

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report –
Report Number COA2021-001

Public Meeting

Meeting Date: February 18, 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 the following provisions in order to permit the construction of a detached garage:

1. Section 3.1.2.1 to permit the construction of an accessory building (detached garage) which is not part of the main building in the front yard of the subject lands;
2. Section 10.2.1.10 to increase the maximum allowable lot coverage of all accessory buildings and structures, exclusive of a private garage attached to the main building and outdoor swimming pools from 129 square metres (50% of the main building gross floor area) to 208 square metres, but in no case shall it exceed 8% of the total lot area.,

The variance is requested at 18 Westlake Court, geographic Township of Fenelon (File D20-2020-037).

Author: Kent Stainton, Planner II

Signature:



Recommendations:

Resolved That Report COA2021-001 and be received;

That minor variance application D20-2020-037 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 sketches in Appendices C-E submitted as part of Report COA2021-001, which shall be attached to and form part of the Committee's Decision;
- 2) **That** notwithstanding the definition of front yard, the granting of the variance will not be interpreted to permit the placement of any other structure or

accessory building between the front wall of the dwelling and the front lot line; 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 COA2021-001. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Background: The application was submitted October 29, 2020. A pre-screening meeting occurred with the Planning Division on October 26, 2020 prior to the submission of the application. The application was originally scheduled for the November 26, 2020 Committee meeting.

On November 19, 2020, Staff received a letter of objection from the owner of 14 Westlake Court. The letter cited several reasons for opposing the application including the fact that the proposed detached garage would be used as a Home Occupation, since the attached garage is currently accommodating the Home Occupation. The existence and relocation of the Home Occupation to the proposed detached garage was confirmed with the owners.

Upon discussing the issue with one of the owners, it was recognized that due to a misunderstanding of the definition of 'Home Occupation' within the Township of Fenelon Zoning By-law 12-95, information surrounding the operation of a Home Occupation, in the form of a woodworking shop, was inadvertently omitted from the application. Since the nature of the Home Occupation and gross floor area utilized by the Home Occupation were not presented in the application, staff recommended a deferral of no greater than three (3) months until such time as supplemental information pertaining to the Home Occupation could be provided to Planning Staff in order to establish if additional relief would be required. Committee granted the deferral as requested at the November 26, 2020 meeting.

The applicant subsequently provided supplemental information relating to the particulars of the Home Occupation. Upon further review, the determination was made that no additional relief would be required. No other changes to the size or configuration of the detached garage were made.

The application proposes to construct a 208.1 square metre (2, 240 square feet) detached garage within a front yard.

The updated application was deemed complete on December 11, 2020.

Proposal: The proposal involves the construction of a new detached garage with a portion of the garage to be used as a home occupation (woodworking shop) on the subject lands

Owners: and

Legal Description: Lot 20, Plan 57M 775, geographic Township of Fenelon, City of Kawartha Lakes

Official Plan: Hamlet Settlement Area within the City of Kawartha Lakes Official Plan

Zone: Hamlet Residential (HR) Zone within the Township of Fenelon Zoning By-law 12-95

Site Size: 6,598 square metres (71,020 square feet)

Site Servicing: Private individual well and septic system

Existing Uses: Residential

Adjacent Uses: North, South, East: Hamlet Residential
East: Agricultural, Cameron Rock
Drumlin Earth Science Area of
Natural and Scientific Interest
(ANSI)

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 situated on a cul-de-sac within a rural estate subdivision forming the western portion of the Hamlet of Cameron. The subject property is bounded by the Cameron Rock Drumlin Earth Science ANSI, a steep geological feature to the west that transitions to agricultural lands. The single detached bungalow on the property was constructed in 2017. The abutting property to the north possesses a General Industrial Exception One (M2-1) Zone, which permits a farm and heavy equipment repair and service shop as well as a single detached dwelling.

The proposed location of the detached garage will provide screening between the dwelling and the farm equipment repair and service shop, effectively screening the views of abutting property when viewed from the front porch.

Several of the properties along Westlake Court contain similar large detached garages constructed beside the dwellings; however, the irregular lot shape tapers to the west, which prevents the construction of the workshop beside or in the rear yard of the property. Rear yard amenity space would be compromised if the building was constructed within the rear yard with the side yards providing limited space for a driveway to access the building. Also, the increasing grade to the rear of the property and the presence of the Earth Science ANSI further inhibits the situation of a detached garage within the rear yard of the subject lands.

The design of the garage is intended to emulate the overall appearance of the bungalow with stone veneer and siding identical to that of the dwelling unit. Added step flashing, matching light fixtures and three windows on the street-side of the building further compliment the design elements of the building. When combined with the plantings proposed in the landscaping plan, the garage will seamlessly blend in with the dwelling. The additional plantings will also provide vegetative buffering from the property to the north.

The increased lot coverage does not impair the area of available landscaped amenity space or the appearance of the property.

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 Hamlet Residential (HR) Zone permits a variety of rural uses, including single detached dwellings. The intent of the zoning by-law is to restrict the placement of accessory buildings 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. One of the intents of the location provision is to ensure accessory buildings and uses do not dominate the streetscape.

The tapered lot configuration together with the location of the septic system in the southwest section of the property relegates the location of the garage to the northeastern portion of the property. As the three-bay garage attached to the bungalow is occupied by vehicles and lawn maintenance equipment required for an estate lot, the owners intend creating more indoor space by using the garage for a workshop for woodworking as part of a Home Occupation and the storage of other items. Moreover, the location of the tile drain outlets from the roof leaders of the dwelling run out to the side yard (north) preventing additional expansion of the existing three-bay garage.

Through the pre-screening process, the applicant was able to locate the garage footprint further from the front yard by an additional 1.5 metres, further lessening the prominence of the garage within the front yard. By applying the landscaping and plantings mentioned in Rationale 1 & 2, the overall visual impact of the garage is substantially lessened.

Section 10.2.1.10 of the Hamlet Residential (HR) Zone category sets a maximum lot coverage for accessory buildings or structures, exclusive of a private garage attached to the main building and outdoor swimming pools. Lot coverage shall not exceed 50% of the required minimum floor area for a residential dwelling (46.5 square metres) or 50% of the main building gross floor area, whichever is greater, but in no case shall it exceed 8% of the total lot area to a maximum of 8% of the lot area. Since the gross floor area of the dwelling is 258 square metres, the maximum lot coverage for the garage could not exceed 129 square metres. The modest 208 square foot building represents a 62% increase from what is permissible; however, the total lot coverage is less than the 8% requirement at 7.1%.

One of the intentions of the lot coverage provision under the HR Zone category is to restrict the size of accessory buildings on much smaller lots within the Hamlets of Cameron, Cambray and Rosedale. With the spacious estate lots created within the Hamlet of Cameron, the carrying capacity of land is much greater than the smaller residential lots along Highway 35 and Cameron Road. Sufficient landscaped open space for amenity space, servicing (i.e. sewage system and well) and storm water infiltration exists on the estate lot; thus, it is appropriate to permit the additional lot coverage.

Noteworthy is the fact that the relocation of the existing permitted Home Occupation to the detached garage will not require relief from the provisions of Section 3.9 of the Zoning By-Law as pertaining to Home Occupations.

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 Hamlet Settlement Area within the City of Kawartha Lakes Official Plan. Low density residential uses, along with accessory uses are anticipated within this designation.

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

Other Alternatives Considered:

The original proposal was located approximately 1.5 metres to the east (towards Westlake Court) from where the current proposal is based. Through the prescreening process, it was identified that the applicant should relocate the garage as close to the dwelling as possible without impacting the conveyance of stormwater through the roof leader outlets from the dwelling. The applicant accepted staff's recommendation.

Servicing Comments:

The property is serviced by a private individual well 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:

Development Engineering Division (January 21, 2021): No objections.

Building Division (January 21, 2021): No concerns.

Part 8 Sewage Systems (November 11, 2020): The garage will be maintained outside the required clearance distance to the existing sewage system. No concerns.

Community Services Division (January 21, 2021): No comments or concerns.

Public Comments:

Cindy Moore (on behalf of Wayne and Isobel Moore) – 16 Westlake Court (November 19, 2020): The Moores provided a comprehensive letter of opposition expressing a variety of concerns with the proposal including the following issues: unaesthetic, view impedance, noise concerns, the incompatibility of the use of the garage and flooding. See Appendix F.

Planning staff offer a response to the public comments received November 19, 2020 shown below:

Aesthetics: As shown in Appendix D, the design and treatments proposed through the application referenced in Rationale 1 & 2 blend in with the existing single detached dwelling and the overall character of the estate residential subdivision. Appendix G provides photographs of the neighbouring yards at 14 Westlake Court as seen from the rear and side yards of 18 Westlake Court.

Massing/View Obstruction: Planning staff, through multiple site visits, estimate the distance between the referenced southern bay window and the southern lot line is approximately 28 metres. Given the distance and gradual inclination of the residential dwelling at 14 Westlake Court, it is difficult to envisage the purported obstruction to views presented by the location of the detached garage. In fact, the owner of 14 Westlake Court has planted a row of blue spruce trees along the fenceline that will grow to impede any views of the garage. The applicant is also planning to enhance the buffer on their side of the property line by proposing additional tree and shrub plantings.

Land use: Planning staff notes that Section 10.1.1.2 of the Township of Fenelon Zoning By-law 12-95 permits a 'Home Occupation', as of right, under the 'Hamlet Residential (HR) Zone' category. Moreover, the Zoning By-law allows home occupations within, "...a part of any accessory building" within the HR Zone. Through additional information provided by the applicant, it was determined that the home occupation complies with all criteria of a 'Home Occupation' as identified under Section 3.9 of the Zoning By-law including occupying less than 25% of the

Gross Floor Area of the dwelling unit (Section 3.9.1.5). Since the abutting property is zoned General Industrial Exception One (M2-1) Zone, which permits a farm and heavy equipment repair and service shop as well as a single detached dwelling, it stands to reason that the permitted uses under the M2-1 Zone present a greater incompatibility to the surrounding neighbourhood than does this home occupation.

Noise: Planning staff identify that the applicants are gainfully employed and do not engage in woodworking in contravention of any noise by-laws of the City of Kawartha Lakes. The noise presented through the use of commercial power tools would be no different than any noise created through a resident of the neighbourhood operating power tools in a garage or dwelling unit.

Flooding: Planning staff note that Engineering and Corporate Assets Division reviewed both the original Plan of Subdivision and the subject application and determined that the proposal will not present impacts to the storage or conveyance of runoff. Specific consideration was given to the proximity of the detached garage to the existing roof leaders from the dwelling when siting the garage as close to the dwelling as possible. Staff note that the approximate distance between the southern lot line and the closest building (detached garage) is 17 metres on a slight inclination.

Attachments:



Appendices A-G for Appendices A-G for
COA2021-001.pdf COA2021-001 Conti

- Appendix A – Location Map
- Appendix B – Aerial Photo
- Appendix C – Applicant's Sketch
- Appendix D – Elevation sketches
- Appendix E – Department and Agency Comments
- Appendix F – Public Comments
- Appendix G – Applicant's Response to Public Comments

Phone:	705-324-9411 extension 1367
E-Mail:	kstainton@kawarthalakes.ca
Department Head:	Chris Marshall, Director of Development Services
Department File:	D20-2020-037

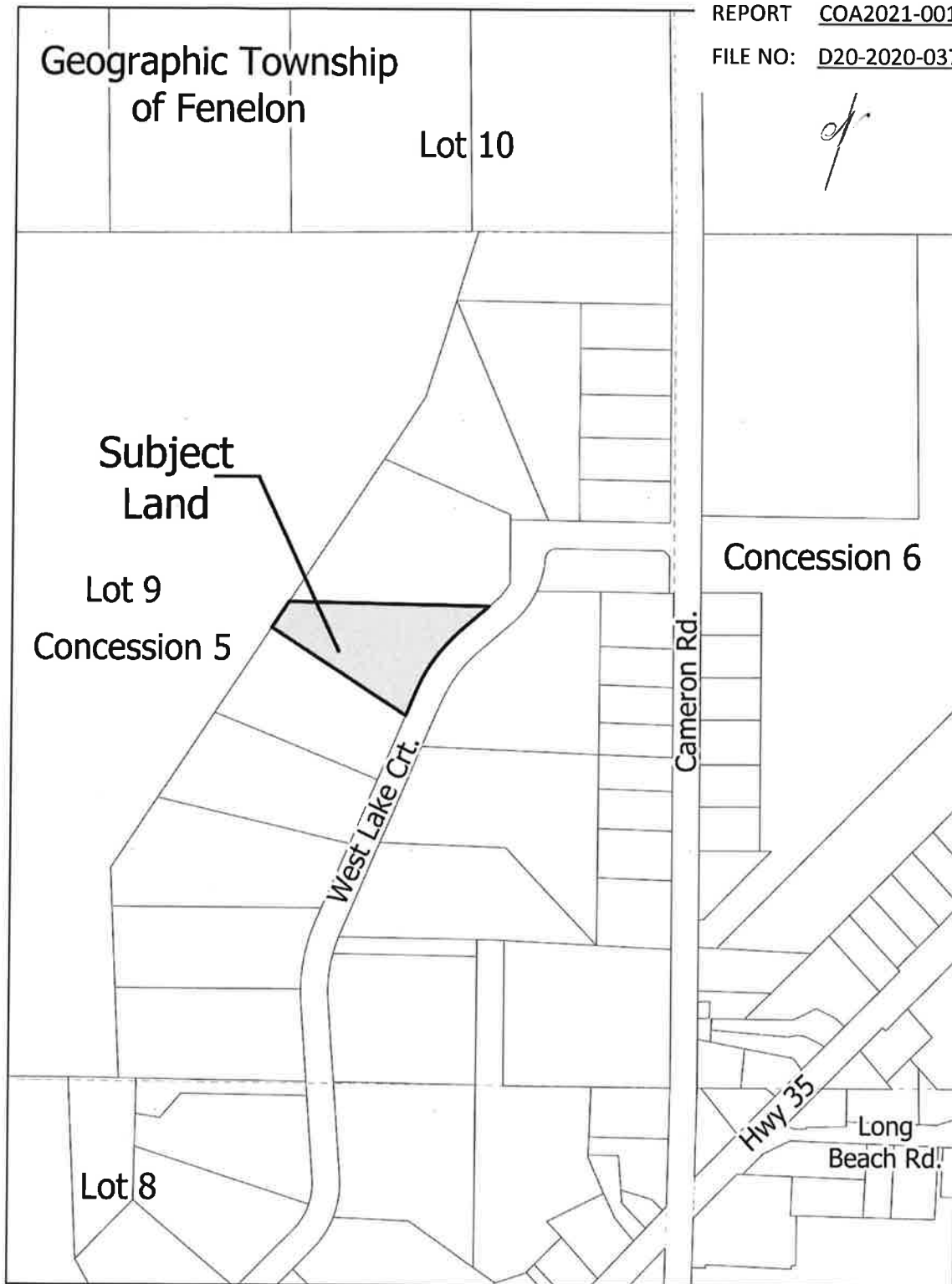
D20-2020-037

APPENDIX " A "

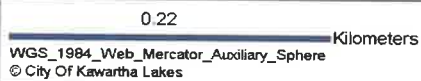
to

REPORT COA2021-001

FILE NO: D20-2020-037



18 Westlake Court, Geographic Township of Fenelon



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.

THIS MAP MAY NOT BE USED FOR COMMERCIAL OR LEGAL PURPOSES

Legend

- ☐ Property Roll Number
- ☒ Lots and Concessions
- ☐ Lower Tier Municipalities

Notes

Notes

APPENDIX "B"

to

REPORT
COA2021-001

FILE NO: D20-2020-037

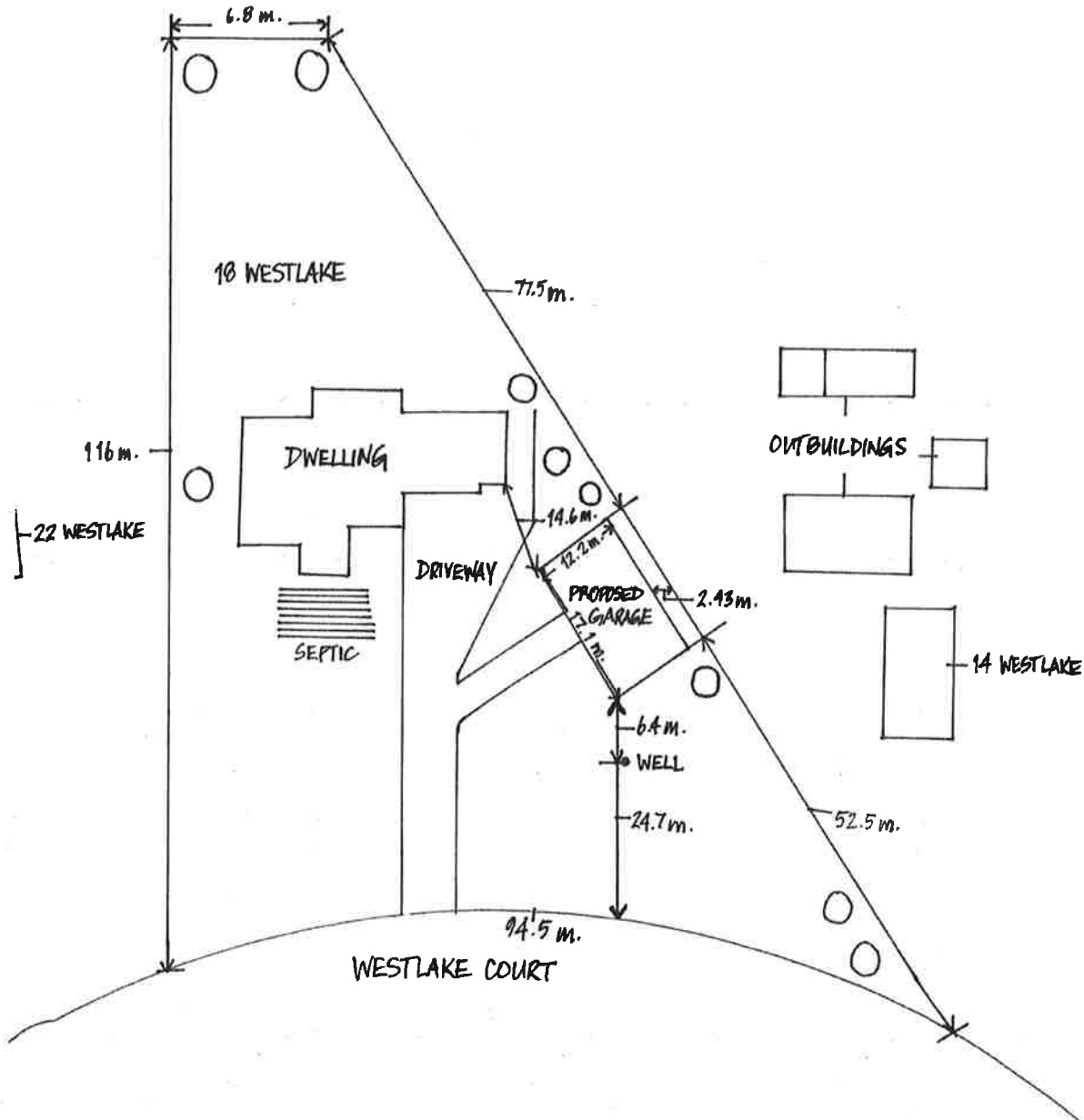
APPENDIX " C "

to

REPORT COA2021-001

FILE NO: D20-2020-037

SKETCH PLAN



Kent Stainton

From: Mark LaHay
Sent: Thursday, January 21, 2021 12:44 PM
To: David Harding; Kent Stainton
Cc: Charlotte Crockford
Subject: FW: 20210121 D20-2020-037 - Engineering review

FYI - file

From: Kim Rhodes
Sent: Thursday, January 21, 2021 11:25 AM
To: Mark LaHay
Cc: Christina Sisson ; Kirk Timms ; Benjamin Courville
Subject: 20210121 D20-2020-037 - Engineering review

APPENDIX " E "
to
REPORT COA 2021-001
FILE NO. D20-2020-037

Please see the message below from Christina Sisson:

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

Minor Variance – D20-2020-037
18 Westlake Court
Lot 20, Plan 57M 775
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 construct a detached garage:

1. Sections 3.1.2.1 to permit the construction of an accessory building (detached garage) which is not part of the main building in the front yard of the subject lands;
2. Sections 10.2.1.10 to increase the maximum allowable lot coverage of all accessory buildings and structures, exclusive of a private garage attached to the main building and outdoor swimming pools from 129 square metres (50% of the main building gross floor area) to 208 square 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



Staff Memo

LeAnn Donnelly, Executive Assistant, Community Services

Date: January 21, 2021
To: Committee of Adjustment
From: LeAnn Donnelly, Executive Assistant, Community Services
Re: Minor Variance – Various Applications

This memorandum confirms receipt of various applications to the Community Services Department and is intended to advise that our Department has no comments or concerns to offer the Committee with respect to the following minor variance applications:

D20-2020-037	18 Westlake Court, Fenelon
D20-2020-045	128 Romany ranch Road, Fenelon
D20-2020-046	120 Charlore Park Road, Emily
D20-2020-047	4 Bruce Street, Mariposa
D20-2020-048	121 Grassy Road, Emily

LeAnn Donnelly

LeAnn Donnelly
Executive Assistant, Community Services
705-324-9411 ext. 1300

Kent Stainton

From: Derryk Wolven
Sent: Thursday, January 21, 2021 9:59 AM
To: Charlotte Crockford
Subject: D20-2020-037 18 Westlake

Please be advised building division has no concerns with the above noted application.

Derryk Wolven
Plans Examiner
City of Kawartha Lakes
705-324-9411 ext 1273
www.kawarthlakes.ca



Kent Stainton

From: Kent Stainton
Sent: Tuesday, November 17, 2020 11:02 AM
To: Charlotte Crockford-Toomey
Subject: FW: D20-2020-037 - 18 Westlake

Follow Up Flag: Follow up
Flag Status: Flagged

FYI

Kent Stainton
Planner II
Development Services, City of Kawartha Lakes
705-324-9411 ext. 1367 www.kawarthalakes.ca

City of Kawartha Lakes
Development Services Department, Planning Division
180 Kent Street West
Lindsay, ON K9V 2Y6
705-324-4027 (F)



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.

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 e-mail and shred this confidential e-mail, including any attachments, without making a copy. Access to this e-mail by anyone else is unauthorized.

From: Anne Elmhirst
Sent: Tuesday, November 17, 2020 11:01 AM
To: Kent Stainton
Subject: D20-2020-037 - 18 Westlake

Hello Kent,

I have received and reviewed the application for a minor variance to request relief to construct an accessory structure (detached garage) in the front yard at 18 Westlake Road. I completed a site visit to confirm the location of the sewage system with the proposed garage.

The detached garage will be used as a personal workshop and to store yard equipment. The proposal does not include any plumbing fixtures for the accessory structure. The garage will be maintained outside the required clearance distance to the existing sewage system.

As such, the Building Division – Sewage System program has no concerns with the proposal.

Wayne & Isobel Moore
47 Cameron Road
Cameron, ON
K0M 1G0

November 19, 2020

APPENDIX F
to
REPORT COA 2021-001

FILE NO. D20-2020-037

City of Kawartha Lakes
Planning and Development
180 Kent Street West
Lindsay, ON
K9V 2Y6

Re: Application for Minor Variance #D20-2020-037

Dear Sir/Mme:

We are contacting you today regarding the notice we received concerning an application for a proposed amendment to the current zoning at 18 Westlake Court, Lot 20, Plan 57M 775, Cameron, ON K0M 1G0. The request is to allow for construction of a garage/shop in the front yard of this address.

We are hereby notifying you that we are strongly in dispute of this proposal, and request that the City of Kawartha disallow the amendment for the following reasons.

The property in question is adjacent to our property and lies directly along our south property line. We have watched the owners mark out where they would like the new building to lie, so we know the magnitude of the building that they are planning on building. This building will greatly affect the aesthetics of the neighborhood, and will impact us directly as the majority of the windows on the south side of our home would look directly into the side of this building, should it be built. Specifically, our living room has a large picture window that currently looks south. This window almost entirely covers the south wall. This window was put there specifically to enjoy the south facing view. That window would become useless as it would now be looking at a wall.

When the area was rezoned to allow for the current subdivision by Mr. Westlake in 2004, our property was the only one within that area. We did not dispute the proposal as we were advised that the properties severed within the proposed subdivision, would be exclusively residential. All buildings built were to be single family homes. There would not be any type of commercial enterprise, and the rural atmosphere would be maintained. One of the owners of this property already has a wood working business operating out of the attached 3 car garage. We hear the saws running (during the day and at night) as well as see lumber and material going to and from. I have included FaceBook and Instagram profiles as proof of his developing business. As the current residence has a 3 car garage, there is little doubt that the proposed new building is being constructed with the intent of growing Mr. wood working business. The saws, planers and miscellaneous other power tools would then

be operating and running just outside of our home. The peace and quiet that we enjoy, potentially gone.

We are also extremely concerned about the potential for run-off and flooding should this proposal go through. In the past, we have experienced substantial flooding due to the current elevation of the property owned by _____ in comparison to ours. Should this large building be built in its proposed location, we feel there is significant risk that this will happen again, and potentially every spring (or wet period) for years to come.

We thank you in advance for your consideration of our concerns and ask that you not allow the proposed amendment to the current bylaw.

Best regards,

A handwritten signature in cursive script, appearing to read "Isobel Moore".

Wayne & Isobel Moore
Phone: (705) 359-1498
Email: wandimoore@i-zoom.net

Kent Stainton

From: Cindy Moore <cindy-moore@hotmail.ca>
Sent: Sunday, November 22, 2020 1:09 PM
To: Committee of Adjustment
Subject: Fw: Minor Variance Application #D20-2020-037
Attachments: Variance Application.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Sir/Mme:

I am emailing you on behalf of my parents Wayne & Isobel Moore. Their email address is wandimoore@i-zoom.net. Please respond directly to them should a response be needed.

They are contacting you regarding the Application for Minor Variance #D20-2020-037 by
and (address 18 Westlake Court, Cameron, ON K0M 1G0).

Please note, due to the size of these files, subsequent emails will be following.

Regards,
Cindy Moore (On Behalf of Wayne & Isobel Moore)

APPLICATION FOR MINOR VARIANCE #D20-2020-035

18 Westlake Court (Fenelon)

RESPONSE TO OBJECTION BY WAYNE AND ISOBEL MOORE AND CLARIFICATION REGARDING USE OF PROPOSED ACCESSORY BUILDING

Our response addresses the objections made by Wayne and Isobel Moore in respect of the following:

- (i) aesthetics of the neighbourhood;
- (ii) drainage;
- (iii) view; and
- (iv) use of proposed accessory building for a home occupation.

APPENDIX "G"
to
REPORT COA 2021-001
FILE NO. D20-2020-037

We will also describe the current use of our attached garage for a home occupation; and confirm that the intended use of the proposed accessory building for a home occupation will comply with all applicable by-laws in the Township of Fenelon Zoning By-law 12-95 ["the by-law"].

(i) **Aesthetics of the Neighbourhood**

As can be seen in the photographs below, the Moore property consists of a two-storey, red-brick century farmhouse, along with numerous outbuildings. The large outbuilding to the rear of their dwelling appears to have moved there and placed on concrete blocks. There is also a small outbuilding that is adjacent to a metal trailer body. There are other smaller outbuildings on the property. In addition, there are piles of brush, scrap wood and metal on the property, along with an abandoned truck and tractor that are overgrown with weeds.



Moore dwelling and large outbuilding (view looking north from our property)



Large Outbuilding, two small outbuilding and metal trailer body



Large outbuilding, smaller outbuildings and piles of scrap wood and metal



Piles of scrap metal



Abandoned truck in rear yard
(abandoned tractor in front of
truck, not visible in photo)

In contrast, all of the other homes in the subdivision, including ours, are larger, newer “executive-style” homes. There are no other homes in the subdivision that have multiple mismatched outbuildings, metal trailer bodies, piles of brush, scrap wood and metal or abandoned vehicles in their yards.

While the subdivision is located in Cameron, which is a hamlet located in a rural area, the subdivision itself does not have a “rural atmosphere”. The subdivision is best-described as an “enclave” of estate properties.

We have no intention of changing the estate quality of our property. We appreciate how an industrial-style accessory building would negatively impact the value of our home. We are investing a large sum of money into building an accessory building that complements our home and increases its value. The exterior of the proposed accessory building includes elements identical to our dwelling, such as matching windows, doors, siding and stone on the front exterior.

(ii) Drainage

The Moores' claim that they have experienced "substantial flooding" due to the current elevation of our property is completely fabricated. Indeed, the Moores' property slopes *towards* our property. We have never experienced any flooding on the north side of our property adjacent to the Moore property.

The location of the proposed accessory building is as close to our dwelling as possible. We cannot move it any closer without interfering with drainage from the roof of our dwelling.

We have a significant interest in ensuring that the location of the accessory building is not in an area that is prone to flooding and to ensure that it does not interfere with drainage.

(iii) View

As can be seen the photo below, the location of the proposed accessory building will not interfere with the view from south-facing window of the Moore dwelling.

When we moved into our property, there was a tree line consisting of an old stone and barbed wire fence and scrub bushes and trees. As we were working to remove the fence line in order to conform to the aesthetic of the neighbourhood, Mr. Moore complained that the lights from vehicles leaving the subdivision would shine into his windows. In other words, Mr. Moore complained about us removing trees which would improve his view.

As can be seen in the photo, the Moores have planted numerous trees along the south side of their property which at some point, *will* interfere with their view. The Moores' complaint regarding our proposed accessory building impeding their view is inconsistent with their earlier complaint and with their planting of trees along the fence line.

The only view blocked by the proposed accessory building is of our dwelling. It is our position that our right to privacy and to not have our activities monitored by Mr. Moore should take priority over their fabricated claim that the building will interfere with their view.



Red stake showing east wall of proposed Accessory Building and south window of Moore dwelling

(iv) Proposed Use of Accessory Building for a Home Occupation

When we submitted our initial application, we did not appreciate that our woodworking hobby constituted a “home occupation” as defined in the by-law, as it was not for “gainful employment”. In any case, our current use of the attached garage as a home occupation is compliant with the by-law.

We have never had any complaints about noise or increased traffic arising from our current use of the attached garage as a woodworking shop. The Moores’ claim that there are “saws running (during the day and at night) as well as lumber and material going to and from” is exaggerated. Mr. Moore operates a tractor repair business and cuts firewood on his property. Our home occupation does not create any more noise or traffic than Mr. Moore’s operation of his tractor repair business or use of a chainsaw to cut firewood.

As can be seen from the materials provided by the Moores, our work is shown on Facebook and Instagram, interspersed with personal photographs and posts. There is no separate Facebook or Instagram account for the “home occupation”. Beyond the two social media accounts, we do not advertise or market our work or products and there is no on-line catalogue.

Our “customers” are mostly family and friends, who express an interest in our products or request custom projects. We intentionally minimize traffic and visitors to our home by either delivering or mailing our products. With expenses taken into account, our home occupation has yet to make a profit.

We are both employed full-time and are raising two children. There are no plans to “grow” the business, as our professional and personal responsibilities do not allow for expansion.

We are not seeking any relief from the by-law in respect of the use of the proposed accessory building for a home occupation. We intend to continue to ensure that our use of the proposed accessory building for a home occupation is compliant with the by-law.

The home occupation will be clearly secondary to the residential use of the property. We have an interest in maintaining the residential character of our property and the neighbourhood.

The home occupation will not become a public nuisance due to noise, dust, traffic or parking. As stated, there have been no complaints regarding the current use of our attached garage as a home occupation.

The home occupation will not interfere with radio or television reception on adjacent lots.

There will be no goods offered for sale inside the dwelling.

The home occupation will not occupy more than 25% of the gross floor area of the dwelling-house. The gross floor area of the dwelling is 421.41 square metres. As shown in the attached drawing, the area of the proposed accessory building to be used for the home occupation is 105 square metres. The remainder of the space will be used for storage of lawn equipment and for personal use (gardening and crafting).

Based on the area of the proposed accessory building to be used for the home occupation, we are required to provide four (4) parking spaces. Given the length and width of our driveway, we have in excess of 20 parking spaces.

Finally, all goods materials associated to the home occupation will be stored inside the proposed accessory building.

Conclusion

The Moores' objection to our minor variance application is based on generalized claims which are unsupported by evidence and in some cases, exaggerated or fabricated.

The current use of the attached garage as a home occupation is compliant with the by-law; and our use of the proposed accessory building for a home occupation will, likewise, be compliant with all applicable by-laws.