

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Michael and Sheila Carey
Report Number COA2022-002

Public Meeting

Meeting Date: January 20, 2022
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 the following in order to facilitate the construction of a replacement single detached dwelling and attached deck:

- 1) Section 3.18.1.1 to reduce the minimum Environmental Protection Zone Setback for all buildings and structures from 15 metres to 9.26 metres;
- 2) Section 13.2.1.3 (e) to reduce the minimum water setback from 15 metres to 9.26 metres.

The variance is requested at 145 Fells Point Road, geographic Township of Fenelon (File D20-2021-071).

Author: Kent Stainton, Planner II

Signature: 

Recommendations:

Resolved That Report COA2022-002 Carey, be received;

That minor variance application D20-2021-071 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 drawings in Appendix D submitted as part of Report COA2022-002, which shall be attached to and form part of the Committee's Decision;
- 2) **That** within twenty-four (24) months after the date of the Notice of Decision the owners shall submit to the Secretary-Treasurer photographic evidence confirming that the remaining building identified on Appendix D to Report COA2022-002 as 'frame shed' has been removed; and

- 3) **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 COA2022-002. Fulfillment of all conditions is required for the Minor Variances to be considered final and binding.

Background: The applicant submitted a pre-screening application in June of 2021 for review of the replacement dwelling, associated deck and septic system. Through the pre-screening process, the location of the dwelling was changed with increased side yard setbacks in order to comply with the Zoning By-law.

The application was deemed complete on November 30, 2021.

Proposal: To construct a new 166 square metre (1,787 square feet) 2-storey single detached dwelling and attached wooden deck on the subject lands.

Owners: Michael and Sheila Carey

Legal Description: 145 Fells Point Road, Part Lot 31, Concession 10, Part of Lot 7, Plan 311, geographic Township of Fenelon, City of Kawartha Lakes

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

Zone: Rural Residential Type Three (RR3) Zone within the Township of Fenelon Zoning By-law 12-95

Site Size: 862 square metres (9,278.5 square feet)

Site Servicing: Private individual water system (lake draw) and private septic system

Existing Uses: Residential/ Seasonal Residential

Adjacent Uses: North: Fells Point Road, Provincially Significant Wetlands
South, West, East: Cameron Lake, Shoreline Residential

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 located on a northern peninsula in Cameron Lake adjacent to the outlet to the Burnt River. The properties along Fells Point Road are smaller and shallower in comparison to many shoreline lots along the lake, with the majority of the dwellings as well as accessory buildings and structures within the properties along the road existing within the requisite water yard setback. The neighbourhood is composed of seasonal as well as year-round residential uses that vary in built form along the Peninsula. On the opposite (north) side of Fells Point Road, a large Provincially Significant Wetland (PSW) exists at the terminus of the Burnt River.

The subject property is shallow with a changing topography that rises in the form of terraces from the shoreline to the dwelling before terracing down to Fells Point Road. A single storey seasonal dwelling constructed in 1963 (according to MPAC) with a wooden deck on the south side (water side) of the property is situated at the highest point on the property. A boathouse (also constructed in 1963) and concrete ramp, which mirrors the boathouse and ramp of the property to the east at 143 Fells Point Road. There are no structural alterations proposed to the boathouse. A single storage shed that is non-compliant with the General provisions of the Zoning By-law exists in the front yard. A condition is recommended for its removal in the rationale for Test 3 to follow.

The approximate eastern and western boundaries of the property are delineated by mature cedar hedges along with eastern white cedar trees scattered throughout the property. Kawartha Region Conservation Authority (Kawartha Conservation) has permitted the proposed dwelling in accordance with their Regulation along with proposed shoreline restoration works, ensuring the proposal poses no impacts to flooding, erosion or pollution.

The footprint of the proposed replacement dwelling ensures the proposed replacement deck does not project further into the water setback, but allows for a sufficient size to square-off the existing configuration of the deck, allowing for a transition between the main floor and the water yard. This minimal projection ensures as much area is preserved as possible between the dwelling and the shoreline for infiltration as well as amenity purposes. The proposal also ensures the maximum separation possible between the sewage system and shoreline.

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 property is zoned Rural Residential Type Three (RR3) Zone in the Township of Fenelon Zoning By-law 12-95. Single detached and vacation dwellings are permitted within the zone category.

The intent of the water setback and 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 setback reduction preserves as much of a buffer as possible. Conformity with policies pertaining to buffer maintenance is discussed within the Official Plan test. Overall, the requirement for a new, advanced wastewater treatment system combined with its location and the maintenance of a shoreline buffer results in a net benefit for Cameron Lake and its ecosystem.

The footprint of the proposed septic system, albeit smaller than a conventional septic system, prevents the dwelling from being situated further north in the lot without requiring relief from front yard requirements of the zone. As mentioned, the initial design was revised to comply with the interior side yard requirements of the RR3 Zone, ensuring no drainage impacts to the adjacent properties. The setback reduction for the dwelling proposes no further impact, as the dwelling is not being expanded closer to the shoreline.

Upon conducting the site visit associated with the variance application, Planning staff identified a shed located within the front yard of the property that is non-compliant with the general provisions of the Zoning By-law. The owner has agreed to remove the garden shed during construction of the dwelling. A condition is recommended in order to ensure the garden shed is entirely removed from the property.

Therefore, the variances maintain 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 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 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 as well as fish habitat. The vegetation provides the following benefits to the waterbody: attenuation of water runoff, trapping of sediments and nutrients carried by storm water runoff 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.

The property is only 32.88 metres deep at the deepest point from the shoreline to the road and 18.21 metres wide at the road, being slightly greater at the shoreline. The existing dwelling is located 9.26 metres from the shoreline. In order to accommodate a driveway with adequate parking and the new septic system without presenting potential drainage implications to adjacent properties, staff is of the opinion that the general intent and purpose of this criterion is met.

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

The proposal acknowledges the extent of the existing encroachment towards the shoreline considering the constraints placed by the septic system footprint and driveway/parking on the subject lands. The continuation of the deck will be setback further than this as a result of the curvature in the shoreline.

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

The proposal attempts to direct the built form away from the shoreline. Removal of the wooden platforms (labeled as 'decks' abutting the shoreline in Appendix D of the report) and replacement with vegetation instead of strictly a manicured lawn towards the shoreline is proposed. A sloping stone shoreline is also proposed at the shoreline-littoral zone interface. The vegetation will enhance bank stability and increase water quality entering Cameron Lake.

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

The lot drainage and grading plan shows this criterion is met.

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

The proposal acknowledges the existing limit of development within the water setback and does not encroach or expand further towards the shoreline. The lateral expansion maintains compliance with the interior side yard setbacks of the zone category.

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 is not to extinguish the residential use, but to improve upon shoreline setbacks when development or redevelopment occurs. Limited opportunity remains to further enhance the shoreline setback without bringing the sewage system closer to the shoreline. Through placing the new sewage system between the shoreline and the dwelling would also direct leachate to run towards the lake, which is counter to the buffering policy to lessen environmental impacts.

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

Other Alternatives Considered: Through the pre-screening application, the applicant proposed a dwelling configuration that would have resulted in a 2.13 metre interior side yard setback, which is non-compliant with the Zoning By-law. The applicant modified the design of the dwelling to achieve the requisite 2.3 metres for the eastern interior side yard setback requirement.

Servicing Comments: The property is serviced by a private water supply (lake draw) and private 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:

Engineering and Corporate Assets Department (January 6, 2022): No objections.

Building and Septic Division – Chief Building Official (January 10, 2022): A Building Permit will be required for the proposed replacement dwelling. No other concerns.

Building and Septic Division – Supervisor, Part 8 Sewage Systems (January 12, 2022): The property has been evaluated for a replacement system and a preliminary proposal has been submitted. Based on the preliminary proposal as well as the OBC allowances, the property would have a method for sewage disposal either through a Class 5 Holding Tank or an alternative treatment system.

As such, the Building and Septic Division has no concerns with the minor variance request as it relates to private sewage disposal.

Public Comments: No public comments were received as of January 12, 2022.

Attachments:



Appendices A-F for
COA2022-002.pdf

- Appendix A – Location Map
- Appendix B – Aerial Photo
- Appendix C – Applicant's Sketch (Site Plan)
- Appendix D – Lot Drainage and Grading Plan
- Appendix E – Conceptual Elevation Drawings
- Appendix F – 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: D20-2021-071

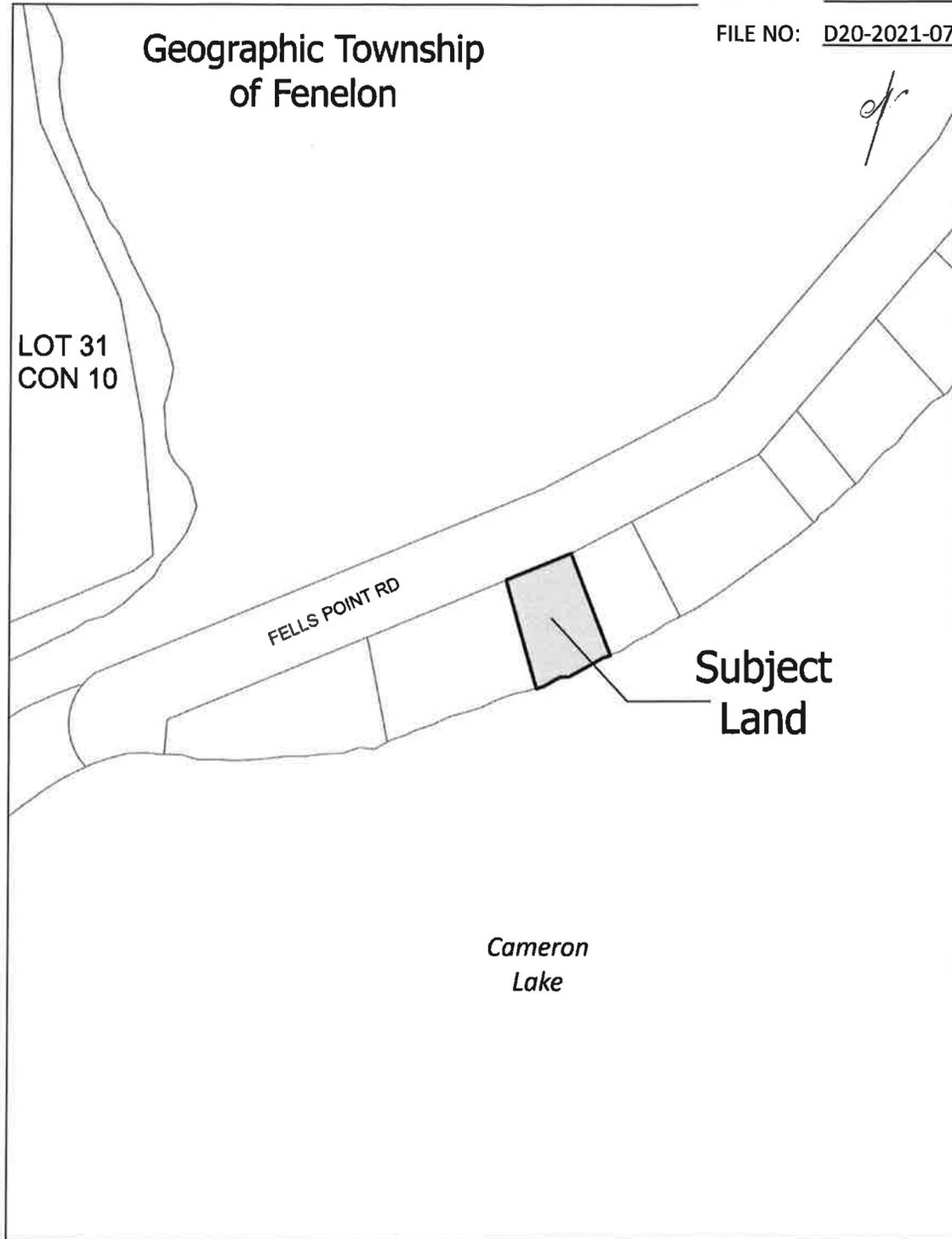
D20-2021-071

APPENDIX " A "

to

REPORT COA2022-002

FILE NO: D20-2021-071





Legend

- Property Roll Number
- Lots and Concessions

Notes

Notes

0.06 Kilometers
WGS_1984_Web_Mercator_Auxiliary_Sphere
© City Of Kawartha Lakes



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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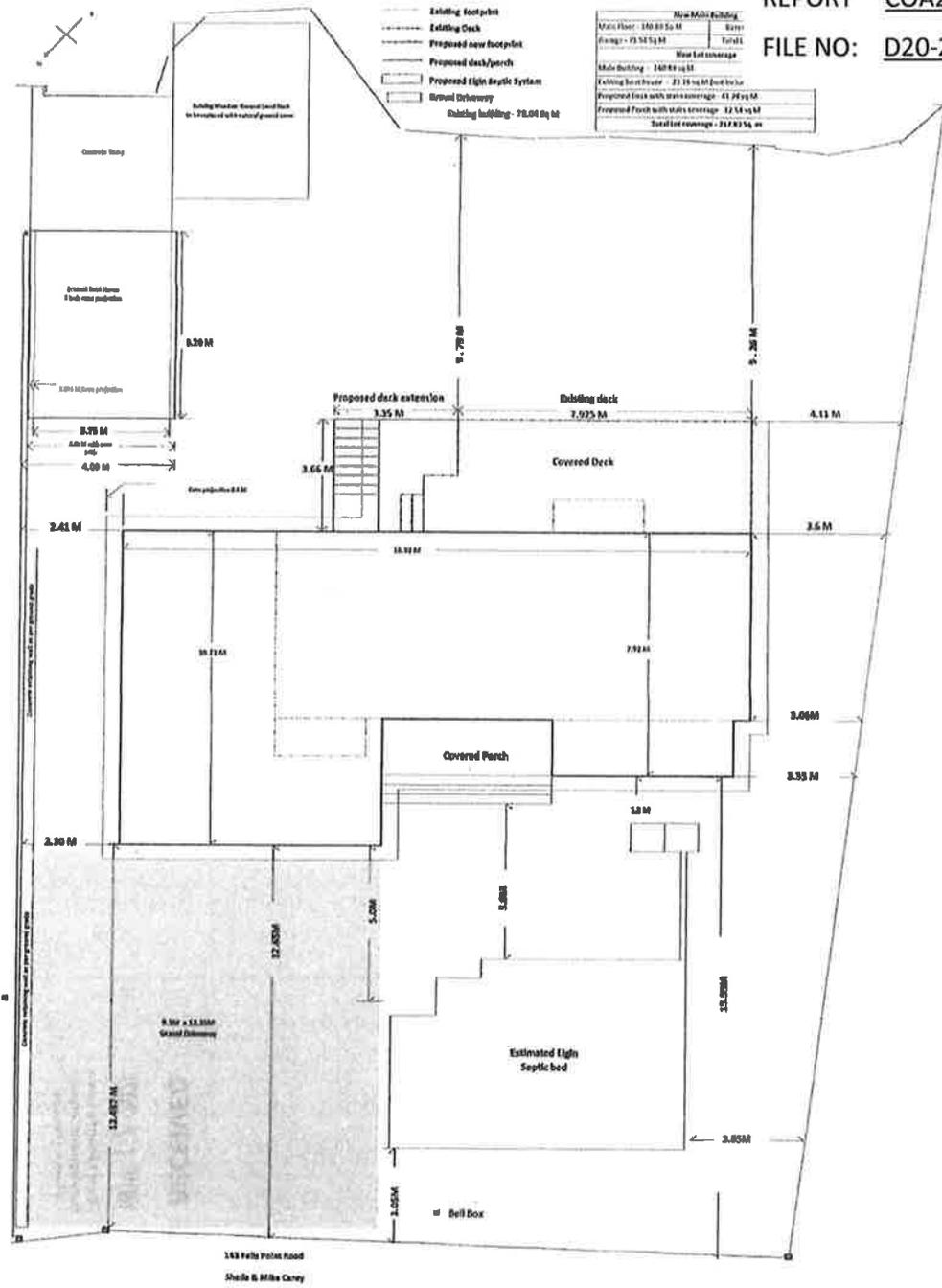
APPENDIX " B "
to
REPORT COA2022-002
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APPENDIX " C "

to

REPORT COA2022-002

FILE NO: D20-2021-071



143 Kelly Point Road
Sheila & Mike Carey

APPENDIX " E "

to

REPORT COA2022-002

FILE NO: D20-2021-071

Mike and Sheila Carey
145 Fells Point Rd. Fenelon Falls
Residence Elevation View



South Elevation

Mike and Sheila Carey
145 Fells Point Rd. Fenelon Falls
Residence Elevation View



Kent Stainton

From: Charlotte Crockford
Sent: Wednesday, January 12, 2022 8:42 AM
To: Kent Stainton
Subject: FW: Notice of Public Hearing for Minor Variance D20-2021-071, 145 Fells Point Road

fyi

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

APPENDIX " F "

to

REPORT COA2022-002

FILE NO. D20-2021-071



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: Anne Elmhirst <aelmhirst@kawarthalakes.ca>
Sent: Tuesday, January 11, 2022 11:07 PM
To: Charlotte Crockford <ccrockford@kawarthalakes.ca>
Subject: RE: Notice of Public Hearing for Minor Variance D20-2021-071, 145 Fells Point Road

Hello Charlotte,

I have received and reviewed the request for Minor Variance D20-2021-071 for 145 Fells Point Road. The request for minor variance is to receive relief to facilitate the construction of a replacement single detached dwelling. As part of the construction a new sewage disposal system has been proposed.

The property has been evaluated for a replacement system and a preliminary proposal has been submitted. Based on the preliminary proposal as well as the OBC allowances, the property would have a method for sewage disposal either through a Class 5 Holding Tank or an alternative treatment system.

As such, the Building and Septic Division has no concerns with the minor variance request as it relates to private sewage disposal.

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
705-324-9411 ext. 1882 www.kawarthalakes.ca



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From: Charlotte Crockford <ccrockford@kawarthalakes.ca>
Sent: Thursday, January 6, 2022 9:45 AM
To: 'Erin McGregor' <emcgregor@kawarthaconservation.com>; Christina Sisson <csisson@kawarthalakes.ca>; Doug Elmslie <delmslie@kawarthalakes.ca>; 'alanna.boulton@canada.ca' <alanna.boulton@canada.ca>; Susanne Murchison <smurchison@kawarthalakes.ca>; Anne Elmhirst <aelmhirst@kawarthalakes.ca>
Cc: Kim Rhodes <krhodes@kawarthalakes.ca>; Katie McIlmoyle <kmcilmoyle@kawarthalakes.ca>
Subject: Notice of Public Hearing for Minor Variance D20-2021-071, 145 Fells Point Road

Good morning

Please find attached the Notice of Public Hearing for Minor Variance D20-2021-071 to be heard at the January 20, 2022 C of A meeting.

Please respond with comments by Monday January 10, 2022 to allow Planners to include in their reports.

Many thanks

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



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Charlotte Crockford

From: Susanne Murchison
Sent: Monday, January 10, 2022 4:16 PM
To: Charlotte Crockford
Subject: MV comments

The Building and Septic Division comments, save and except comments being provided by the Supervisor of Part 8 Sewage Systems, are as follows:

- D20-2021-071 a building permit will be required for the proposed replacement dwelling, no other concerns
- D20-2021-075 a building permit will be required for the proposed industrial building, no other concerns
- D20-2021-076 a building permit will be required for the proposed detached garage, no other concerns
- D20-2021-078 a building permit will be required for the proposed addition to the dwelling, no other concerns
- D20-2021-079 a building permit will be required for the proposed detached garage, no other concerns
- D20-2021-080 completion of the pending building permit application will be required for the proposed second storey dwelling addition and deck addition, an outstanding building permit BP2012-1137 for the installation of solar panels on the dwelling and garage requires a final inspection to close the file
- D20-2021-081 a pool permit will be required for the proposed pool, no other concerns

Susanne Murchison, CBCO

Chief Building Official

Building & Septic Division, Development Services, City of Kawartha Lakes

705-324-9411 ext. 1200 www.kawarthalakes.ca



Kent Stainton

From: Kim Rhodes
Sent: Thursday, January 6, 2022 12:58 PM
To: Mark LaHay
Cc: Charlotte Crockford; Christina Sisson; Kirk Timms; Daniel Woodhead
Subject: 20220106 D20-2021-071 - Engineering review

Importance: High
Follow Up Flag: Follow up
Flag Status: Flagged

APPENDIX " F "
to
REPORT COA2022-002
FILE # D20-2021-071

Please see the message below from Christina Sisson:

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

Minor Variance – D20-2021-071
145 Fells Point Road
Part Lot 31, Concession 10
Geographic Township of Fenelon

It is the understanding by Engineering that the purpose and effect is to request relief from the following provisions in order to facilitate the construction of a replacement single detached dwelling and attached deck:

- 1) Section 3.18.1.1 to reduce the minimum Environmental Protection Zone Setback for all buildings and structures from 15 metres to 9.26 metres;
- 2) Section 13.2.1.3 (e) to reduce the minimum water setback from 15 metres to 9.26 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.
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

