The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Darren and Gillian Wilkinson

Report Number COA2020-007

Public Meeting	
Meeting Date:	August 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 the following:

Unenclosed Decks with Stairs

- 1. Section 3.18.1.1 to reduce the minimum setback to the Environmental Protection (EP) Zone from 15 metres to 8.3 metres; and
- 2. Section 15.2.1.3(e) to reduce the minimum water setback from 15 metres to 8.3 metres;

Single Detached Dwelling

- 3. Section 3.18.1.1 to reduce the minimum setback to the Environmental Protection (EP) Zone from 15 metres to 10.8 metres; and
- 4. Section 15.2.1.3(e) to reduce the minimum water setback from 15 metres to 10.8 metres.

The variances are requested on vacant land on Sugar Bush Trail, geographic Township of Fenelon (File D20-2020-003).



Recommendation:

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

That minor variance application D20-2020-003 be GRANTED, as the application meets the tests for minor variance set out in Section 45(1) of the Planning Act.

Conditions:

1) **That** the construction of the dwelling, decks and stairs related to this approval shall proceed substantially in accordance with the sketch in Appendix C and elevations in Appendix D submitted as part of Report

COA2020-007, which shall be attached to and form part of the Committee's Decision; and

2) That the building construction related to the minor variances 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 ne refused. This condition will be considered fulfilled upon completion of the first Building Inspection.

This approval pertains to the application as described in Report COA2020-007. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

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. The application was originally scheduled for the March 19, 2020 Committee meeting. The staff report prepared at that time did not recommend approval of the application. That public meeting was cancelled and the staff report never presented.	
	The applicant subsequently modified the proposal, though not in consultation with staff. Relief from the interior side yard setback was requested in the original application. This request has since been removed. The amended application also proposes to increase the EP and shoreline setbacks by 2 metres.	
	The application was last amended on June 9, 2020.	
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 (2012)	
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:
	East:

Shoreline Residential 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.

1) Are the variances minor in nature? <u>Yes</u> And

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

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.

The subject property is shallow, and the shoreline runs at an angle. A single storey dwelling with a 1.5 car garage and walk-out basement is proposed. The sewage system is also proposed between the dwelling and Sugar Bush Trail.

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 relation of the front yard to the dwelling, 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 ensures the decks project as minimally as possible into the front yard while remaining sufficiently sized to allow transition between the main floor and front yard. This minimal projection ensures as much rear yard space as possible is preserved for amenity and recreational uses.

The proposal ensures the maximum separation between the sewage system and shoreline possible. Further, the proposed design of the main floor with walk-out basement ensures a low profile design in keeping with the established built form of nearby dwellings. This built form is more appropriate and in character with the neighbourhood than a two or three floor dwelling with a walkout basement that has a much smaller footprint.

The variances allow for the residential use of the lot with a footprint that recognizes to the extent possible the septic system and shoreline setbacks.

Due to the above analysis, the variances are 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? <u>Yes</u>

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 Environmental Protection (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 preserves as much of a buffer as possible given the unique configuration of the lot. The dwelling has been stepped on the southeastern side in order to maximize the setback to the shoreline.

As much open space as possible within the front yard has been retained to allow for the even distribution of recreational and amenity activities associated with the built form.

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

4) Do the variances maintain the intent and purpose of the Official Plan? <u>Yes</u>

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 of a stepped design on a lot with a diagonal shoreline to ensure the built form is directed away from the shoreline where possible.

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

As the proposal attempts to direct the built form away from the shoreline, and is an improvement over the original submission, there is additional area that may now be utilised to establish a greater vegetation protection zone.

- **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 lot has insufficient depth to comply with the water setbacks for both the dwelling and septic system. The intent of the policy was not to extinguish the residential use of an unusually-shaped lot, but to improve upon shoreline setbacks when development or redevelopment occurs. Due to the shallow depth of the lot, it is not possible to further enhance the shoreline setback without increasing the overall height of the building. A taller building is unlikely to comply with the required setbacks given the shallow depth of the lot and present a more prominent built form less in keeping with the designation's other policies that encourage low profile development.

In consideration of the above the variances do maintain the general intent and purpose of the Official Plan.

Other Alternatives Considered:

The applicant revised the proposal on June 9, 2020.

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.

Community Services Department (March 17, 2020): No concerns.

Development Engineering Division (August 11, 2020): No concerns.

Public Comments:

The following comments were received in response to the March circulation of the application:

Doug Black of 36 Sugar Bush Trail (March 25, 2020): Letter of objection.

Stanley Black of 36 Sugar Bush Trail (March 25, 2020): Letter of objection.

Eileen Weldon of 42 Sugar Bush (April 1, 2020): Letter of objection.

Applicant Comments:

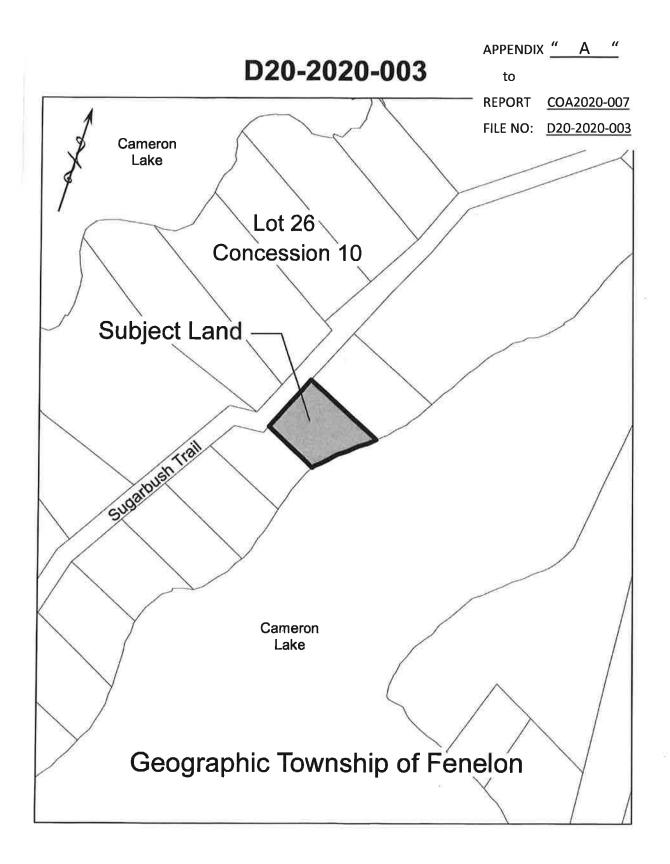
The applicant provided a response to the public comments about concerns raised concerning the spraying of pesticides, from Greg Ottenbrite, Ontario Exterminator Licence 034245. Greg clarifies that the product was applied twice in August 2018 to control poison ivy, and that the product is the recommended product by the Ministry of Environment. He further clarifies that it is biologically impossible for the product, PCP 28198, to harm animals as it is a biologically degradable plant protein with the toxicity of half a cup of coffee.

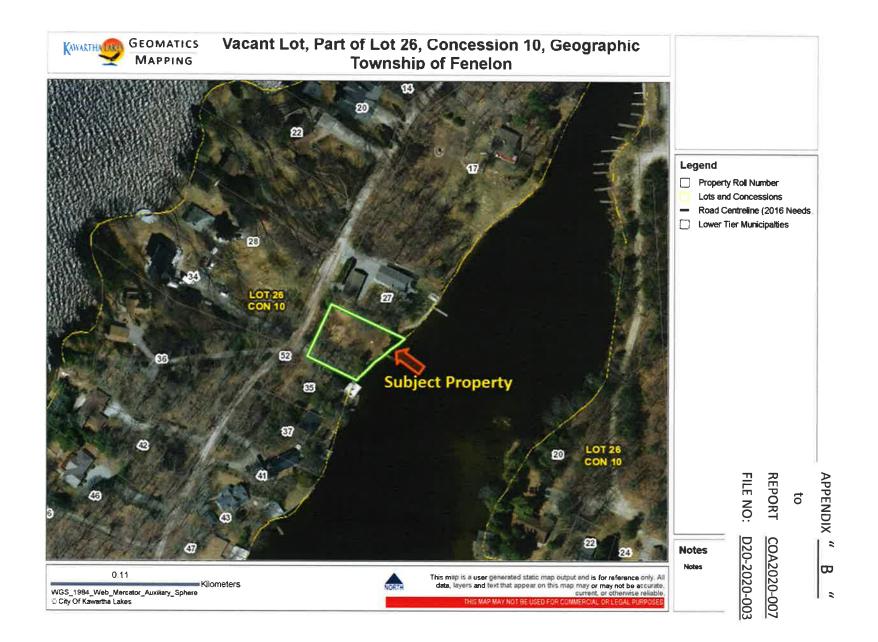
Attachments:

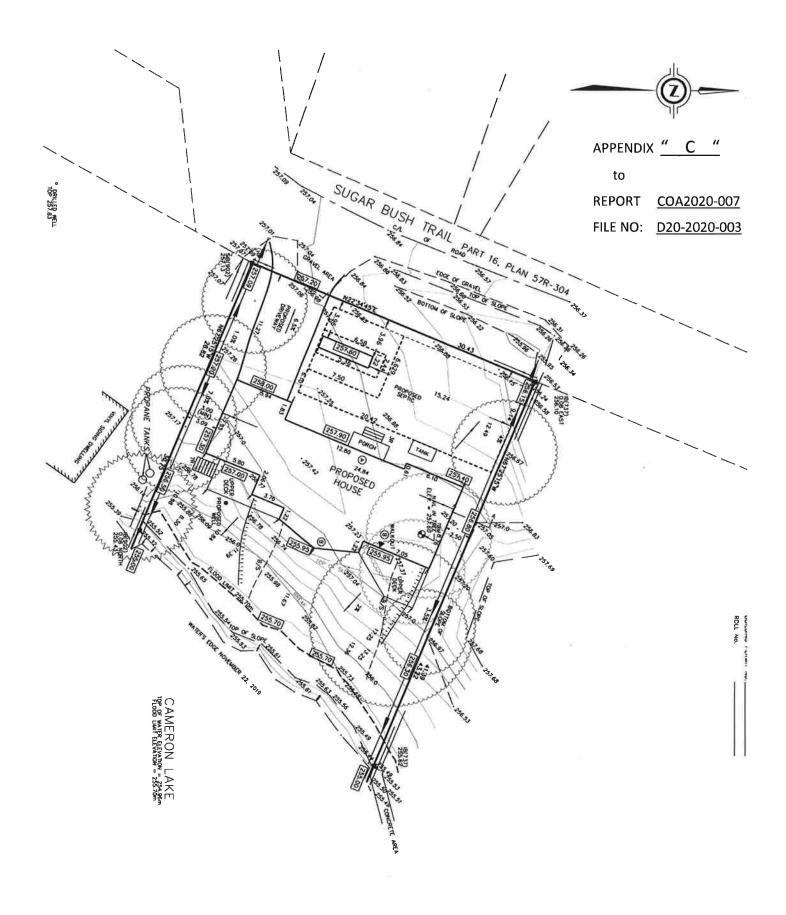


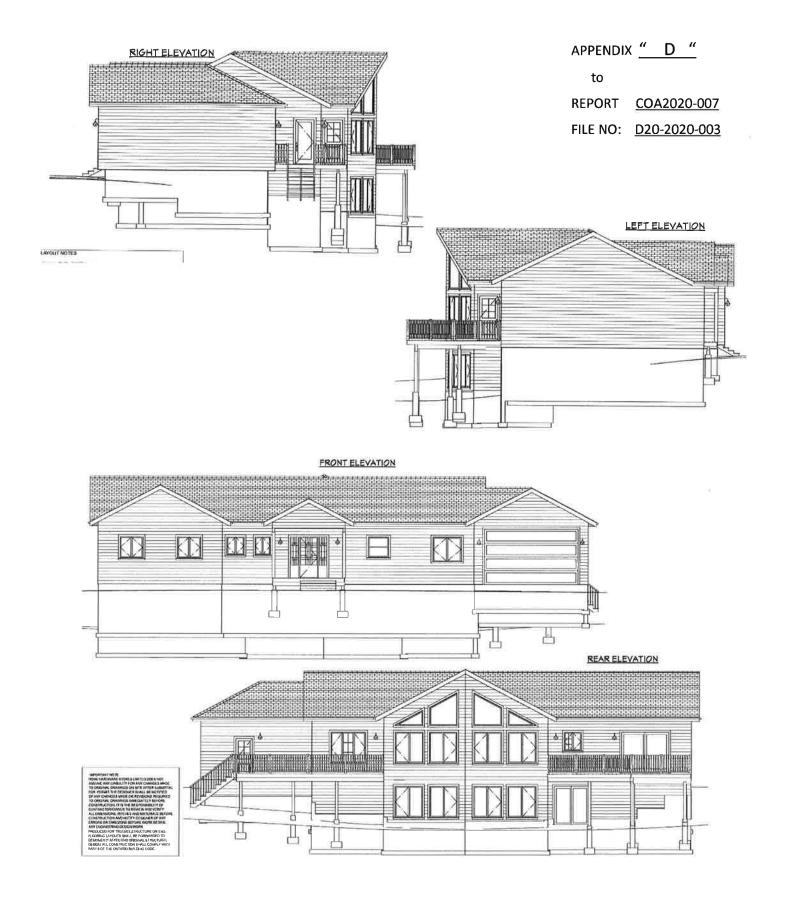
Appendix A – Location Map Appendix B – Aerial Photo Appendix C – Applicant's Sketch Appendix D – Applicant's Elevations Appendix E – Department and Agency Comments Appendix F – Public Comments

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









From: Sent: To: Subject:

Charlotte Crockford-Toomey Tuesday, August 11, 2020 2:06 PM David Harding; Kent Stainton FW: 20200811 D20-2020-003,016,017,018,019,020,021 Engineering Review

fyi

APPENDIX to REPORT COA 2020-007

FILE NO. D20-2020-003

Charlotte Crockford-Toomey Administrative Assistant Planning Department, City of Kawartha Lakes 705-324-9411 ext. 1231 www.kawarthalakes.ca



Due to COVID-19, all City Municipal buildings are closed to the public and some service levels have been affected. For COVID-19 information including service levels and how to access services, please call 705-324-9411 extension 4000 or visit <u>www.kawarthalakes.ca/covid19</u>

From: Kirk Timms <ktimms@kawarthalakes.ca>
Sent: Tuesday, August 11, 2020 1:00 PM
To: Mark LaHay <mlahay@kawarthalakes.ca>
Cc: Christina Sisson <csisson@kawarthalakes.ca>; Kim Rhodes <krhodes@kawarthalakes.ca>; Charlotte Crockford-Toomey <ccrockford-toomey@kawarthalakes.ca>
Subject: 20200811 D20-2020-003,016,017,018,019,020,021 Engineering Review

Good Afternoon Mark,

Please see Engineering's comments below for the listed Minor Variance Applications;

D20-2020-003 - From an engineering perspective, we have no objection to the proposed Minor Variance.

D20-2020-016 - From an engineering perspective, we have no objection to the proposed Minor Variance.

D20-2020-017 - From an engineering perspective, we have no objection to the proposed Minor Variance.

D20-2020-018 - From an engineering perspective, we have no objection to the proposed Minor Variance.

D20-2020-019 - From an engineering perspective, we have no objection to the proposed Minor Variance.

D20-2020-020 - From an engineering perspective, we have no objection to the proposed Minor Variance.

D20-2020-021 - 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, Kirk

Kirk Timms, C.E.T., CAN-CISEC Senior Engineering Technician Engineering & Corporate Assets Department, City of Kawartha Lakes 705-324-9411 ext. 1119 www.kawarthalakes.ca



Due to COVID-19, all City Municipal buildings are closed to the public and some service levels have been affected. Please note all courier packages and mail must be directed to City Hall, 26 Francis Street, Box 9000, Lindsay, ON, K9V 5R8. For COVID-19 information including service levels and how to access services, call 705-324-9411 extension 4000 or visit www.kawarthalakes.ca/covid19.

From:	Mark LaHay
Sent:	Friday, March 6, 2020 4:31 PM
То:	David Harding
Cc:	Charlotte Crockford-Toomey
Subject:	FW: 20200306 D20-2020-003 - Engineering review
Follow Up Flag:	Follow up

Completed

FYI - file

Flag Status:

From: Kim Rhodes Sent: Friday, March 6, 2020 4:28 PM To: Mark LaHay Cc: Christina Sisson ; Kirk Timms 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,

CHRISTÍNA

Christina Sisson, P.Eng.

Supervisor, Development Engineering

Engineering & Corporate Assets, City of Kawartha Lakes 705-324-9411 ext. 1152 www.kawarthalakes.ca



From: Sent: To: Subject: Anne Elmhirst Friday, March 6, 2020 4:58 PM David Harding 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 <u>www.kawarthalakes.ca</u>



From:	Derryk Wolven
Sent:	Thursday, March 5, 2020 1:50 PM
То:	Charlotte Crockford-Toomey
Subject:	D20-2020-003
Follow Up Flag:	Follow up

Flag Status:

Follow up Completed

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



From: Sent: To: Subject: Eileen Weldon <eileenweldon@sympatico.ca> Wednesday, April 1, 2020 7:15 PM David Harding RE: Lot for sale with City of Kawartha Lakes Minor Variance

Eileen Weldon P.O. Box 1416 42 Sugarbush Trail Fenelon Falls K0M 1N0

APPENDIX LF 20 REPORT COA2020-007

-----Original Message-----From: David Harding [mailto:dharding@kawarthalakes.ca] Sent: Wednesday, April 1, 2020 9:29 AM To: Eileen Weldon Subject: Re: Lot for sale with City of Kawartha Lakes Minor Variance

Thank you for your email, Eileen.

Would you please provide your mailing address so that we can add you to the interested parties list once we are in a position to move forward with this applicaton?

Our office is currently closed and our service levels have been affected.

David Harding RPP, MCIP

Planner II

City of Kawartha Lakes

From: Eileen Weldon <eileenweldon@sympatico.ca> Sent: Wednesday, March 25, 2020 6:04:06 PM To: David Harding Subject: Lot for sale with City of Kawartha Lakes Minor Variance

I live at 42 Sugarbush Trail. We have had our place here since 1978. A few years ago, whoever bought that property absolutely clear cut it, It was such an eye sore for our lovely treed trail. To keep the weeds down he would spray it with all kinds of chemicals. I don't even spray my lawn for weeds as we're very concerned for the lake. These chemicals are also very dangerous for our pets. He should have done his research before he bought

it. If this lot is too small to build on what about the septic system will

he treat his new lawn with all these chemicals. The Loons nest in this bay every year. It is always full of a variety of ducks from spring through to the fall. Some of the turtles in the bay are humungous. How will this place impact the wildlife? I am not in favour of the 'minor' variance.

Sent from Mail<https://go.microsoft.com/fwlink/?LinkId=550986> for Windows 10

This message, including any attachments, is privileged and intended only for the addressee(s) named above. If you are not the intended recipient, you must not read, use or disseminate the information contained in this e-mail.

If you have received this e-mail in error, please notify the sender immediately by telephone, fax, or email and shred this confidential e-mail, including any attachments, without making a copy. Access to this e-mail by anyone else is unauthorized.

From: Sent: To: Subject: Doug Black <douglasrblack@gmail.com> Wednesday, April 1, 2020 2:57 PM **David Harding** 36 sugarbush

Hi David,

Thanks for your reply. Yes, my father Stanley is co-owner of 36 Sugarbush. I've recopied a screenshot of his message below.

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Thanks, Doug

🖬 ROGERS 😤 👘 2:51 PM 4 0 42% Scan.jpeg A Done Scole Venezus #005-3025-3025 City of Remarks Lakes (stel: Nauch 17: 3000 at \$119 AM To: Douglas R. Binco

Dear Doug. You have my permission to share this document as my proxy.

Dear Sirs:

As a property owner of many years at 36 Sugarbush Trail, I have significant concerns about the variance proposed for Lot #26. I feel a variance of over 80% (8.7 meters) is not minor, but major. The proposed structure would be only 6.3 meters from the lake!

I received the notice on 3/26/2020, and am unable to present for the hearing.

Thank you for your consideration,

Stanley & Clack

Stanley R. Black

From: Sent: To: Subject: Doug Black <douglasrblack@gmail.com> Wednesday, March 25, 2020 1:49 PM David Harding Kawartha Lakes: Variance Application D20-2020-003

From: Douglas Black 36 Sugarbush Trail Fenelon Falls, ON K0M1N0

18 Cody Ave Brooklin, ON L1M1K8

Dear Mr. Harding,

I hope you are well and thank you for your time on the phone last week to discuss the minor variance proposal on Sugarbush Trail.

As discussed, I am OPPOSED to granting approval to this variance as it is not minor in nature and not suitable for the land it is on or the neigbourhood it is in. This is similar to what you have posted in your case notes online.

Beyond the official rules and regulations that the proposal deviates from, I am concerned with the environmental impact that this would have on the waterfront. Since the Wilkinsin family purchased this land they have clear cut approx. 100 trees to make the lot completely barren. It has been repeatedly treated it with pesticides for weed control that caused sickness for local dogs and animals, not to mention the wildlife in the lake and the water that we all swim in. It gives me further concern on what would be done with the construction, the environmental impact and how the lot would then be treated once landscaped. I understand that this lot has been for sale for a couple of years, and it could be deduced that it was originally purchased with a misunderstanding of what could be built on it. Notes on the listing always had a bold mention that the potential purchaser would be responsible for doing due diligence on local zoning and building policies. It appears that after failure to sell and gain any return on the original investment that this variance application is an attempt at a solution for a mistake that was made from not doing proper due diligence on the original purchase. I feel badly that the property owners have ended up in this situation, but it is not fair that the neighbourhood would have to pay for the mistake by allowing a construction that is well outside the regulations. My family and I have owned property on Sugarbush Trail since 1925 and take pride in preserving local policies. the environment and the natural charm of the neighbourhood. I have also included a signed statement from my father, Stanley Black, as an attachment.

As the in-person hearing for March 19th was cancelled due to COVID-19 isolation recommendations, please take this email as my formal statement. Please also advise the neighbourhood with a new sign when it's rescheduled.

Kindly confirm receipt of my email and please feel free to reach out to me directly at any time.

Sincerely,

Doug Black 647.993.3115

From: Susen Block susand:New * Subtract Tool Subtract: Variance #020-8020-903, City of Kowartha Lakes Dete: March 17, 2020 al 9159 AM Too: Douglas R. Black Scilus, 315125 pr. com

Dear Doug, You have my permission to share this document as my proxy:

Dear Sirs:

As a property owner of many years at **36 Sugarbush** Trail, I have significant **concerns** about the variance proposed for Lot #26. I feel a variance of **over 50%** (8.7 meters) is not minor, but major. The proposed structure would be only 6.3 meters from the lakel I received this notice on 3/26/2020, and am unable to present for the hearing.

Thank you for your consideration,

Stundy & Black

Stanley R. Black

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From:	Eileen Weldon <eileenweldon@sympatico.ca></eileenweldon@sympatico.ca>
Sent:	Wednesday, March 25, 2020 6:04 PM
То:	David Harding
Subject:	Lot for sale with City of Kawartha Lakes Minor Variance

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Sent from Mail for Windows 10