

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Charles and Elizabeth Riches
Report Number COA2021-068

Public Meeting

Meeting Date: November 4th, 2021
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 to request relief from Section 3.1.2.1 in order to construct an accessory building (Additional Residential Unit - ARU) which is not part of the main building within the front yard.

The variance is requested at 2220 Elm Tree Road, geographic Township of Fenelon (File D20-2021-048).

Author: Kent Stainton, Planner II

Signature: 

Recommendations:

Resolved That Report COA2021-068 Riches, be received;

That minor variance application D20-2021-048 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions:

- 1) **That** the building construction related to this approval shall proceed substantially in accordance with the sketch in Appendix C and generally in accordance with the sketch in Appendix D submitted as part of Report COA2021-068, 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 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 COA2021-068. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Background: In late December 2020, following recommendations from the City's Planning Advisory Committee, Council of the City of Kawartha Lakes adopted a host of amendments to allow an additional residential unit (ARU) on the same lot, subject to conditions. The decisions implement provincial direction to increase the supply of affordable housing within the *More Homes, More Choice: Ontario Housing Supply Action Plan* and related legislation *More Homes, More Choice Act (Bill 108)* by making it easier for homeowners to create residential units.

By-law Nos. 2020-155 through 2020-159 give effect to Amendments to Official Plans for the City of Kawartha Lakes, Village of Fenelon Falls, Town of Lindsay, Township of Ops, and Victoria County, respectively; and, By-law Nos. 2020-160 and 2020-161 amend all 19 City Zoning By-laws to implement policies and regulations for ARUs. Council has also adopted By-law No. 2020-162 that provides for registration of ARUs. The amendments fulfill the City's requirements under Provincial policies, and increase affordable housing opportunities City-wide.

On October 12th, 2021 upon conducting analysis associated with the preparation of the report, Planning Staff noticed discrepancies in the location of the Regulatory Floodplain from reviewing the Approximate Regulated Limit (ARL) mapping available to Planning Staff. When compared to detailed floodplain mapping prepared by Kawartha Conservation as part of the McLarens Creek Flood Plain Mapping Study (April 2021), the extent of the flood hazard depicted in the Study was more extensive with both the location of the driveway and (potentially) the location of the ARU being within the hazard.

Through receipt of comments from Kawartha Conservation and subsequent conversations with its staff members, Planning Staff determined that in lieu of the provision of a Survey showing the location of development in relation to the flood hazard, revisions to the existing site plan by relocating the ARU further to the east and utilizing the existing driveway running parallel to and outside of the flood elevation would result in the development being entirely outside of lands Regulated by Kawartha Conservation and in-conformity with Section 3.18.1.1 of the Zoning By-law

At the October 21st Committee of Adjustment meeting, Planning staff recommended the application be deferred to no later than the November 25th, 2021 meeting in order for the applicant to revise the location of the ARU and driveway. The Committee agreed to the request for deferral.

The application proposes the construction of an ARU within the front yard of the subject property.

This application was deemed complete on September 30th, 2021.

- Proposal: To recognize the location of a 102.57 square metre (1,104 square feet) Additional Residential Unit (ARU) within the front yard of the subject property.
- Owners: Charles and Elizabeth Riches
- Applicant: Colleen Riches
- Legal Description: 2220 Elm Tree Road, Part Lot 4, Concession 2, geographic Township of Fenelon, City of Kawartha Lakes
- Official Plan: Prime Agricultural and Environmental Protection within the City of Kawartha Lakes Official Plan (2012). The Environmental Protection designation follows McLaren Creek, which traverses a portion of the western frontage along Elm Tree Road.
- Zone: Agricultural (A1) Zone and Environmental Protection Exception 1 (EP-1) Zone within the Township of Fenelon Zoning By-law 12-95
- Site Size: 52.61 Hectares (130 Acres)
- Site Servicing: Existing: Private individual well and septic system
Proposed (ARU): Private individual well and septic system
- Existing Uses: Agricultural, Rural Residential
- Adjacent Uses: North: Agricultural, Hamlet of Cambray
East, South: Agricultural, Blackbird Road, Rural Residential
West: Agricultural, Creek, Elm Tree Road

Rationale:

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 largely agricultural and is situated immediately south of the Hamlet of Cambray. The property also abuts Blackbird Road to the east with McLaren Creek running parallel to sections of the front lot line before flowing under Elm Tree Road. The Cambray Community Centre is located to the northwest of the property.

The property is farmed for cash crops and contains some horses as well. The land slowly rises to the east from Elm Tree Road with a lower, flat swath of land located in the northwest corner of the property, where the ARU is proposed. The owner has explained that this area of the property offers the lowest quality of arable agricultural lands; hence, it was chosen as the proposed ARU location. A two-storey farmhouse and several agricultural buildings and structures are also present to the southeast of the proposed location of the ARU.

The northern property line is delineated by vegetated hedgerow and wooden fence that offers some screening for the ARU when traveling south along Elm Tree Road. No adverse impacts to the neighbourhood are anticipated as a result of the location of the ARU. The ARU is a traditional bungalow design with an attached garage, front porch, separate entrance, and laneway. The design of the ARU will blend in well with surrounding agricultural lands.

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?

Yes

The subject lands are zoned Agricultural (A1) Zone and Environmental Protection Exception 1 (EP-1) Zone within the Township of Fenelon Zoning By-law 12-95. The A1 Zone permits a variety of agricultural and accessory uses, including ARUs.

The EP-1 Zone restricts uses to those found under the Environmental Protection (EP) Zone; however, agricultural uses are additionally permitted. Kawartha Conservation (Kawartha Region Conservation Authority) underwent a floodplain delineation and mapping exercise for McLaren Creek, which illustrates an updated location of the Regulatory Floodplain. The proposed revised location of the ARU is outside of the limit of the floodplain and subsequently, the unit will be located out of the EP-1 Zone that follows McLaren Creek.

The development has been located further from the flood hazard as to also meet the requirements provided for under Section 3.18.1.1 of the By-law, which requires an additional 15-metre setback from any class of Environmental Protection Zone, including the EP-1 Zone. The proposed location of the ARU is approximately 20 metres from the limit of the EP-1 Zone.

The intent of Section 3.1.2.1 of the zoning by-law is to restrict the placement of accessory buildings related to residential uses within a front yard, relegating them to side or rear yards. Side and rear yards are usually less visually prominent locations in comparison to a front yard. As it is usually the most visible yard from the street, front yards have the greatest ability to shape the character of the street through their appearance and use. While the A1 Zone allows buildings and structures accessory to Agricultural uses within the front yard, the ARU is a residential unit. Notwithstanding the use of the building, the proposed location allows the building to blend in with the agricultural property,

which typically contains agricultural buildings and structures scattered throughout the land, often within the front yard of properties.

The proposed location of the ARU is approximately 55 metres from the front lot. Given the distance from the front of the lot, any building prominence imposed as a result of the ARU location will be diminished. For all intents and purposes, the ARU appears as though it may function as a property independent from the subject lands.

Therefore, the variance maintains the general intent and purpose of the Zoning By-Law.

4) Do the variances maintain the intent and purpose of the Official Plan?

Yes

The property is designated Prime Agricultural within the City of Kawartha Lakes Official Plan. Low density residential uses, along with accessory uses are anticipated within this designation.

As mentioned under Rationale 3, Kawartha Conservation has refined the extent of the flood hazard associated with McLaren Creek, which results in the Environmental Protection designation on the property. Based on the revised location of the driveway and ARU, the proposal will not be impacted by any natural hazards.

Official Plan Amendment No. 39 was adopted in late 2020 as part of a provincial policy conformity exercise. The Housing Goals of the Official Plan were amended in order to provide for flexible zoning provisions to support a broad range of housing forms, including additional residential units. In general, the proposal adheres to the eligibility criteria identified in Section 5.7.2 of the Official Plan Amendment. The existing residential use establishes an existing condition that the proposed new residential use does not exacerbate with respect to Minimum Distance Separation formulae (MDS).

In consideration of the above, the variance maintains the general intent and purpose of the Official Plan.

Other Alternatives Considered: Other locations for the ARU were considered that would have been located in areas that would have taken higher quality, arable prime agricultural lands out of production.

Servicing Comments: Both the primary residence and the ARU will be serviced each with private well and private septic systems.

Consultations:

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

Agency Comments:

Development Engineering Division (October 8, 2021): No objection.

Building and Septic Division – Supervisor, Part 8 Sewage Systems (October 5, 2021): I have received and reviewed the minor variance application D20-2021-048 to request relief to locate an accessory residential unit in the front yard of the subject property.

I have reviewed the proposed accessory residential unit location for the placement of a new private sewage disposal system. The area in the vicinity of the residential unit has a gentle slope surrounded by open field. There is adequate space to install a sewage system to service the accessory structure. An Application for a Sewage System Permit to Install will be required.

Kawartha Conservation (Kawartha Region Conservation Authority)(October 14, 2021): ARU is to be located outside of the floodplain or if it is proposed within 15 metres it will require a permit from our office. With these conditions, the ARU should not be subject to any hazards.

Public Comments:

No comments have been received as of October 27, 2021.

Attachments:



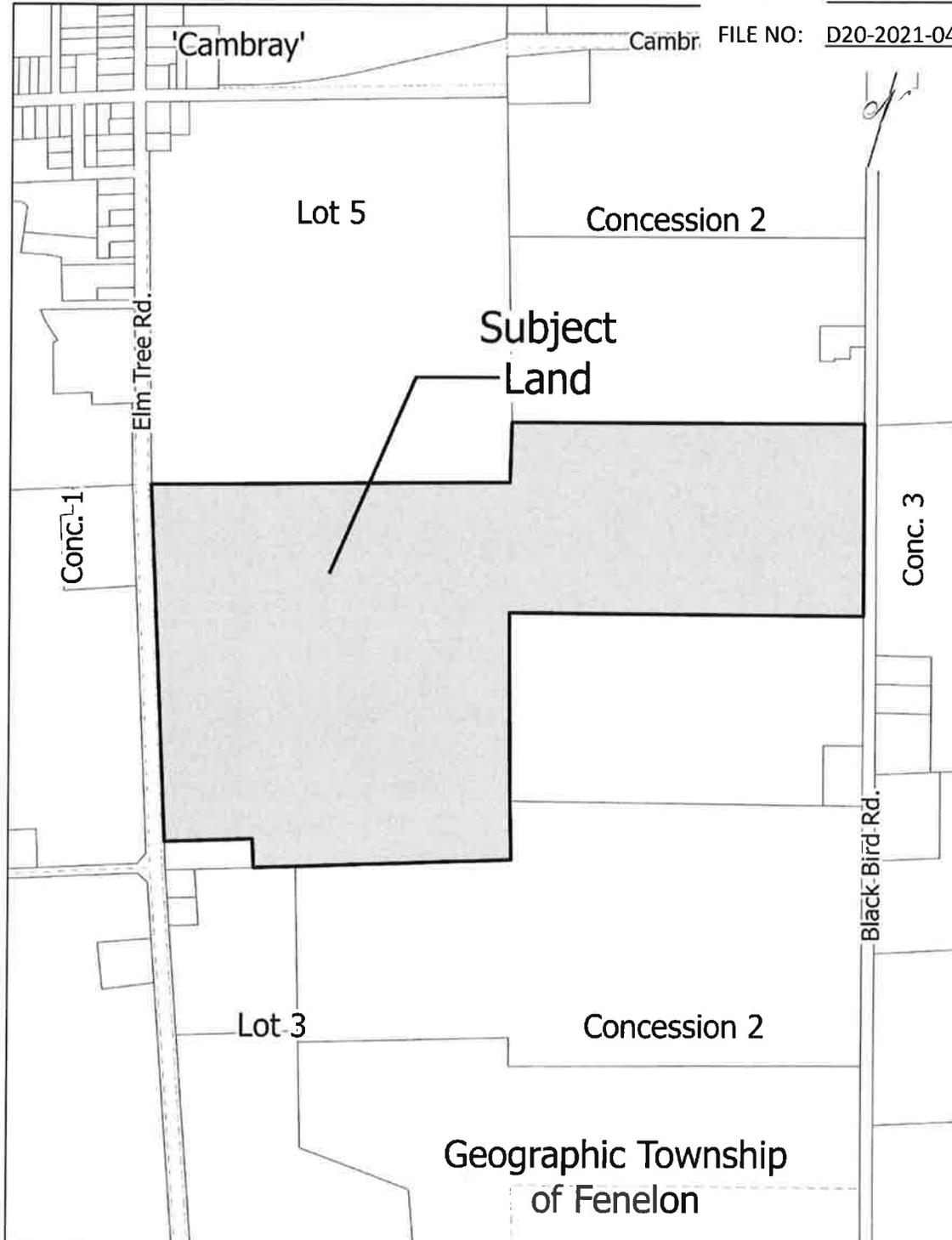
- Appendix A – Location Map
- Appendix B – Aerial Photo
- Appendix C – Applicant's Site Plan
- Appendix D – Elevations
- Appendix E – Department and Agency Comments

Phone: 705-324-9411 extension 1367
E-Mail: kstainton@kawarthalakes.ca
Department Head: Richard Holy, Acting Director of Development Services
Department File: D20-2021-048

APPENDIX " A "

D20-2021-048

to
REPORT COA2021-068
FILE NO: D20-2021-048





Legend

- Property Roll Number
- Lots and Concessions
- Water Labels

Notes

Notes

APPENDIX " B "

to

REPORT COA2021-068

FILE NO: D20-2021-048

0.90 Kilometers

WGS_1984_Web_Mercator_Auxiliary_Sphere

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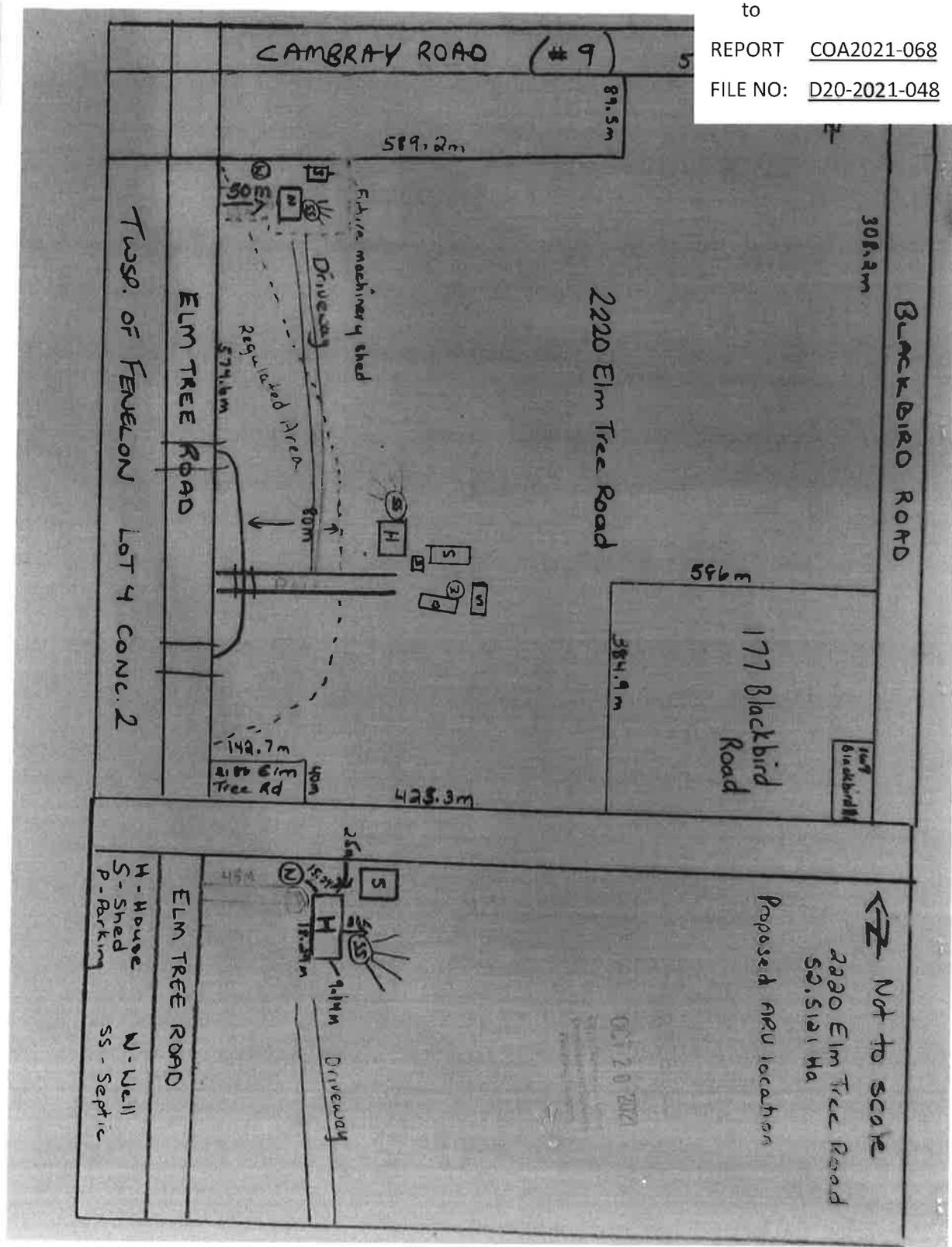


This map is a user generated static map output and is for reference only. All data, layers and text that appear on this map may or may not be accurate, current, or otherwise reliable.

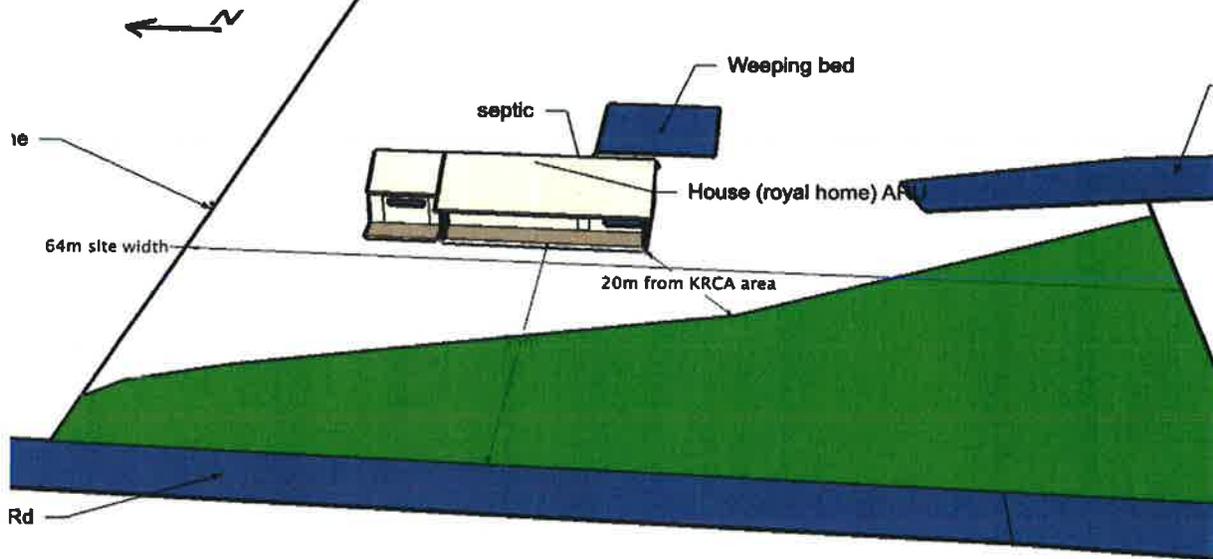
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APPENDIX " C "

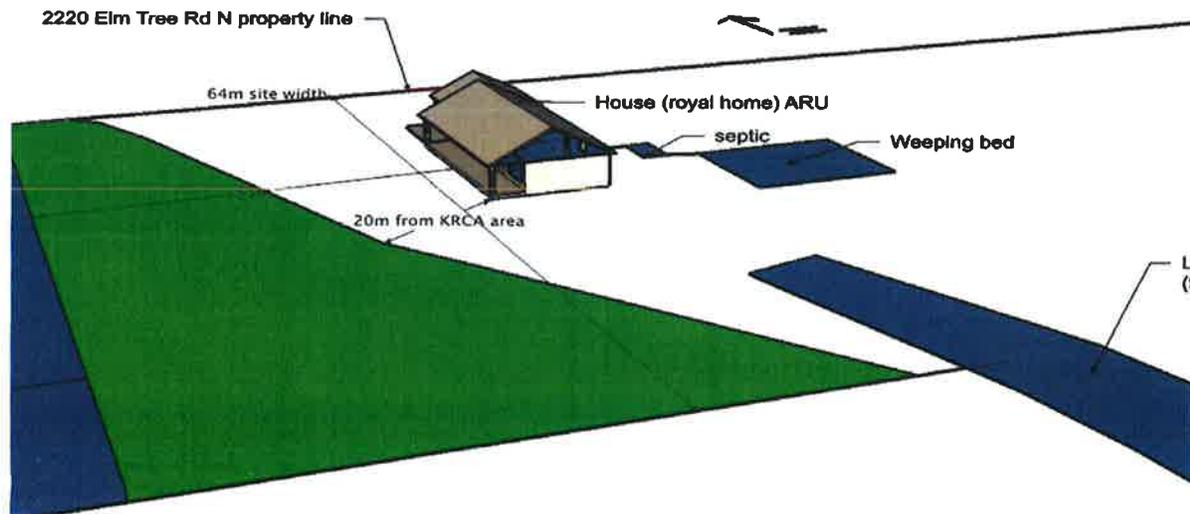
to
REPORT COA2021-068
FILE NO: D20-2021-048



2220 Elm Tree rd ARU Inset Drawing



2220 Elm Tree rd ARU Inset Drawing

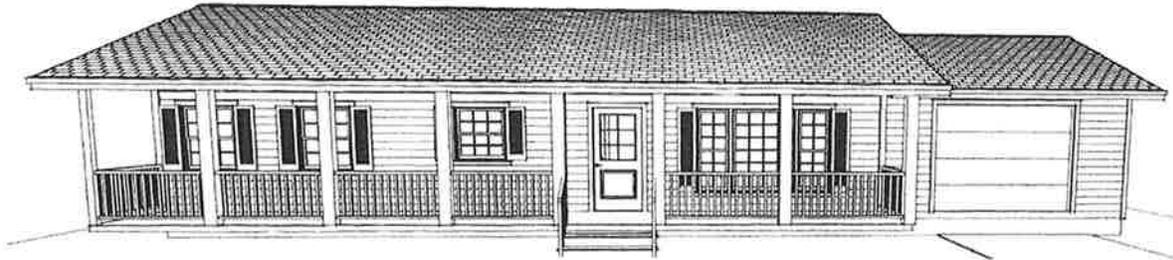


APPENDIX " D "

to

REPORT COA2021-068

FILE NO: D20-2021-048



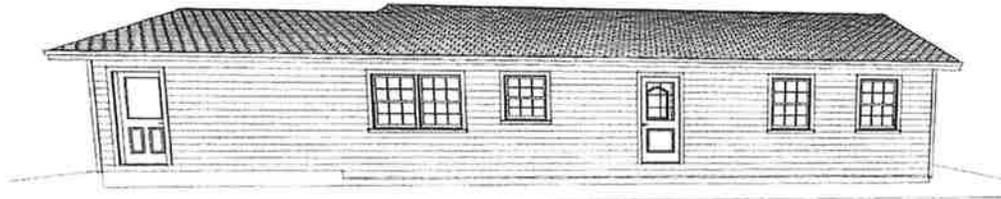
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CHARLES & ELIZABETH RICHES
CAMBRAY, ONTARIO

DRAWN BY:
PATRICIA AINSWORTH
DATE: MARCH 27TH, 2021
SCALE: NTS

DWG# 1



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CHARLES & ELIZABETH RICHES
CAMBRAY, ONTARIO

DRAWN BY:
PATRICIA AINSWORTH
DATE: MARCH 27TH, 2021
SCALE: NTS

DWG# 2



**KAWARTHA
CONSERVATION**

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Page 1 of 3
October 14, 2021

KRCA File NO: PPLK-10587

Via Email: kstainton@kawarthalakes.com

Kent Stainton

Planner II

Development Services – Planning Division

180 Kent Street West

Lindsay, ON, K9V 2Y6

APPENDIX " E "

to

REPORT COA2021-068

FILE NO. D20-2021-048

Regarding: Minor Variance Application

D20-2021-048

2220 Elm Tree Road

Fenelon Township

Colleen Riches

Dear Mr. Stainton,

Kawartha Conservation has completed review of the above noted Minor Variance Application D20-2021-048 submitted by Colleen Riches. Kawartha Conservation has provided comments as per our MOU with the City of Kawartha Lakes to review the application with respect to Natural Heritage, Watershed Management, and Natural Hazards.

Our comments are as follows:

Application Purpose:

It is Kawartha Conservation's understanding that the purpose and effect of D20-2021-048 is to request relief from Section 3.1.2.1 of the Township of Fenelon Zoning By-law 12-95, to permit an accessory residential unit (ARU) in the front yard.

Site Characteristics:

Existing mapping indicates that the subject property is within the vicinity of the following:

Natural Heritage Features:

- McLarens Creek - Kawartha Conservation regulates the feature and all lands within 15 metres of top of bank.

Natural Hazards:

- Erosion and flooding hazards - Kawartha Conservation regulates all erosion hazards and 6 metres from the stable top of slope, and all known floodplain.

KAWARTHA CONSERVATION

277 Kenrei Road, Lindsay, ON K9V 4R1

705.328.2271 Fax 705.328.2286

KawarthaConservation.com

Our Watershed Partners:

City of Kawartha Lakes • Region of Durham • Township of Scugog • Municipality of Clarington • Township of Brock • Municipality of Trent Lakes • Township of Cavan Monaghan



- Floodplain has been mapped on the subject property, confirmed through the McLarens Creek Floodplain Mapping Study, approved in April 2021.

Water Resources:

- The subject property is within the boundary of the Sturgeon Lake Management Plan.

Applicable Kawartha Conservation Regulation and Policies

Ontario Regulation 182/06 (as amended):

Any development with Kawartha Conservation's regulated area will require a Permit pursuant to Ontario Regulation 182/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), as amended.

Permissions are required from Kawartha Conservation prior to any of the following works taking place:

- a) Straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream, or watercourse; or changing or interfering with a wetland; and
- b) Development, if the control of flooding, erosion, dynamic beaches, pollution or the conservation of land may be affected by the development.

Development is defined as:

- a) The construction, reconstruction, erection or placing of a building or structure of any kind,
- b) Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- c) Site grading or, the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

The applicant has obtained a permit from our office for a new entrance, Permit # 2021-126. The permit was issued shortly before our McLarens Creek Floodplain Mapping Study was approved, so only the best science available at the time was considered. Since the permit was issued, additional lands have been added to the regulated area due to the confirmation of flooding hazards. The applicant may need to revise their permit for additional development.

Provincial Plans:

The proposal is subject to the policies of the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe.

As per policy 3.1.1 b), Development shall generally be directed to areas outside of hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards.



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CONSERVATION**

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Recommendation:

Kawartha Conservation can support Minor Variance Application D20-2021-048, provided that:

- The ARU is constructed outside of the floodplain, or
- If the ARU is proposed within 15 metres of the floodplain a permit will be required and the ARU will be subject to our floodplain policies.

I trust this meets your information requirements at this time. Should you have any questions, please contact the undersigned.

Sincerely,

Erin McGregor

Resources Planner Technician

Kawartha Conservation

CC: Ron Warne, Director of Planning, Development, & Engineering, Kawartha Conservation

Ashley Chlebak, Permitting Technician, Kawartha Conservation

KAWARTHA CONSERVATION

277 Kenrei Road, Lindsay, ON K9V 4R1

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Kent Stainton

From: Charlotte Crockford
Sent: Friday, October 8, 2021 1:40 PM
To: Kent Stainton
Subject: FW: 20211008 D20-2021-048 - Engineering review

Follow Up Flag: Follow up
Flag Status: Completed

fyi

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



Please note: The Development Services offices at 180 Kent St W, Lindsay remain closed to public access, however, all services continue to be provided and staff are available by telephone or email during regular business hours.

For COVID-19 information including service levels and how to access services, please call 705-324-9411 extension 4000 or visit www.kawarthalakes.ca/covid19

From: Kim Rhodes <krhodes@kawarthalakes.ca>
Sent: Friday, October 8, 2021 10:47 AM
To: Mark LaHay <MLaHay@kawarthalakes.ca>
Cc: Charlotte Crockford <ccrockford@kawarthalakes.ca>; Christina Sisson <csisson@kawarthalakes.ca>; Kirk Timms <ktimms@kawarthalakes.ca>
Subject: 20211008 D20-2021-048 - Engineering review

Please see the message below from Christina Sisson:

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

Minor Variance – D20-2021-048
2220 Elm Tree Road
Part Lot 4, Concession 2
Geographic Township of Fenelon

It is the understanding by Engineering that the purpose and effect is to request relief from Section 3.1 .2.1 to permit an accessory building (Accessory Residential Unit) which is not part of the main building within the front yard of the subject lands.

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.

Manager, Development Engineering

Lean Six Sigma Black Belt

Engineering & Corporate Assets, City of Kawartha Lakes

705-324-9411 ext. 1152 (office) 705-878-3186 (mobile) www.kawarthalakes.ca



Our office is closed to the public. Please note all courier packages and mail must be directed to City Hall, 26 Francis Street, Box 9000, Lindsay, ON, K9V 5R8.

Kent Stainton

From: Charlotte Crockford
Sent: Tuesday, October 5, 2021 4:38 PM
To: Kent Stainton
Subject: FW: D20-2021-048 - 2220 Elm Tree Rd

fyi

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



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From: Anne Elmhirst <aelmhirst@kawarthalakes.ca>
Sent: Tuesday, October 5, 2021 4:37 PM
To: Charlotte Crockford <ccrockford@kawarthalakes.ca>
Subject: D20-2021-048 - 2220 Elm Tree Rd

Hello Charlotte,

I have received and reviewed the minor variance application D20-2021-048 to request relief to locate an accessory residential unit in the front yard if the subject property.

I have reviewed the proposed accessory residential unit location for the placement of a new private sewage disposal system. The area in the vicinity of the residential unit has a gentle slope surrounded by open field. There is adequate space to install a sewage system to service the accessory structure. An Application for a Sewage System Permit to Install will be required.

Should you have any questions, please do not hesitate to contact me.

Best Regards,

Anne Elmhirst C.P.H.I.(C), B.A.Sc., B.Sc.
Supervisor – Part 8 Sewage Systems
Development Services - Building and Septic Division, City of Kawartha Lakes



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