

# The Corporation of the City of Kawartha Lakes

## Committee of Adjustment Report – Lindau

Report Number COA2022-044

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### Public Meeting

**Meeting Date:** July 21, 2022

**Time:** 1:00 pm

**Location:** Council Chambers, City Hall, 26 Francis Street, Lindsay

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### Ward 1 – Geographic Township of Eldon

**Subject:** The purpose and effect is to extend the existing non-conforming use of the land as a family campground. **Relief sought:**

- 1) Section 13 'Limited Service Residential Exception One (LSR-1)' Zone and related Section 2 Definitions and Section 3 General Provisions only permit a vacation dwelling.

The relief is requested at **139 McKelvey Road** (File D20-2022-037).

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**Author:** Leah Barrie, RPP, Manager of Planning

**Signature:** 

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### Recommendations

That Report COA2022-044 – Lindau, be received;

That application D20-2022-037 be GRANTED, as the application satisfies Section 45(2) of the Planning Act.

### Conditions

- 1) That existing use of land, buildings and structures related to this approval shall proceed generally in accordance with the sketch in Appendix C submitted as part of Report COA2022-044, which shall be attached to and form part of the Committee's Decision.

This approval pertains to the application as described in report COA2022-044. Fulfillment of all conditions is required for the decision to be considered final and binding.

### Application Summary

**Proposal:** Continuation of existing family campground

**Owner:** Rosemarie Lindau and Reet Lindau-Voksepp

Applicant: Juhan Hugo Lindau

Legal Description: Lot 17, Plan 276

Official Plan<sup>1</sup>: Waterfront, Environmental Protection (City of Kawartha Lakes Official Plan, 2012)

Zone<sup>2</sup>: Limited Service Residential Exception One 'LSR-1' (Township of Eldon Zoning By-law 94-14)

Site Size: 2,229.61 square metres (0.55 acres)

Site Servicing: Potable water brought to site when camping and a privy

Existing Uses: Recreational

Adjacent Uses: Seasonal recreational, residential, rural, woodlands

## Rationale

### **The application satisfies the provisions of the Planning Act<sup>3</sup>**

In accordance with section 45(2)(a)(ii) if the current use of land, buildings or structures is for a purpose prohibited by the By-law, then the Committee may permit its continuation if they are of the opinion that it is similar to the purpose for which it was used on October 24, 1994 (By-law date of passage).

As of that date, the owners, who are relatives and estate trustees of the late Mr. Hiiuvain, have provided substantial documentation to support the contention that the property has been used as a family campground that Mr. Hiiuvain initiated following purchase of the land on October 3, 1955 (see Appendices D, E and F). The LSR-1 zone limits use of the property to a vacation dwelling only, and therefore would prohibit a new family campground use. The LSR-1 zone would further only permit two (2) accessory structures provided a primary use was in place, and therefore would prohibit additional new storage sheds and a privy from being erected.

For nearly 40 years prior to the passage of the By-law, the land had been used as a family campground, and in accordance with s.45(2)(a)(ii) has remained similar to date. Tax records indicate 'V L' for vacant land consistently from 1985 to date.

## Evaluation of impact

The property is located along the south shore of Canal Lake. The documentation characterizes the use of the property over the course of its history as a seasonal gathering place for extended family where five generations have come together, to

<sup>1</sup> See Schedule 1

<sup>2</sup> See Schedule 1

<sup>3</sup> See Schedule 1

bond, to celebrate, honour and preserve their culture and heritage, and hope to continue to do so into the future.

Family campgrounds are not identified in the Zoning By-law. 'Campgrounds' and 'camping', though not defined, are contemplated within 'Recreational Use, Active' and 'Trailer Camp or Park' uses, but do not capture the nature of the existing use or continued intent. The By-law defines a 'Camp or Day Camp' as buildings used for sleeping accommodation, the preparation and serving of food and/or sport or recreation facilities, operated under single ownership and intended for recreational purposes on a temporary or seasonal basis and may include one dwelling unit for a caretaker or administrator; though defined, are not permitted as of right in any zone, nor do they capture the nature of the existing use or continued intent.

There are six (6) accessory structures on the property, including four (4) storage sheds, a privy and a covered picnic area. The structures were built between 1970 and 1985 with the exception of the privy constructed in 2021. The existing structures are proposed to remain, with no additional buildings or structures proposed.

Surrounding lands are used for seasonal recreational and residential purposes, as well as woodlots and rural uses south towards the interior. The use has demonstrated its compatibility with adjacent uses as indicated by numerous written comments provided by surrounding property owners.

Technical relief is not required from the provisions of the By-law due to the nature of the non-conforming use. Should the property be proposed for redevelopment in the future, it would need to comply with the applicable provisions in Section 13 'Limited Service Residential' Zone, Section 2 Definitions and Section 3 General Provisions, or, further relief may be needed. These provisions would be used as a basis to evaluate proposed new uses or structures.

#### **Other Alternatives Considered:**

No alternatives applicable.

#### **Consultation Summary**

Notice of this application was circulated in accordance with the requirements of the Planning Act.

#### **Agency Comments:**

CKL Development Engineering: No objection

#### **Public Comments:**

Comments received as of the writing of the staff report are included in the Appendix.

## Attachments

- Appendix A – Location Map
- Appendix B – Aerial Photo
- Appendix C – Applicant's Sketch
- Appendix D – Owner's Testimonial
- Appendix E – Applicant's Photos
- Appendix F – Applicant's Letters of Support



COA2022-044  
Appendices\_Lindau.

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**Phone:** 705-324-9411 extension 1240  
**E-Mail:** [lbarrie@kawarthalakes.ca](mailto:lbarrie@kawarthalakes.ca)  
**Department Head:** Richard Holy, Director of Development Services  
**Division File:** D20-2022-037

## **Schedule 1**

### **Relevant Planning Policies and Provisions**

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#### **The Planning Act, R.S.O. 1990**

##### **Powers of committee**

##### **45(1)**

##### **Other powers**

(2) In addition to its powers under subsection (1), the committee, upon any such application,

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(i) the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or

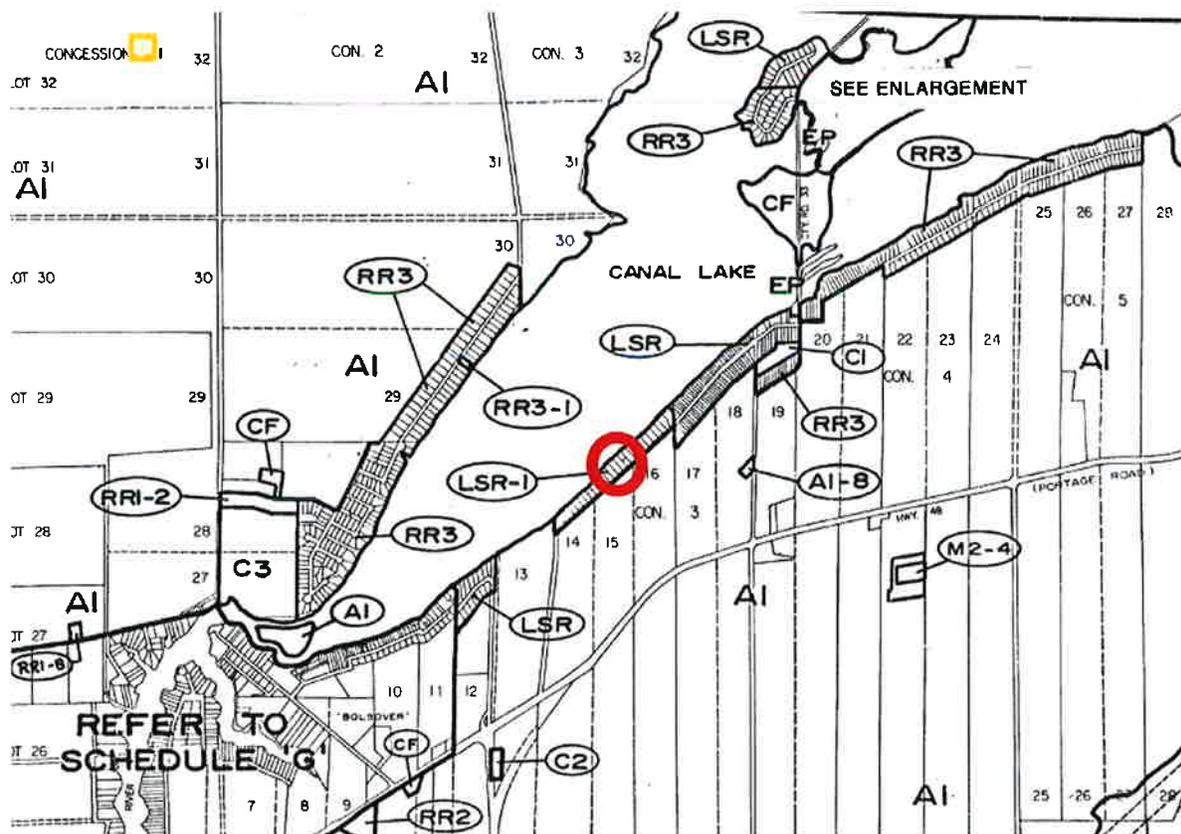
(b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law. R.S.O. 1990, c. P.13, s. 45 (2).

**City of Kawartha Lakes Official Plan**



- 17. Environmental Protection Designation
- 20. Waterfront Designation
- 34.1 Existing Uses
- 34.16 Committee of Adjustment

**Township of Eldon Zoning By-law 94-14**



Part 2	Definitions
Part 3	General Provisions
3.1	Accessory Buildings, Structures and Uses
3.1.3	Lot Coverage and Height
3.4.1	Non-Conforming Uses
Part 13	Limited Service Residential (LSR) Zone
13.3.1	Limited Service Residential Exception One (LSR-1) Zone

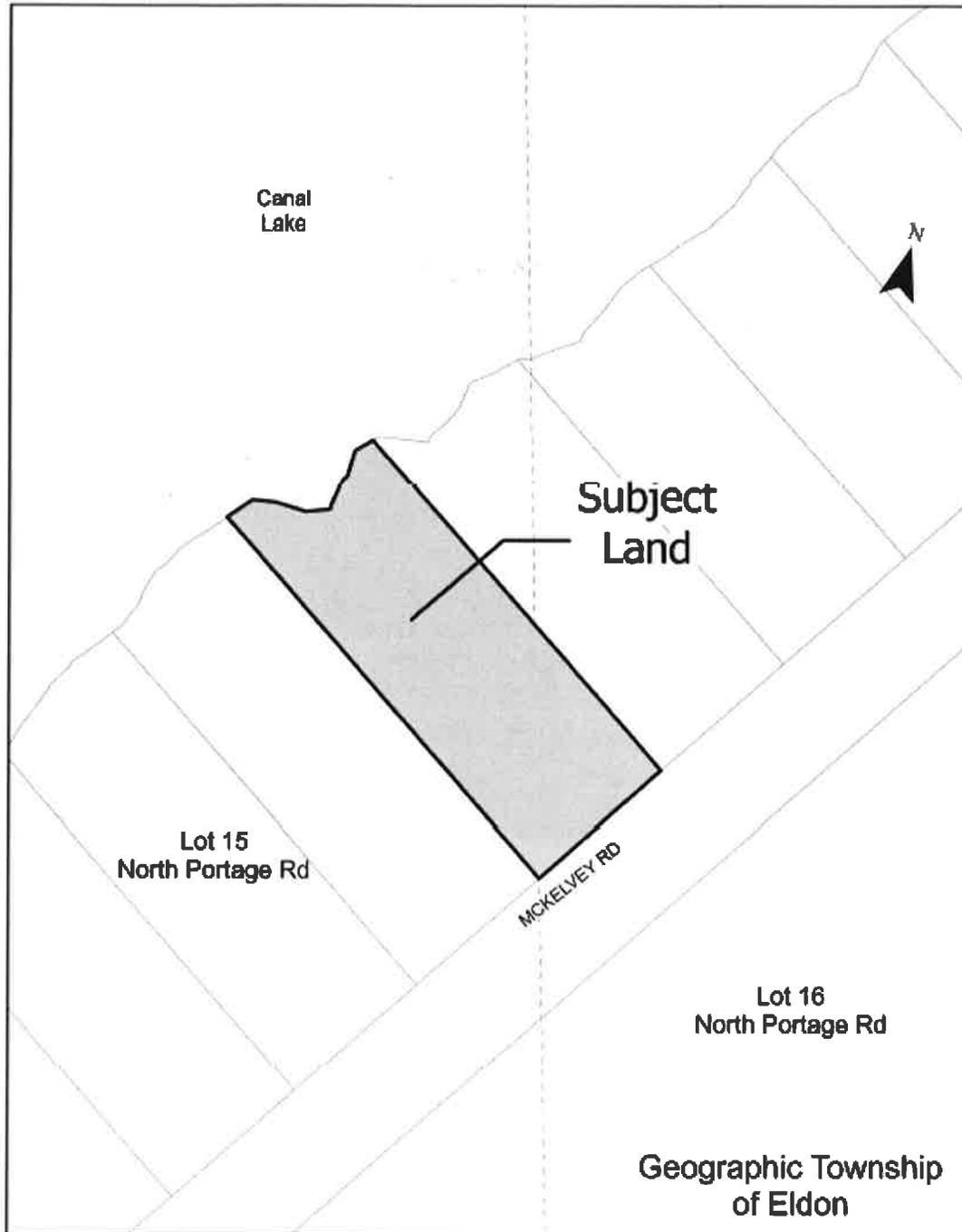


to

REPORT COA2022-044

FILE NO: D20-2022-037

**LOCATION MAP**



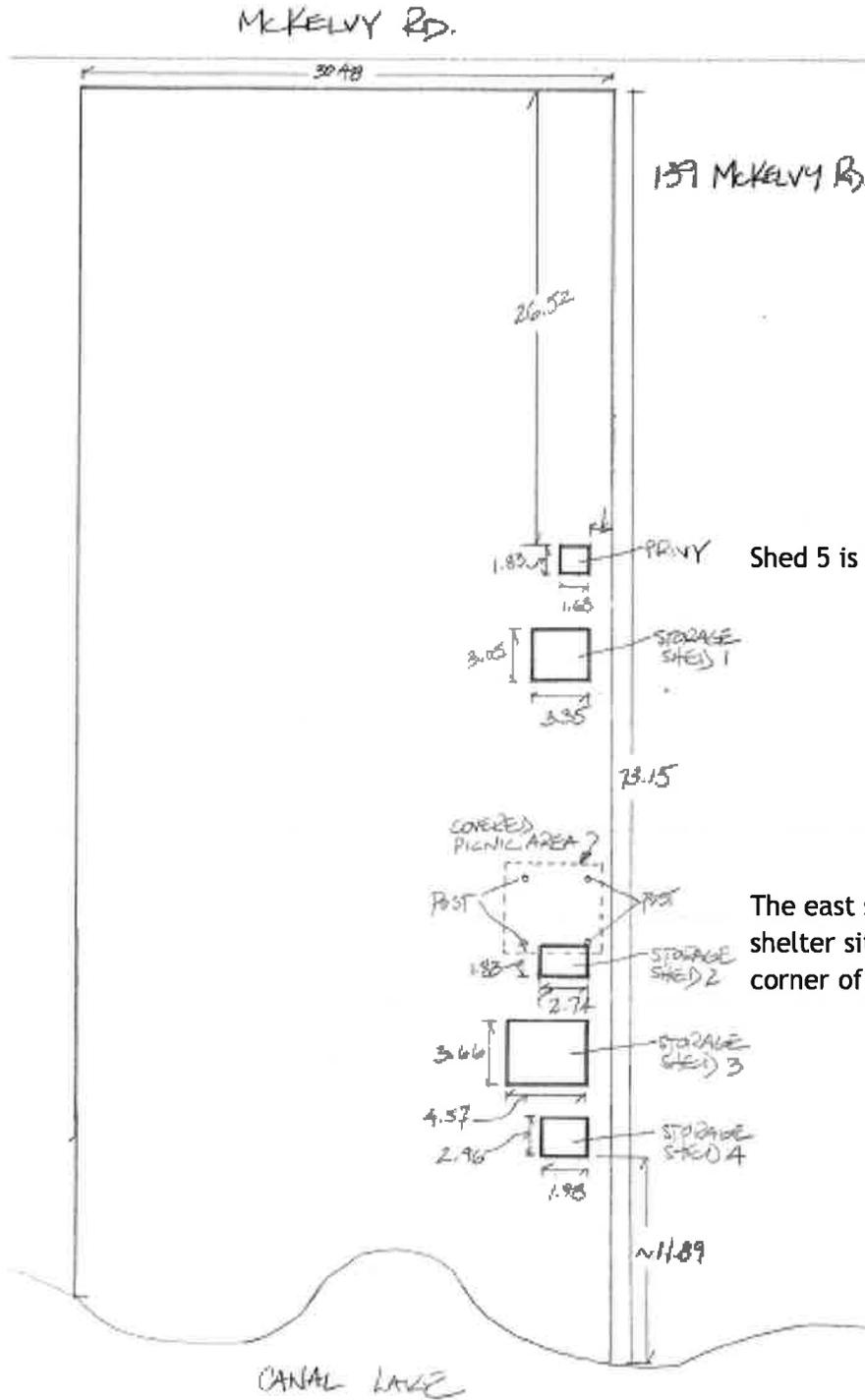


to

REPORT COA2022-044

FILE NO: D20-2022-037

**APPLICANT'S SKETCH**



to

REPORT COA2022-044FILE NO: D20-2022-037**OWNER'S TESTIMONIAL**

Rosemarie Lindau  
1002-50 Quebec Avenue  
Toronto, Ontario  
M6P 4B4

April 10, 2022

Committee of Adjustment  
Planning Department  
City of Kawartha Lakes

**RECEIVED****APR 22 2022**

City of Kawartha Lakes  
Development Services  
Planning Division

To whom it may concern:

I am writing this testimonial on behalf of myself and my siblings, Reet, Ellen, Linda, Peet, Juhan and Juulia.

The property at Canal Lake was purchased in 1955, before most of us were born. None of us remember a time when we did not spend summers camping there.

Our parents, grandparents, uncles and aunt came to Canada after fleeing the Soviet Russian invasion of their homeland, Estonia. With current events, you can imagine the horrors that they lived through.

Living in urban Toronto, as soon as they were able they purchased the property on Canal Lake, to be closer to the land. There they were able to practice their traditions. These traditions were passed on to us.

Our elders taught us how to care for and respect the land, water and nature around us. The mantra of reduce, reuse and recycle long before it became a catchphrase. They taught us the importance of mind, body and spiritual health. During the day we practiced many sports, at night we told stories and sang around the campfire under the stars. Our neighbours later told us they would stand on the road to listen to our songs. We have passed down these traditions to the next generations.

We camped from the very beginning, with no running water or electricity, being mindful of having a low impact on our environment. We spent our days with no roof over our head and nights sleeping in a tent in the fresh air, listening to the crickets. I remember returning home after the summer feeling like a giant when I walked into our house.

The happiest memories I have are from time spent camping at Lot 17, Canal Lake. Up until now we have continued to camp at the property with our growing family - our children and grandchildren who love this special place as much as we do. It was the wish of our elders, to continue to use the land in this way, to have the opportunity to be close to nature and ensure it for our family's future generations. We want to honour our elders, their values and traditions by continuing to do so.

Sincerely,

Rosemarie Lindau

Rosemarie Lindau

R. Lindau 10/04/22

Juhan Hugo Lindau

\_\_\_\_\_

Peet Arnold Lindau

Peet Arnold Lindau APRIL 10, 2022

Linda Lindau

Linda Lindau April 16, 2022

Reet Lindau-Voksepp

R. Lindau Voksepp April 10, 2022

APPENDIX " E "

to

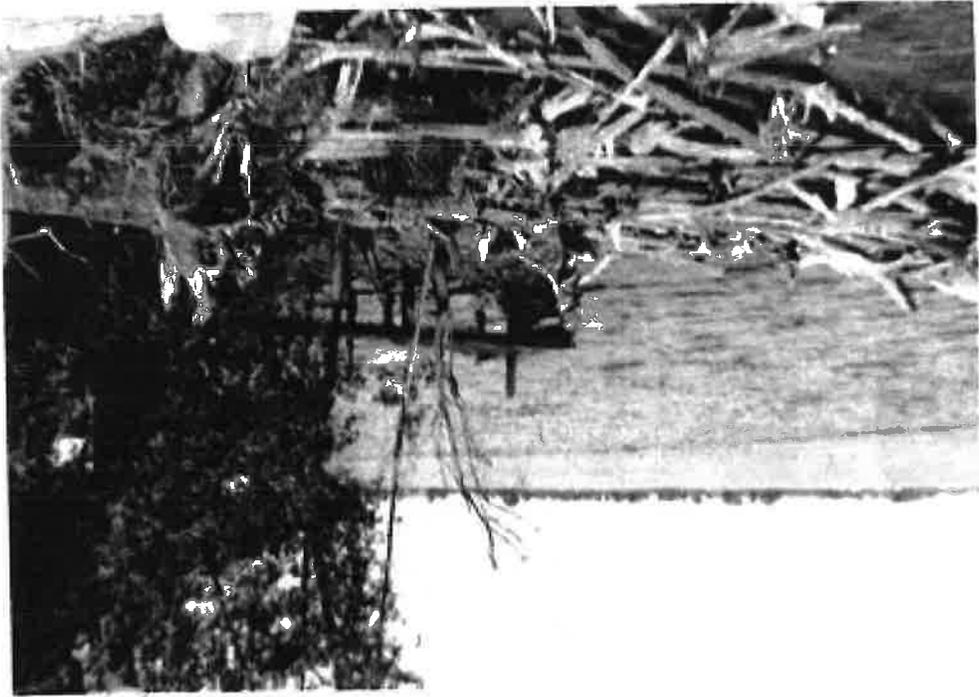
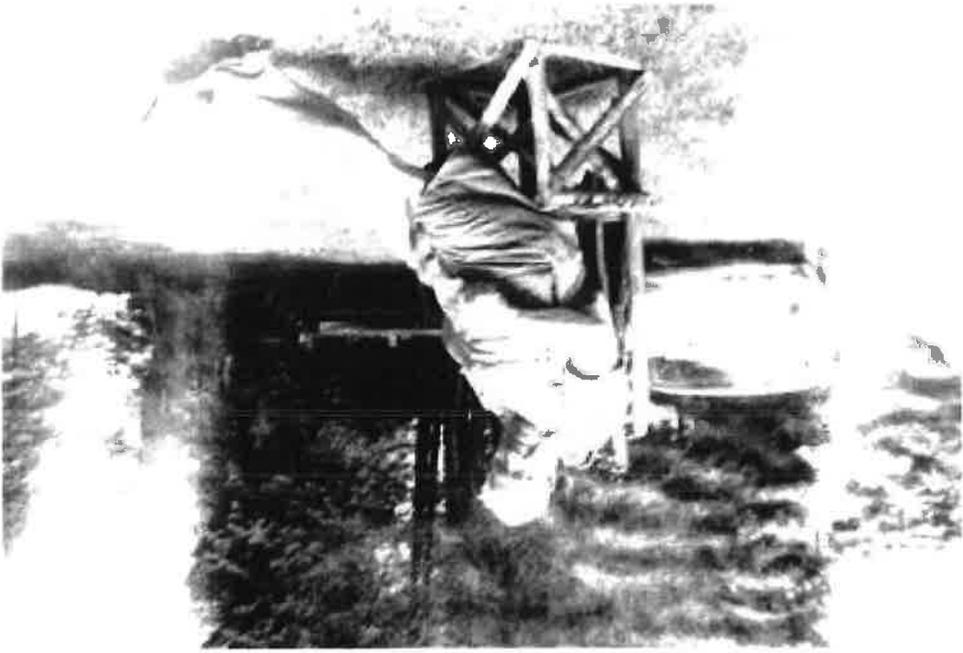
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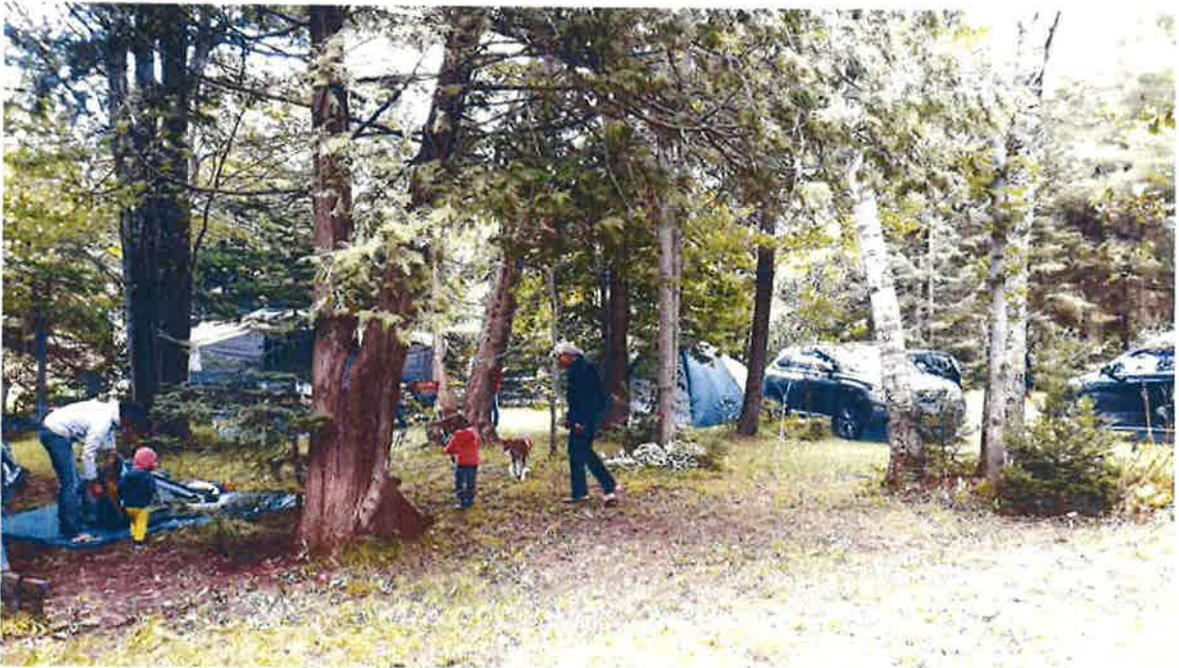
FILE NO: D20-2022-037

**APPLICANT'S PHOTOS**











to

REPORT COA2022-044FILE NO: D20-2022-037**APPLICANT'S LETTERS OF SUPPORT**

**From:** The Wests  
**Sent:** April 30, 2022 5:02 PM  
**To:** Ellen Lindau  
**Subject:** Re: 139 McKelvey Road, Hiiuvain/Lindau

Ellen, I hope this will be helpful.

To Whom it may concern:

Regarding Lot 139 McKelvey Road, City of Kawartha Lakes.

My family owned our property at 125 McKelvey Rd from 1953 to August 2020.

During that time Mr. Hiiuvain would invite his family up to his property to camp. His extended family have camped on their lot every summer keeping it tidy and well maintained while quietly enjoying their camping experience. A little later in his life Mr. Hiiuvain purchased a small trailer to provide more comfort for himself in his old age.

When Mr. Hiiuvain passed on he willed his property to his family who have continued to camp there year after year.

They were always quiet, good neighbours who respect the environment.

I am totally confident that other long term property owners on McKelvey Road can attest to the same experience that we have had.

In closing they have been camping on their property since Mr. Hiiuvain first purchased it many many years ago.

Should you wish to directly contact us we can be reached at 905-898-6598.

Sincerely,

Peter West,

Newmarket, ON

May 16, 2022

City of Kawartha Lakes

Municipal Law Enforcement Office

26 Francis Street

Lindsay, Ontario

K9V 5R8

RE: Hiiuvain/Lindau – 139 Mckelvey Road, Kawartha Lakes (Eldon), Minor Variance approval

Please accept this letter as support to allow the Hiiuvain/Lindau families at 139 Mckelvey Road to continue to use this property for camping and occasion use by allowing the requested Minor Variance to be approved.

My wife and I purchased the property at 127 Mckelvey Road in November 1994 and at the time were aware that camping and occasional uses existed on this property and that it has continued to date. We have no objection to this type of continued use.

I was also the President of the Mckelvey Beach Road Association for 8 years and during this time did not receive any complaints about the camping and occasion use of the property from anyone on Mckelvey Road.

Yours truly,

Brian J. Wagner and Carol Wagner

127 Mckelvey Road, 416-301-5479 [bwagner@wakconsulting.com](mailto:bwagner@wakconsulting.com)

April 15, 2022

Committee of Adjustments  
Planning Department  
City of Kawartha Lakes

RECEIVED

APR 22 2022

City of Kawartha Lakes  
Development Services  
Planning Division

To whom it may concern,

We/I am writing with regards to our long-time neighbours the Hiiuväin/Lindau family who own Lot 17 on McKelvey Beach Road on Canal Lake. We, like they, have owned property here since the 1950s. While we, on lots 24 and 25, eventually built cottages, the Lindau family chose not to. Despite this, the family has used and maintained this property extensively over the years. Their large family regularly gathers here bringing along their own tents or campers and enjoy the property's natural beauty to its full extent. They contribute to our cottagers' community and are valued neighbours to us all. It would be our wish that they would be able to continue this tradition with their children and grandchildren.

Best regards,

Vello and Milvi Silm  
vsilm@ca.inter.net

Committee of Adjustment  
Planning Department  
City of Kawartha Lakes

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APR 22 2022

City of Kawartha Lakes  
Development Services  
Planning Division

April 17<sup>th</sup>, 2022.

To whom it may concern:

My grandparents Juhan and Hilja Kütt and my grandmothers brother Hans Juudas were the original owners of Lots 1 and 2 on McKelvy Rd on Canal Lake, purchased in 1955. There were many lots purchased by Estonian families, I can recall at least 8 on McKelvy Rd., and each of these families cleaned up and used their lots and built their cottages according to their ability, desire and pocketbook.

I have known the Hiiuväin and Lindau families at Lot 17 since I was born in 1961, as we all spent every summer at Canal Lake. I remember being jealous of the Lindau kids as they got to camp in tents, while I and my brother and our cousins had to sleep indoors. I can attest that they have been camping on their lot from when I can remember.

Unfortunately, our family no longer owns the duplex cottage at the beginning of the McKelvy Road cottages, but I have only the fondest memories of our idyllic summers waiting for the dairy van to come for ice cream and chocolate milk twice a week and riding our bicycles along McKelvy Road to visit the other Estonian children...

Yours truly,



Ingrid Kütt  
Cell 416 558 7790  
900 Yonge St #902,  
Toronto ON M4W 3P5

Roland Campbell  
601-385 Osler Street  
Toronto, Ontario  
M6N 0B2

April 21, 2022

Committee of Adjustment  
Planning Department  
City of Kawartha Lakes

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APR 22 2022  
City of Kawartha Lakes  
Development Services  
Planning Division

To whom it may concern:

"The Lot", "the Lake", "the Cottage", "Canal Lake" and "Onu (uncle) Helmut's". These are the names by which we call our second home, the family campground at 139 McKelvey Beach Road. As members of the fourth generation of our family that has camped at Canal Lake, we were born into a history of togetherness, resourcefulness, and were raised to respect and feel connected with the nature surrounding us.

Growing up camping at Canal Lake was more than just going to a "cottage". It was a time for intergenerational connection, a continuation of a legacy that began on the other side of the Atlantic Ocean in Estonia. It has been a time to learn from the elders in our family, about how to appreciate the fresh air and respect the natural resources we have available. It has been a continuous collection of learning moments; about the patience of fishing, the taste of smoked bass and sunfish soup, and what it means to live lightly on the Earth.

Of course, not everything was so profound. Starting in 1983 with the birth of the eldest member of our fourth generation, Canal Lake has been a place for our family to bond and grow closer, sharing a common connection to the outdoors and the memories we have made. It has been a safe space to run barefoot, swim in the weeds, paint nails and read on the dock, woodcraft, play volleyball, nap in the hammock, explore the forest, weather the rain in a tent and, perhaps most importantly, tell stories around the fire.

These stories, some called Funny Family Stories, some about our ancestors and some about ghosts, have and continue to be a way for great aunts and uncles, parents and children, siblings, cousins and spouses to learn our shared history, helping us understand where we come from, but also where we belong.

Now, as the last of us in this generation have reached adulthood, we look to the fifth generation of youngsters and are reminded of the sentimentality our special place brings, as we see them connecting to this space, camping as we once did when we were young. I can only hope that they, and those who follow, have the opportunity to root down deeply into this place as we did and experience the spirit of its tradition of connection: to the land beneath our feet, the family that surrounds us and to ourselves.

Sincerely,  
Roland Campbell

Roland Stuart Campbell



April 10 / 22

Alissa Marielle DiBiase



April 10 / 22

Helve Ellis Voksepp



10th April, 2022

Kristjan Hans Voksepp



April 10, 2022

Alexandra Amara Lindau



April 10, 2022