

The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Brown

Report Number COA2024-023

Public Meeting

Meeting Date: March 28, 2024

Time: 1:00 pm

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

Ward 6 – Geographic Township of Emily

Subject: The purpose and effect is to facilitate the demolition of the existing dwelling and garage on the property; replacing with a new 1-storey dwelling with rear deck, basement walkout, and an attached garage.

Relief sought:

1. Section 12.2.1.3.b. of the Zoning By-law requires a 3 metre setback for buildings less than two-storeys or 5.5 metres for a building two-storeys or greater. A basement walkout is considered an additional storey in this Zoning By-law, as such; the 5.5 metre interior side yard setback applies. The proposed side yard setback is 4.55 metres (east side lot line) and 3.10 metres (west side lot line).
2. Section 12.2.1.3.e. of the Zoning By-law requires a 30 metre water setback. The proposed water setback is 25.41 metres.

The variance is requested at **8 Kenver Street** (File D20-2024-013).

Author: Ahmad Shahid, Planner II

Signature:



Recommendations

That Report COA2024-023 – Brown, be received;

That minor variance application D20-2024-013 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 submitted as part of Report COA2024-023, 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 COA2024-023. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Application Summary

Proposal:	Construction of a new 1-storey dwelling with attached garage, rear deck, and basement walkout.
Owners:	Steve & Kathy Brown
Applicant:	TD Consulting Inc.
Legal Description:	Part Lot 13, Concession 7 (being Lot 2 of Plan 353)
Official Plan ¹ :	Waterfront (City of Kawartha Lakes Official Plan, 2012)
Zone ² :	Rural Residential Type Three (RR3) Zone (Township of Emily Zoning By-Law 1996-30)
Site Size:	1,578.27 square metres (0.39 acres)
Site Access:	Year-round municipal road
Site Servicing:	Potable water from lake and individual septic system
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 situated on the northern shore of Pigeon River, with access from Kenver Street (year-round maintained public road). The residential built form within the residential neighbourhood is comprised of primarily one to two storey single detached dwellings with varying proximity to the road and shoreline.

¹ See Schedule 1

² See Schedule 1

According to the Municipal Property Assessment Corporation (MPAC), the majority of the dwellings within the neighbourhood were constructed in the 1960's, many with accessory structures constructed more recently. The property currently contains a one-storey dwelling, detached garage, and two sheds.

The proposal seeks to demolish the existing dwelling, detached garage, and remove one of the sheds to allow for the construction of a new one-storey dwelling with a basement walkout and rear uncovered deck.

Given the age of the extant dwelling, garage, and the overall locality, it is deemed suitable for proprietors to undertake the redevelopment of their properties with the aim of realizing the highest and most optimal utilization. The proposed single-storey dwelling takes cognizance of the existing neighbourhood context, blending in with the existing low-rise, primarily single-storey character of the neighbourhood. The proposed height of the proposed dwelling remains unchanged at 6.0 metres, while creating additional habitable space through the proposed basement walkout. Furthermore, the removal of the current detached garage and one of the sheds will mitigate any perceived clutter. Overall, the proposed dwelling with attached garage and deck promotes efficient land use and blends in with the density of the surrounding properties.

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 Waterfront under the City of Kawartha Lakes Official Plan. The objective of the Waterfront designation is to recognize low density residential development as the primary land use.

As per policy 3.11, the intent of the Official Plan is that development maintains a minimum setback of 15 metres from the shoreline in order to avoid natural hazards which may result in loss of life and/or loss of property, and provide environmental buffers in order to maintain and improve water quality and habitat. Policy 3.11.2. of the Official Plan prescribes various criteria that would allow for the construction and/or expansion of a building or structure into a water setback to be considered. The proposed redevelopment supports this policy as the water setback is greater than 15 metres, and a substantial space for an environmental buffer is provided. Moreover, the proposed redevelopment supports the objectives of the Waterfront designation as it does not change the existing low-density residential land use, maintains a low profile and preserves the existing shoreline. Performance and siting criteria is implemented through the zoning by-law.

Therefore, the variances are 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 Three (RR3) Zone under the Township of Emily Zoning By-Law 1996-30. The RR3 Zone permits multiple uses including single detached dwellings and vacation dwellings, as well as the use of accessory structures. The proposal complies with all provisions of the Zoning By-law with the exception of the water setback and interior side yard setback.

Section 12.2.1.3.e. of the Zoning By-law requires a minimum 30 metre water setback. The intent of the water 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 and preservation of vegetation. The current water setback from the existing dwelling is non-compliant at 9.4 metres. The Zoning By-law does not include the first four metres of an unenclosed deck extending from the main building in the applicable water setback. The proposed deck is 3.05 metres in width. As a result, the proposed water setback from the new dwelling is 25.41 metres. The proposed water setback is greater than the existing water setback from built-form. The larger water setback allows for greater opportunities for integrating with surrounding greenery. Additionally, the redevelopment is constrained and restricted by the proposed new septic system in the front yard, which is best to be located as distant as possible from the shoreline. It is important to mention, that the proposed water setback is actually set back greater than 30 metres from the majority of the shoreline. However, the existing boat slip extends onto the property, thereby diminishing the distance between the water and built form. As such, if the water setback were to be measured from the shoreline instead of the boat slip, a variance would not be required for the water setback requirement. Overall, the proposed redevelopment provides a greater water setback than the existing setback, and maintains the intention of this provision.

Section 12.2.1.3.b. of the Zoning By-law requires a 3 metre setback for buildings less than two-storeys or 5.5 metres for a building two-storeys or greater. As per the definition of storey in the Zoning By-law, a walkout basement is considered an additional storey. As such the proposed redevelopment must comply with provisions applicable to a two-storey dwelling, a 5.5 metre interior side yard setback on both sides. The intent of this provision is to ensure there is sufficient space between neighbouring properties, avoiding overcrowding, and support privacy for all neighbouring residents. The proposed side yard setback is 4.55 metres (east side) and 3.10 metres (west side). Although deficient, the proposed interior side yard setbacks continue to allow more than adequate space to traverse freely from the front yard to the rear yard, or for side yard maintenance. Furthermore, a dense hedge exists on both the eastern and western side lots lines guarding views from abutting neighbouring lots and ensuring privacy is maintained. Overcrowding is avoided as the existing detached garage is being removed and a new attached garage is being constructed, allowing for greater side yard amenity space than previously existing.

In consideration of the above, the variances 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:

DS – Building and Septic Division (Building): “No comments.”

DS – Building and Septic Division (Septic): “An application for a sewage system permit has been submitted for a replacement sewage system to service the new single detached dwelling on the property. Initial evaluations have been conducted for the proposed build and associated sewage system and it has been determined that the property will be able to be serviced by a private on-site sewage disposal system. The current proposal is consistent with the information provided through the sewage system application. As such, the Building and Septic Division has no concerns with the minor variance application as it relates to private on-site sewage disposal.”

ECA – Development Engineering: “From a Development engineering perspective, we have no objection/no comment.”

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

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E-Mail: ashahid@kawarthalakes.ca
Department Head: Leah Barrie, Director of Development Services
Division File: D20-2024-013

Schedule 1 Relevant Planning Policies and Provisions

City of Kawartha Lakes Official Plan (2012)



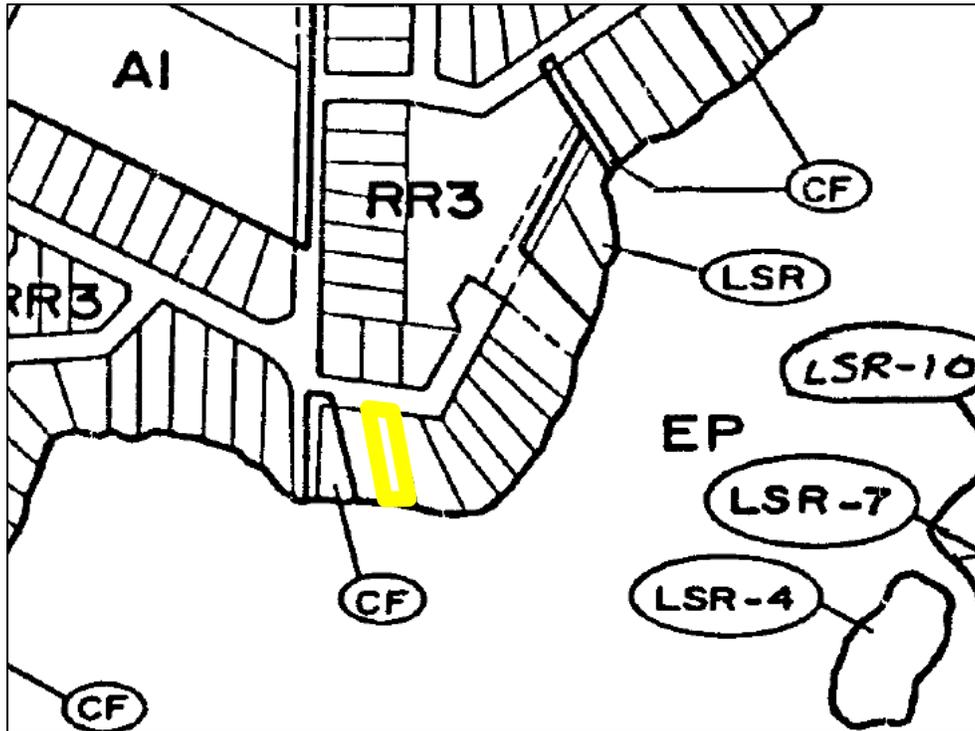
3.11 WATER SETBACK AND ACCESSORY STRUCTURES

3.11.2. Notwithstanding, the expansion to or reconstruction of existing buildings and structures or dwellings that are permitted uses, and existing lots of record where there is not sufficient area to accommodate this setback, may be considered within the 30 m setback, if it is demonstrated that:

- there is no alternative to the expansion or reconstruction;
- that the expansion or reconstruction and septic system is directed away from the high water mark as much as possible;
- that a vegetation protection zone be established to the maximum extent possible;
- the septic system shall be elevated 0.9 m. above the water table.
- the impact of the expansion or reconstruction is minimized to the maximum extent possible; and in no case shall it be less than 15 metres to the high water mark.

SECTION 20 – WATERFRONT DESIGNATION

Township of Emily Zoning By-Law 1996-30



PART 2 - DEFINITIONS

STOREY means that portion of a building, other than an attic, basement or cellar, included between any floor level and the floor, ceiling or roof next above it. A storey shall include a walk-out basement.

WATER SETBACK means a yard extending the full width of a lot between the normal water level of lakes or rivers and the nearest main wall of any building, structure, excavation or open storage use on the lot and "minimum water setback" means the minimum depth of a "water setback" on a lot between the normal water level and the nearest main wall of any building, structure, excavation or open storage use on the lot exclusive of the first 4 metres of an unenclosed deck extending from the main building

PART 12 - RURAL RESIDENTIAL TYPE THREE (RR3) ZONE

12.2 ZONE PROVISIONS

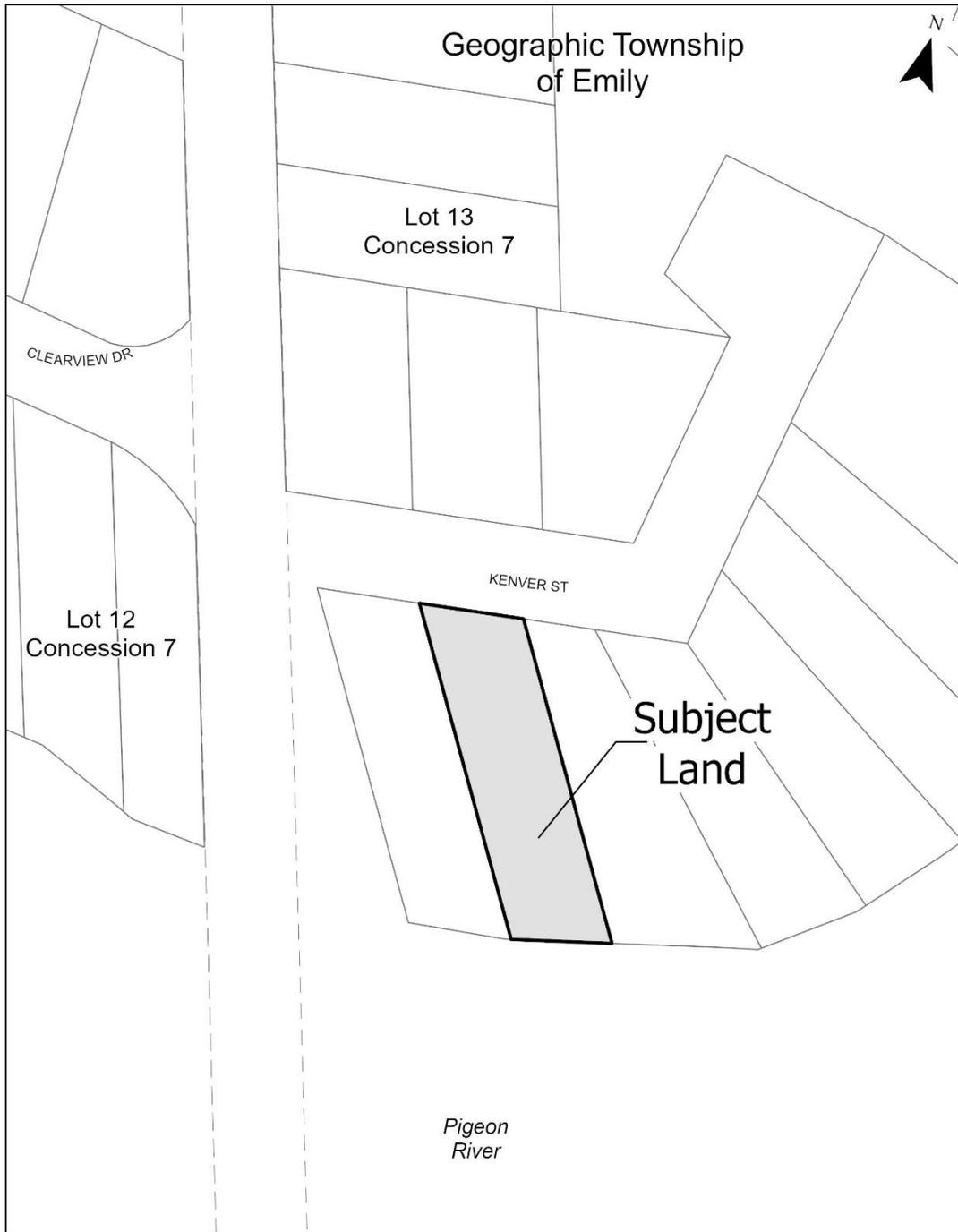
12.2.1.3 Yard Requirements (min.)

- (a) front 7.5 m
- (b) interior side
 - (i) one and one and a half storey buildings 3 m
 - (ii) two storeys or greater 5.5 m
- (c) exterior side 7.5 m
- (d) rear 7.5 m
- (e) water setback 30 m

to

LOCATION MAP

D20-2024-013

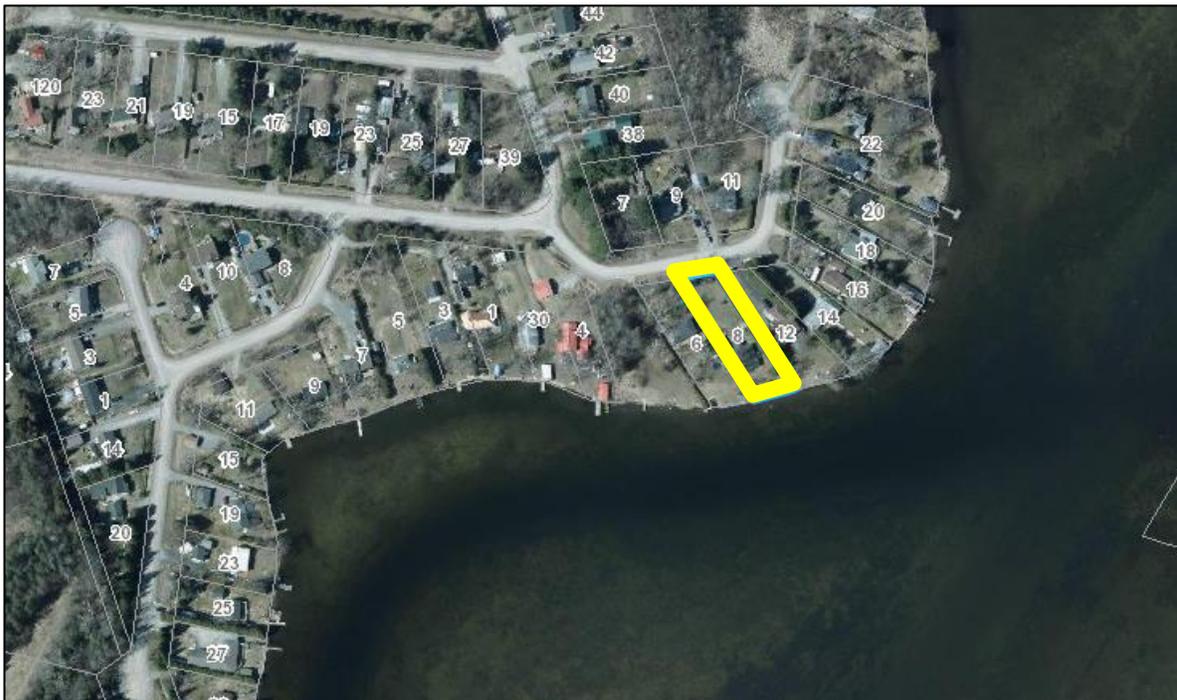


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AERIAL IMAGERY (2018)



to

APPLICANT'S SKETCH

