

The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Miller

Report Number COA2024-018

Public Meeting

Meeting Date: February 22, 2024

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 facilitate the raising of the existing dwelling in order to construct a walkout basement.

Relief sought:

1. Section 3.18.1.1 of the By-law requires a minimum setback from the Environmental Protection Zone of 15 metres; the proposed setback is 10 metres.

The variance is requested at **236 Francis Street East** (File D20-2024-008).

Author: Katherine Evans, Planner II

Signature: 

Recommendations

That Report COA2024-018 – Miller, be received;

That minor variance application D20-2024-008 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions

- 1) **That** building construction related to this approval shall proceed generally in accordance with the sketch in Appendix C and the drawings in Appendix D submitted as part of Report COA2024-018, which shall be attached to and form part of the Committee's Decision; and,
- 2) **That** building construction related to the minor variance 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 COA2024-018. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Application Summary

Proposal:	Raising of the existing dwelling in order to construct a walkout basement
Owners:	John Miller
Applicant:	Same as owner
Legal Description:	Part Lot 21, Concession 11 (being Lot 7 on Plan 253)
Official Plan ¹ :	Residential and Special Policy Area 3 (Sturgeon Lake Floodplain Area) (Fenelon Falls Secondary Plan, 2015)
Zone ² :	Rural Residential Type Two (RR2) Zone (Township of Fenelon Zoning By-law 12-95)
Site Size:	2,023 sq. m. (21,775.39 sq. ft.)
Site Access:	Year round municipal road
Site Servicing:	Private holding tank and lake draw water
Existing Uses:	Residential
Adjacent Uses:	Residential

Rationale

The variance is desirable for the appropriate development or use of the land, building or structure.

The subject property is within an established residential neighbourhood located on the eastern shore of Fenelon River. The property is rectangular in shape and is a waterfront lot. The property currently contains a single detached dwelling constructed in 1960 (according to Municipal Property Assessment Corporation), two sheds, a house boat, a barrel sauna, and a shipping container that is to be removed. A Minor Variance was granted in November, 2023 (D20-2023-084) for the construction of a detached garage.

¹ See Schedule 1

² See Schedule 1

It can be expected that over time, owners may improve their property in an attempt to achieve its highest and best use. The proposal is to raise the existing dwelling to construct a walkout basement. The basement would be under the entire footprint of the existing dwelling as well as under the existing attached waterside deck. The basement will add additional living space to better accommodate the property owner as well as family and friends. The gross floor area of the existing dwelling is approximately 83 square metres. The proposed gross floor area is to be approximately 202 square metres.

Given the above analysis, the variance is considered desirable and appropriate for the use of land.

The variance maintains the general intent and purpose of the Official Plan.

The subject property is designated Residential under the Fenelon Falls Secondary Plan, 2015. A variety of dwelling types as well as accessory buildings and structures are permitted within this designation. The shoreline of the property is within the Special Policy Area 3 (Sturgeon Lake Floodplain Area).

As per policy 31.4.2.6.9., an existing building or structure located in a flooding hazard may be enlarged, expanded or altered subject to: the determination that there will not be an unacceptable off-site impact due to the displacement of the flood water; the enlargement to the building is appropriately flood proofed; new or existing hazards are not created or aggravated; the Conservation Authority has been satisfied; the development is not a threat to public health and safety or property; vehicles and people must have a way of safely entering and exiting the area during floods; and satisfactory water supply and subsurface sewage disposal servicing.

The existing dwelling is outside of the Special Policy Area. A portion of the basement that is to be located under the existing attached deck is within this policy area. Between the dwelling and the shoreline there is a steep slope. The dwelling being located at a higher elevation could mitigate the impact of a potential flood event. The addition of a basement under the existing deck is not anticipated to have an impact on neighbouring properties or to create or aggravate hazard.

The property is within the Floodplain Hazard, being the 120 metre buffer along the shoreline. As per section 31.4.2.6.6 of the Fenelon Falls Secondary Plan, an Environmental Impact Study or other appropriate study shall be required for all development proposals on or abutting lands identified as Environmental Constraint Area. Based on the location of the proposed development and the limited natural features on and adjacent to the site, staff feel it is reasonable to not require a study and that the proposal is in keeping with the general intent and purpose of the Secondary Plan and the Official Plan.

Therefore, the variance is considered to maintain the general intent and purpose of the Official Plan.

The variance maintains the general intent and purpose of the Zoning By-law.

The subject property is zoned Rural Residential Type Two (RR2) Zone under the Township of Fenelon Zoning By-law 12-95. A single detached dwelling as well as accessory structures are permitted within this zone. The proposal complies with all provisions of the Zoning By-law with the exception of the minimum setback from the Environmental Protection Zone.

As per Section 3.18.1.1 of the By-law, a minimum setback of 15 metres is required from the Environmental Protection Zone; the proposed setback is 10 metres. The purpose of this setback is to establish a buffer between development and environmental features.

The Rural Residential Type Two (RR2) Zone does not have a water setback provision. Waterbodies in Fenelon, including the Fenelon River, are zoned Environmental Protection. As such, the required 15 metre setback from the Environmental Protection Zone applies to this property, and functions similarly to a minimum water setback. The intent of the minimum setback is to protect built form from natural hazards, provide sufficient space to establish vegetation to improve waterbody health, and to provide sufficient space for the infiltration of stormwater runoff.

As the proposed basement is to be located within the existing footprint of the dwelling and attached deck, it is not anticipated that the addition of the basement will impact storm water runoff or the existing shoreline vegetation. Additionally, as the area between the dwelling and the shoreline is a steep slope, the elevation of the dwelling could mitigate impacts of a flood event.

Therefore, the variance is considered to maintain the general intent and purpose of the Zoning By-Law.

The variance is minor in nature.

There are no anticipated impacts on environmental features; neighbouring properties; or, the function of the municipal right-of-way with respect to access, drainage, or streetscaping and maintenance.

Other Alternatives Considered:

No alternatives considered.

Consultation Summary

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

Agency Comments:

Building and Septic Division (Building): "No comments."

Building and Septic Division (Septic): “A sewage system use permit was located for the property. The report indicates that the Class 5 Holding Tank is constructed in the roadside yard of the dwelling. The basement construction will be directly below the existing dwelling footprint. The placement of the new foundation/basement in this location will ensure the minimum required clearance distances are maintained to the existing tank. Additionally, the basement construction will not include any plumbing fixtures or bedrooms. The capacity requirements of the sewage system will not be effected. As such, the Building and Septic Division has no issue with the minor variance proposal as it relates to private on-site sewage disposal.”

Public Comments:

No comments received as of the writing of the staff report.

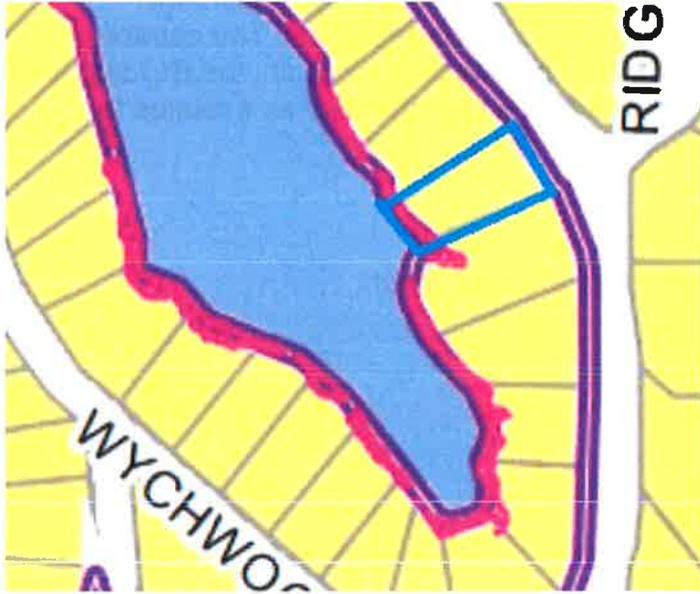
Attachments

- Appendix A – Location Map
- Appendix B – Aerial Photo
- Appendix C – Applicant’s Sketch
- Appendix D – Construction Drawings

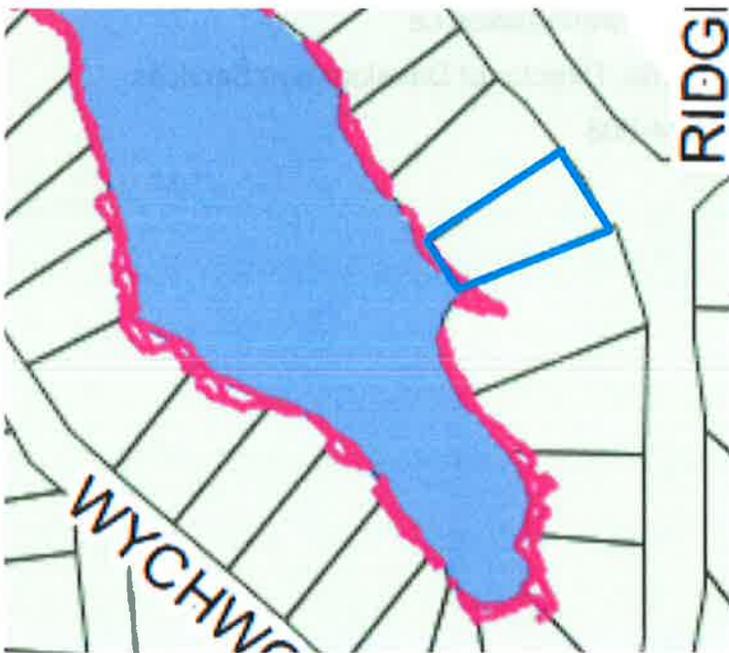
Phone: 705-324-9411 extension 1883
E-Mail: kevans@kawarthlakes.ca
Department Head: Leah Barrie, Director of Development Services
Division File: D20-2024-008

Schedule 1 Relevant Planning Policies and Provisions

City of Kawartha Lakes Official Plan



 Residential  Special Policy Area # 3 (Sturgeon Lake Floodplain Area)



 EIS Floodplain Hazard -120m Buffer (KRCA)

31.4.3 Land Use Policies

31.4.3.1. Residential

31.4.2.6. Environment and Natural Heritage

31.4.2.6.6 Schedule "G-3" delineates as Environmental Constraint Areas those lands that are susceptible to flooding or erosion, have steep slopes or soil instability, contain Provincially Significant Wetlands, and/or contain Environmentally Sensitive Features. Development of the lands in accordance with the designation on Schedule "F-3" may be permitted provided that the development does not result in an increased risk of loss of life, property damage, or the degradation of the environment. An EIS prepared in accordance with Sections 3.5.37 to 3.5.40 of this Plan shall be required for all development proposals on or abutting lands identified as Environmental Constraint Area.

31.4.2.6.9. The City recognizes that a portion of existing development may be located within the flooding hazard identified through Special Policy Area #1, Special Policy Area #2, and Special Policy Area #3 and that existing development may continue under this policy (in accordance with Section 17.6 of this Plan). An existing building or structure located in a flooding hazard may be enlarged, expanded or altered subject to:

- a) the determination that there will not be an unacceptable off-site impact due to the displacement of the flood water;
- b) the enlargement to the building is appropriately flood proofed;
- c) new or existing hazards are not created or aggravated;
- d) the Conservation Authority has been satisfied;
- e) the development is not a threat to public health and safety or property;
- f) vehicles and people must have a way of safely entering and exiting the area during floods; and,
- g) satisfactory water supply and subsurface sewage disposal servicing.

The construction or rehabilitation of a boathouse may be permitted provided it is designed in accordance with the floodproofing requirements of Kawartha Conservation.

Township of Fenelon Zoning By-law 12-95



Part 3 General Provisions

3.18 Special Setbacks or Restrictions

3.18.1 Environmental Zone Setbacks and Restrictions

3.18.1.1 3.18.1.1 Except as otherwise specifically provided for herein, the minimum setback for all buildings and structures from any class of Environmental Protection Zone shall be the applicable yard requirement or a setback of 15 metres whichever is greater.

Part 12 Rural Residential Type Two (RR2) Zone

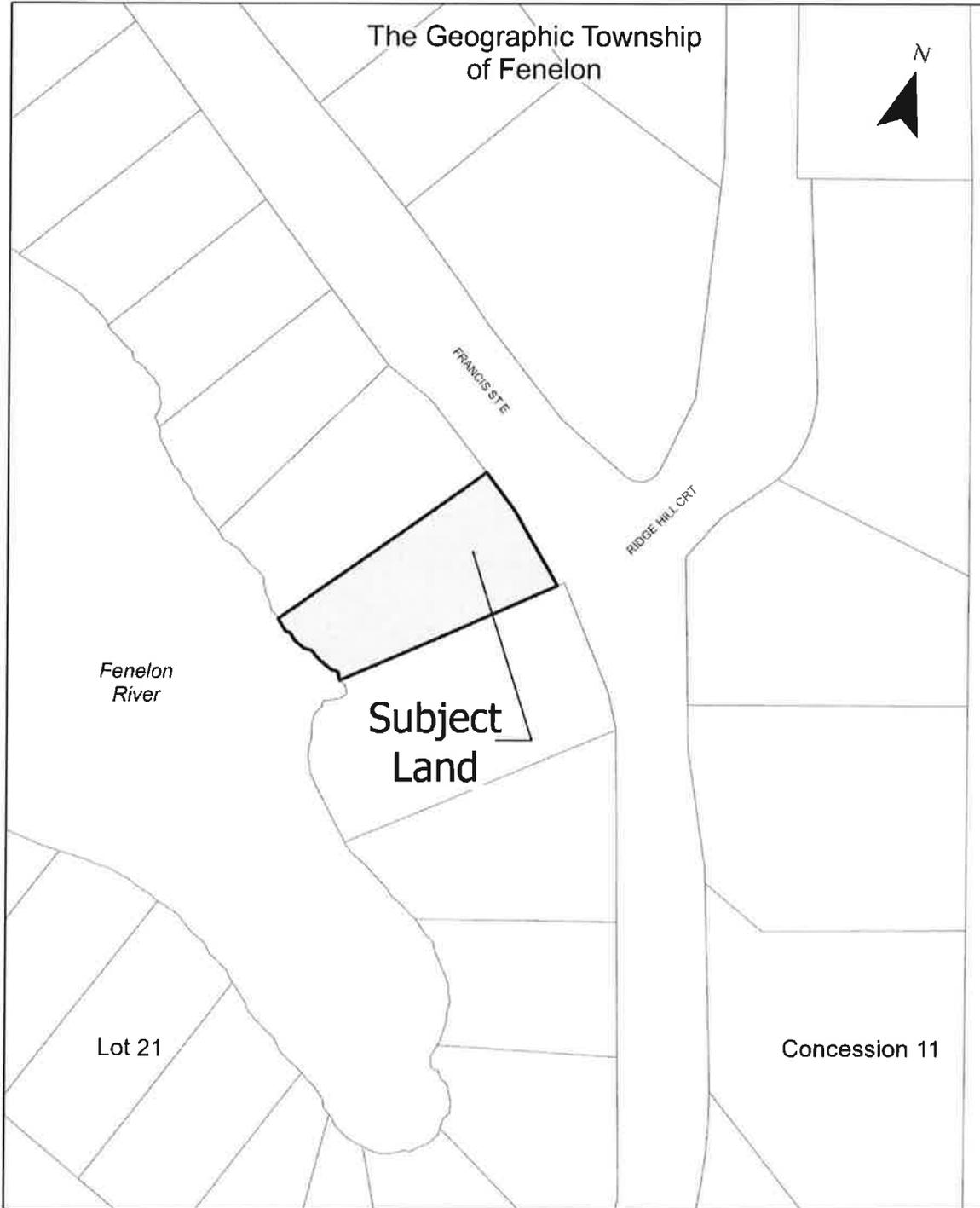
12.1 Uses Permitted

12.2 Zone Provisions

to

LOCATION MAP

D20-2024-008



APPENDIX " B "

to

REPORT COA2024-018

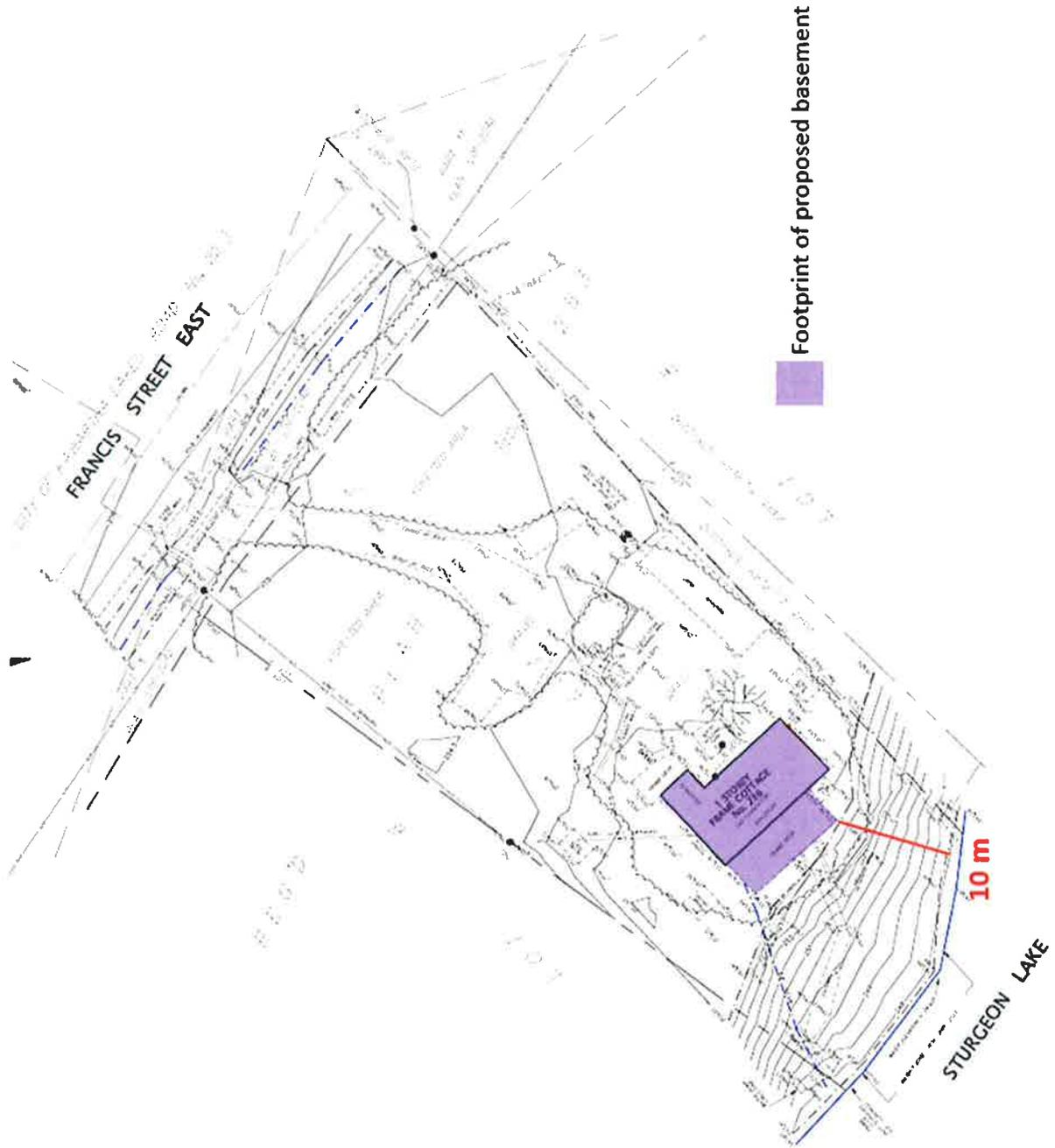
FILE NO: D20-2024-008

AERIAL PHOTO



to

APPLICANT'S SKETCH



APPENDIX " D "

to

REPORT COA2024-018

FILE NO: D20-2024-008

CONSTRUCTION DRAWINGS

