 15 metres to the high water mark.

The proposal does not maintain a water setback of at least 15 metres nor have other designs been submitted to demonstrate that the proposal is the most suitable built form for the lot. See Other Alternatives Considered for further staff analysis on this point.

Based upon this analysis, criteria B, C, and F are not met.

Section 20.4 of the Official Plan contains policies to preserve the natural appearance of the shoreline by minimizing the visual presence of built form and retain as much natural shoreline as possible. The intent of these policies is to provide a buffer between the activity of the built form by the dwelling and the ecological functions of the lake. The presence of the built form may be controlled through proximity. Proposing built form 6.3 metres from the shoreline does not lessen the visual impact of the built form. Should the variances be granted, recreational and amenity uses within the reduced water setback area are anticipated to become concentrated within that space since there is less space available within that setback area to carry out those activities.

In consideration of the above the variances do not maintain the general intent and purpose of the Official Plan.

Other Alternatives Considered:

Staff did reach out to the applicant to ask whether other septic system and building designs had been considered that would comply with the Zoning By-law and Official Plan policies. The response was that the submitted design is the preferred design.

Staff believes there is opportunity to create a proposal that does comply with the current water setback requirements through: (1) a different building and driveway design and/or (2) a different septic system design.

The septic system footprint may be reduced through the use of an alternative (formerly known as tertiary) sewage system in order to free up additional building envelope that is outside of the water setback. The system may also be positioned in a different location, such as a side yard, to allow for a dwelling with more depth that does not span the width of the lot.

The dwelling is proposed to cover an area of 243.28 square metres (2,618.6 square feet). The coverage does not include the deck, which has a footprint of

about 53 square metres (580 square feet). The living space on the main floor is 175.3 square metres (1,886 square feet) and the lower level is 172.8 square metres (1,860 square feet).

The footprint and building is large in relation to the property area. Opportunities exist to reduce the footprint of the building by either: (1) making reductions to the 348 square metre (3,746 square foot) living space and/or (2) arrange the living space differently by adding a partial or full storey above the main floor. In either scenario, a less rectangular design could also be proposed to better utilize the building envelope available outside of the minimum water and EP Zone setbacks. Such a design may involve the relocation of the garage.

Staff remains open to reviewing alternative design proposals which comply with the water setback requirement, but may require relief from other minimum yard setback provisions.

Servicing Comments:

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

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 10, 2020): No concerns. Planning Staff did discuss the proposal with KRCA staff. The KRCA clarified that their review of the application related primarily to ensuring the building would be located outside of the Cameron Lake flood plain.

Building Division (March 5, 2020): No concerns.

Development Engineering Divisions (March 6, 2020): No concerns.

Planning Division Comments: In correspondence with the applicant, the applicant identified the recently constructed dwelling at 47 Sugar Bush Trail as a comparison case to the current application. Planning Staff has reviewed the lot grading and drainage plan for 47 Sugar Bush Trail. The plan identifies the dwelling along with its deck exceed the required 15 metre minimum water and EP Zone setback.

Public Comments:

No comments received as of March 10, 2020.

Attachments:



Appendices A-D to
Report COA2020-003.

Appendix A – Location Map
Appendix B – Aerial Photo
Appendix C – Applicant's Sketch
Appendix D – Department and Agency Comments

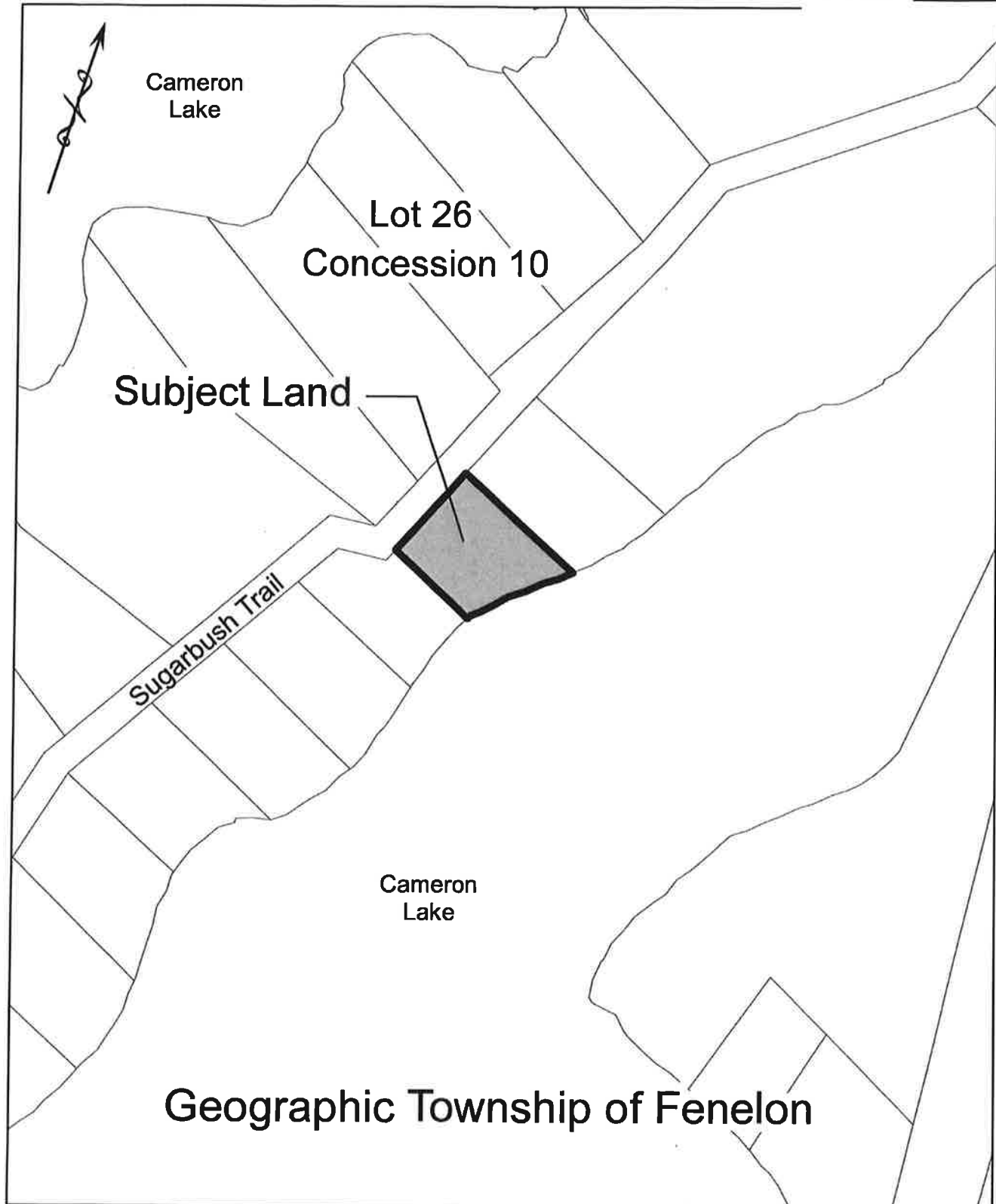
Phone:	705-324-9411 extension 1206
E-Mail:	dharding@kawarthalakes.ca
Department Head:	Chris Marshall, Director of Development Services
Department File:	D20-2020-003

to

REPORT COA2020-007

FILE NO: D20-2020-003

D20-2020-003



Vacant Lot, Sugar Bush Trail, geographic Twp. of Fenelon



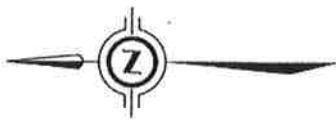
0.11 Kilometers
WGS_1984_Web_Mercator_Auxiliary_Sphere
© City Of Kawartha Lakes



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APPENDIX " B "
to
REPORT COA2020-007
FILE NO: D20-2020-003



David Harding

From: Derryk Wolven
Sent: Thursday, March 5, 2020 1:50 PM
To: Charlotte Crockford-Toomey
Subject: D20-2020-003

Follow Up Flag: Follow up
Flag Status: Completed

APPENDIX " D "
to
REPORT COA2020-007
FILE NO. D20-2020-003

Building division has the following comments:

No concerns.

Derryk Wolven, CBCO

Plans Examiner

Development Services, Building Division, City of Kawartha Lakes

705-324-9411 ext. 1273 www.kawarthalakes.ca



David Harding

From: Anne Elmhirst
Sent: Friday, March 6, 2020 4:58 PM
To: David Harding
Subject: D20-2020-003 Sugar Bush Trail

Hello David,

RE: D20-2020-003 Minor Variance
Sugar Bush Trail, Former Fenelon Township
Part Lot 26, Conc. 10,
Roll No. 165121006020300

I have received and reviewed the application for minor variance to request relief to permit the construction of a single detached dwelling with a deck and screened porch on the above-noted property. The relief request will allow a reduction of the minimum setback requirement to the Environmental Protection Zone, a reduction to the minimum water setback and a reduction to the north interior yard setback.

An application for a sewage system permit has been submitted and reviewed by our department to service the proposed single detached dwelling on the property. The sewage system is proposed in the road side of the property. The proposal is for a conventional filter bed system to service the dwelling. The sewage system proposal meets the requirements of the Ontario Building Code.

A further review of the property was conducted to determine if there would be a sewage system proposal that would allow for more available space in order to reduce the request for relief for the dwelling on the water setback. An evaluation of alternative sewage systems was conducted. An alternative sewage system proposal would provide some additional alleviation for the relief to the water setback. However, the amount of alleviation would be minimal.

As such, the Building Division – Sewage System Program has no concerns with the minor variance request.

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



Charlotte Crockford-Toomey

From: Mark LaHay
Sent: Friday, March 06, 2020 4:31 PM
To: David Harding
Cc: Charlotte Crockford-Toomey
Subject: FW: 20200306 D20-2020-003 - Engineering review

FYI - file

From: Kim Rhodes <krhodes@kawarthalakes.ca>
Sent: Friday, March 6, 2020 4:28 PM
To: Mark LaHay <mlahay@kawarthalakes.ca>
Cc: Christina Sisson <csisson@kawarthalakes.ca>; Kirk Timms <ktimms@kawarthalakes.ca>
Subject: 20200306 D20-2020-003 - Engineering review

Please see the message below from Christina Sisson:

Good afternoon Mark – further to our engineering review of the following:

Minor Variance – D20-2020-003
Vacant Lot, Sugar Bush Trail
Part Lot 26, Concession 10
Geographic Township of Verulam

It is the understanding by Engineering that the purpose and effect is to request relief from the following provisions in order to permit the construction of a single detached dwelling with a deck and screened porch:

1. reduce the minimum setback to the Environmental Protection (EP) Zone from 15 metres to 6.3 metres;
2. reduce the minimum water setback from 15 metres to 6.3 metres; and
3. reduce the north interior side yard setback from 2.3 metres to 1.3 metres.

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

