

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – McGill and Smith
Report Number COA2024-025

Public Meeting

Meeting Date: March 28, 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 obtainment of a building permit for an existing cabin.

Relief sought:

1. Section 13.2.1.3.e. of the Zoning By-law requires a minimum water setback of 15 metres. The existing water setback from the cabin remains unchanged at 8.7 metres.
2. Section 3.1.2.2. of the Zoning By-law requires a minimum 1.2 metre setback for all accessory structures from the primary residential building. The existing setback of the cabin from the dwelling remains unchanged at 1.0 metre.
3. Section 3.1.6.1. of the Zoning By-law permits a cabin up to a maximum of 30 square metres. The existing cabin size remains unchanged at 37.0 square metres.
4. Section 3.1.6.1. of the Zoning By-law states that a cabin may be permitted provided the subject lot conforms to the minimum lot area and frontage requirements of the zone. The required minimum lot area and frontage of the applicable zone is 2,000 square metres and 35 metres, respectively. The subject property is 1,011.71 square metres in size and 31.1 metres in frontage along Fell's Point Road.

The variance is requested at **79 Fell's Point Road** (File D20-2024-015).

Author: Ahmad Shahid, Planner II **Signature:**



Recommendations

That Report COA2024-025 – McGill and Smith, be received;

That minor variance application D20-2024-015 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

Conditions

- 1) **That** this approval shall proceed generally in accordance with the sketch in Appendix C submitted as part of Report COA2024-025, which shall be attached to and form part of the Committee's Decision; and,
- 2) **That** the shed identified in Appendix C and Appendix D, submitted as part of Report COA2024-025, be removed within a period of eight (8) months after the date of the Notice of Decision. This condition will be considered fulfilled upon the owner providing photographic evidence that the has been removed to the Secretary-Treasurer; and,
- 3) **That** approval under the Ontario Building Code (OBC) pertaining to private sanitary waste disposal be obtained within a period of eight (8) 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 a review of the sewage system requirements; and,
- 4) **That** this approval shall be in effect for a period of eight (8) months after the date of the Notice of Decision, after which this application shall be deemed to be refused.

This approval pertains to the application as described in report COA2024-025. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Application Summary

Proposal:	Obtain building permit for an existing cabin
Owners:	Craig McGill and Kelly Smith
Applicant:	TD Consulting Inc.
Legal Description:	Part Lot 32 and Part Bed of Cameron Lake, Concession 11 (being Part 3 on RP 57R9366)
Official Plan ¹ :	Waterfront (City of Kawartha Lakes Official Plan, 2012)
Zone ² :	Rural Residential Type Three (RR3) Zone (Township of Fenelon Zoning By-law 12-95)
Site Size:	1,011.71 square metres (0.25 acres)

¹ See Schedule 1

² See Schedule 1

Site Access: Year-round maintained 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 Cameron Lake, with access from Fell's Point Road (year-round maintained public road). The area in which the property is located is predominantly residential comprised of built-form characterized by single detached dwellings and assorted accessory structures with varying proximities from both the road and shoreline. The property currently contains a one-storey single detached dwelling (1952) with rear deck, two sheds, a cabin, and a boathouse.

The proposal seeks to facilitate obtainment of a building permit for an existing cabin.

The existing cabin was originally constructed as a detached garage in the 1980's and converted into a cabin at some point in time. The current property owners are now seeking a Change Of Use permit for the existing cabin in order to use the structure for residential purposes and not accessory uses typically associated with a detached garage. The cabin is to be used solely for sleeping accommodation, and does not contain any cooking or sanitary facilities. Given the age of the extant dwelling, it is suitable for the property owners to seek the most optimal utilization of their land. Furthermore, the cabin provides additional residential space without the need for construction of a new structure by utilising the previous detached garage.

Given the above analysis, the variances are 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 such, single detached dwellings and accessory uses are permitted within the designation.

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. The variance is not seeking expansion or construction of a new building or structure within the water setback, as such, the intent of the Waterfront designation is maintained in

restricting new development within the water setback of a shoreline. Moreover, the variance 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 Fenelon Zoning By-Law 12-95. The RR3 Zone permits multiple uses including a vacation dwelling or a single detached dwelling, as well as accessory structures. The proposal complies with all provisions of the Zoning By-law with the exception of the minimum water setback, accessory structure setback from a dwelling, size of a cabin, and lot size and frontage requirements for a cabin. An existing shed in the front yard will be removed as part of the application. There is also an addition to the front porch, however, that is unrelated to the subject minor variance application as it complies with all provisions of the Zoning By-law.

Firstly, Section 13.2.1.3.e. of the Zoning By-law requires a minimum water setback of 15 metres. 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 existing unchanged water setback from the cabin is 8.7 metres. The cabin is further away than 8.7 metres from the majority of the shoreline, however, near the cabin is an existing boat ramp that extends into the property creating a closer water setback. The Zoning By-law requires accessory structures to be located in a side or rear yard. The existing cabin cannot be located anywhere in the rear yard as the entirety of the rear yard is within the minimum water setback. The existing septic bed in the front yard prevents any of the structures being located closer to the street. Although the cabin's water setback is deficient, it is greater than the water setback measured from the dwelling and/or its rear deck. As a result, the proposed variance maintains the intent of the Zoning By-law as it does not seek new construction within the water setback, nor does it create a water setback lesser than currently existing.

Secondly, Section 3.1.2.2. of the Zoning By-law requires a minimum 1.2 metre setback for all accessory structures from the primary residential building. The intent of this provision is to ensure safety from fire hazards, preventing overcrowding, and contributing to the overall aesthetic of properties. The existing setback of the cabin from the dwelling remains unchanged at 1.0 metre. The 1.0 metre setback area provides adequate space for passageway between the front yard and rear yard. Furthermore, a line of trees is present between the subject property and the neighbouring property, and moving the existing cabin closer to the side lot line may require the removal or alteration to that existing tree vegetation. Additionally, the 0.20 metre deficiency between the existing setback and required setback is negligible considering the proposed change in use is to be contained within the existing accessory structure and environmental features in the side yard.

Thirdly, Section 3.1.6.1. of the Zoning By-law permits a cabin up to a maximum of 30 square metres. The intention of this provision is to ensure the cabin remains subordinate to the primary, generally residential, use of the property. Moreover, as a cabin is not permitted to contain cooking or sanitary facilities and must only be used for sleeping accommodation, it should not require a very large footprint. The existing cabin size remains unchanged at 37.0 square metres. As previously mentioned, the proposed change in use is to be contained within the existing accessory structure, it is restricted to the same building footprint. Nonetheless, the existing cabin remains subordinate to the dwelling situated on the property as it is approximately a quarter of the ground floor area of the current dwelling.

Lastly, Section 3.1.6.1. of the Zoning By-law states that a cabin may be permitted provided the subject lot conforms to the minimum lot area and frontage requirements of the zone. The intention of this provision is to ensure properties have sufficient space to support an additional accessory structure without causing overcrowding or negatively impacting the surrounding environment. The required minimum lot area and frontage of the applicable zone is 2,000 square metres and 35 metres, respectively. The subject property is 1,011.71 square metres in size and 31.1 metres in frontage along Fell's Point Road. The variance avoids overcrowding as the shed in the front yard will be removed as part of the application which will allow for greater open space in the front yard. Additionally, as no new structure is being proposed as part of the application, there are no anticipated impacts to drainage. Furthermore, although the lot is undersized in keeping with the character of the lots along Fell's Point Road.

Therefore, 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 (Building): “No comments.”

DS – Building and Septic (Septic): “An application for a sewage system permit has been submitted for a replacement sewage system to service the current build-out. At this time, the application has received preliminary review. However, many

factors with the evaluation remain outstanding. As such, the Building and Septic Division would request a condition be added to any endorsement for the minor variance to satisfy the Supervisor – Part 8 Sewage Systems prior to completion of the approval.”

ECA – Development Engineering Division: “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

Phone:	705-324-9411 extension 1367
E-Mail:	ashahid@kawarthalakes.ca
Department Head:	Leah Barrie, Director of Development Services
Division File:	D20-2024-015

Schedule 1

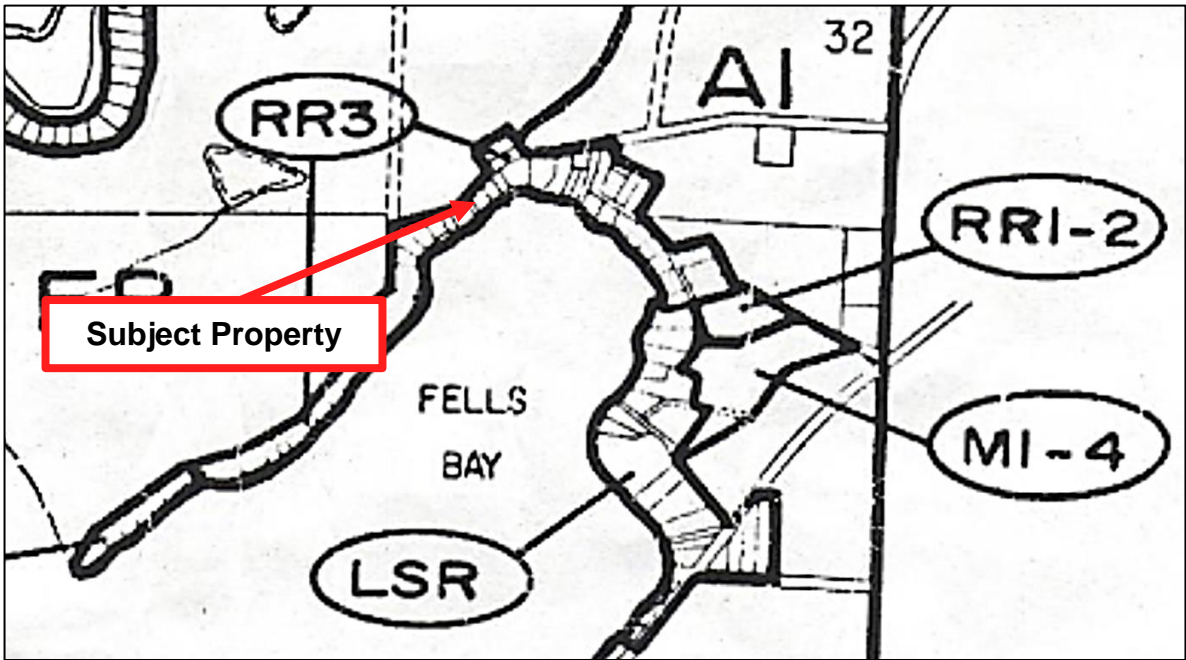
Relevant Planning Policies and Provisions

City of Kawartha Lakes Official Plan



SECTION 20 – WATERFRONT DESIGNATION

Township of Fenelon Zoning By-Law 12-95



PART 13 - RURAL RESIDENTIAL TYPE THREE (RR3) ZONE

13.2 ZONE PROVISIONS

13.2.1 No person shall hereafter change the use of any building, structure or land or erect or use any building or structure, in a Rural Residential Type Three (RR3) Zone, except in conformity with the following zone provisions:

13.2.1.1 Lot Area (min.)

- | | | |
|-----|--|------------|
| (a) | serviced with municipal or communal water system | 1400 sq. m |
| (b) | serviced with private well and septic system | 2000 sq. m |

13.2.1.2 Lot Frontage (min.)

- | | | |
|-----|--|------|
| (a) | serviced with municipal or communal water system | 25 m |
| (b) | serviced with private well and septic system | 30 m |
| (c) | with shore lot line regardless of services | 35 m |

13.2.1.3 Yard Requirements (min.)

- | | | |
|-----|---------------|------|
| (e) | water setback | 15 m |
|-----|---------------|------|

PART 3 - GENERAL PROVISIONS

3.1.2 LOCATION

3.1.2.2 An accessory building may be erected not closer than 1.2 metres from a rear lot line and 1.2 metres from the side lot line nor closer to a street than the required front yard setback for the zone in which it is located and shall not be closer than 1.2 metres to a residential building located on the same lot.

3.1.6 CABINS

3.1.6.1 Where a zone permits a private cabin a maximum of 1 private cabin, having a maximum floor area of 30 square metres, may be permitted as an accessory use to a permitted dwelling unit provided the lot upon which they are situated conforms to the minimum lot area and frontage requirements of the zone.

PART 2 - DEFINITIONS

CABIN, PRIVATE means a building, for sleeping accommodation, which contains no cooking or sanitary facilities and which is an accessory use to a dwelling unit.

DWELLING UNIT means a suite operated as a housekeeping unit used or intended to be used as a domicile by one or more persons and containing cooking, eating, living, sleeping and sanitary facilities for the exclusive use of the occupants.

APPENDIX “ A ”

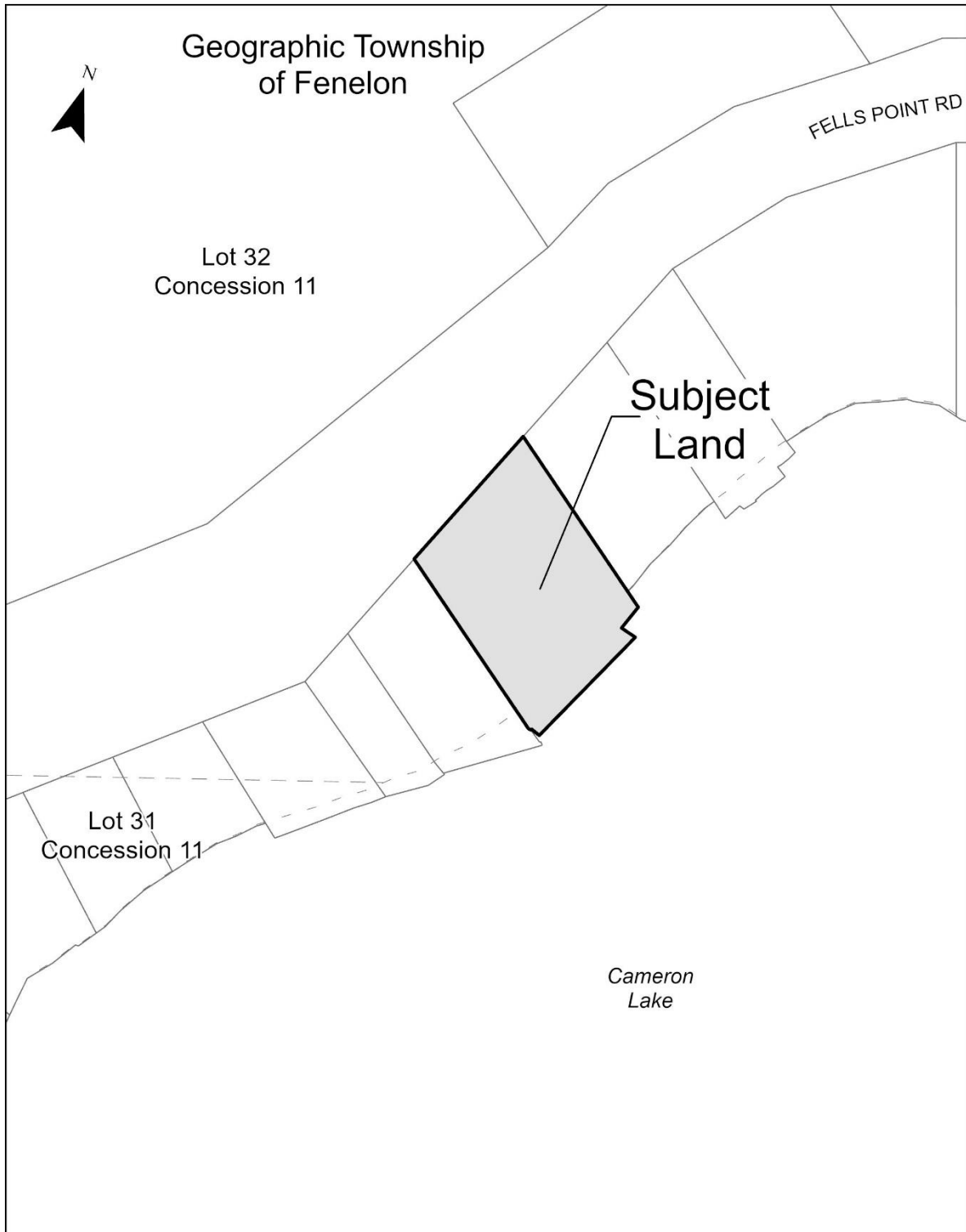
to

REPORT COA2024-025

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LOCATION MAP

D20-2024-015



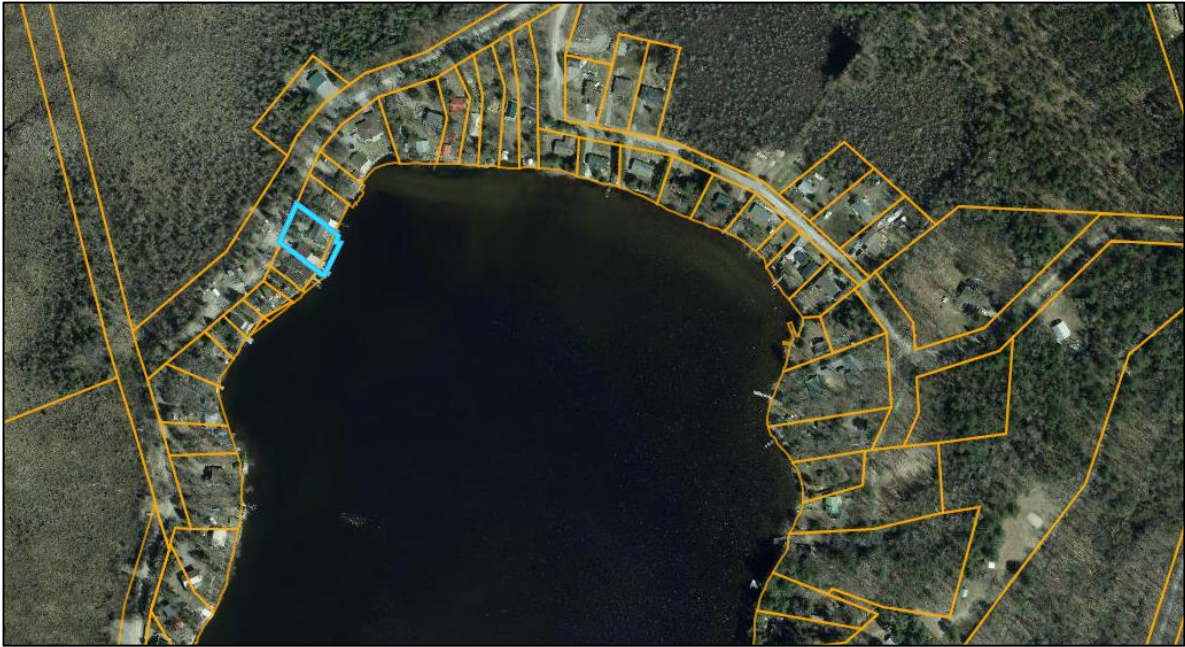
APPENDIX “ B ”

to

AERIAL IMAGERY (2018)

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APPENDIX “ D ”

to

**PHOTO OF EXISTING SHED TO
BE REMOVED**

REPORT COA2024-025

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