

# The Corporation of the City of Kawartha Lakes

## Committee of Adjustment Report – Fowler

Report Number COA2024-043

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### Public Meeting

**Meeting Date:** May 23, 2024

**Time:** 1:00 pm

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

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### Ward 2 – Geographic Township of Somerville

**Subject:** The purpose and effect is to recognize a detached garage currently under construction and to recognize an existing shed.

#### Relief sought:

1. Section 18.1.3 b) of the Zoning By-law permits a maximum height for accessory structures of 5 metres; the proposed height is 5.3 metres;
2. Section 18.1.3 a) of the Zoning By-law permits a maximum lot coverage for accessory structures of 8% of the lot area or a maximum of 225 square metres, whichever is less. The proposed lot coverage for accessory structures is 134 square metres or 10% of the lot area; and,
3. Section 5.2 f) of the Zoning By-law requires a minimum water setback of 15 metres; the existing setback of the shed is 4.8 metres.

The variance is requested at **68 Riverbank Road** (File D20-2024-033).

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**Author:** Katherine Evans, Planner II    **Signature:** 

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### Recommendations

**That** Report COA2024-043 – Fowler, be received;

**That** minor variance application D20-2024-033 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 COA2024-043, which shall be attached to and form part of the Committee's Decision;

- 2) **That** building construction related to the minor variance shall be completed 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 the first Building Inspection; and,
- 3) **That** the carport identified in Appendix E 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 carport has been removed to the Secretary-Treasurer.

This approval pertains to the application as described in report COA2024-043. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

## **Application Summary**

Proposal:	To recognize a detached garage currently under construction and to recognize an existing shed
Owners:	Keith and Shannon Fowler
Applicant:	Keith Fowler
Legal Description:	Part Lot 18, Concession 3 (being Lot 22 on Plan 417)
Official Plan <sup>1</sup> :	Environmental Protection (City of Kawartha Lakes Official Plan, 2012)
Zone <sup>2</sup> :	Limited Service Residential Floodplain (LSR-F) Zone (Township of Somerville Zoning By-law 78-45)
Site Size:	1,465 sq. m. (15,769 sq. ft.)
Site Access:	Private road
Site Servicing:	Private individual septic system and lake draw water
Existing Uses:	Residential
Adjacent Uses:	Residential and environmental protection

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<sup>1</sup> See Schedule 1

<sup>2</sup> See Schedule 1

## **Rationale**

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

The subject property is within in an established residential neighbourhood located on the western shore of the Burnt River. The property is rectangular in shape and is a waterfront lot. The property currently contains a single detached dwelling constructed in 1966 (according to Municipal Property Assessment Corporation), two sheds, a detached garage currently under construction, and a carport which is to be removed.

The proposal is to recognize the detached garage that is under construction, and the existing shed in the rear yard. The original plans for the detached garage complied with the maximum 5 metre height for accessory structures. However, the plans were changed by the builder in order to increase the slope of the roof to help reduce the snow load on the roof. This change resulted in the garage being over the maximum height by 0.3 metres.

The shed in the water yard is existing and because of its size it does not require a building permit. After the shed was constructed, it was determined that it resulted in the lot coverage exceeding the maximum. The owners were going to sell the shed in order to avoid the need for a Minor Variance. However, as it was later determined that the detached garage needed a Minor Variance for height, and because the property owners' desire was to keep the shed, it was determined that the reliefs for accessory structure lot coverage and the water setback for the shed would be incorporated into this Minor Variance application.

The shed and garage provide additional storage opportunities on the property. The garage will house the property owner's classic car amongst other items, keeping the vehicle out of the elements. The purpose of the existing carport is to protect that vehicle, and once the garage is completed the carport will no longer be needed and will be removed.

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 property is designated Environmental Protection under the City of Kawartha Lakes Official Plan (2012).

As per policy 34.1., nothing in the Official Plan or the implementing Zoning By-law prevent the use of any land, building or structure for a purpose prohibited by this Plan, if the land, building or structure was lawfully used for that purpose on the date this Plan was adopted by Council. The City may recognize the existing use of land in an implementing zoning by law. The property is zoned to permit residential uses and accessory structures, and the residential use has been established since at least 1966.

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. As the shed is used for storage purposes only, the location of the shed does not result in habitable space being located within the water setback. The location of the shed is not anticipated to impact water quality or habitat.

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 Limited Service Residential Floodplain (LSR-F) Zone under the Township of Somerville Zoning By-law 78-45. The floodplain provision identifies properties that may be susceptible to flooding during a Regulatory Flood. Regulatory Flood is based on lands that would be flooded as a result of a storm event equivalent to the Timmins Storm of 1961. The By-law provides information on the expected level of flooding, as well as provisions for floodproofing habitable buildings and structures. The proposal complies with all provisions of the By-law with the exception of the maximum height for accessory structures, the maximum lot coverage for accessory structures, and the minimum water setback.

As per Section 18.8.2 of the By-law, development is permitted on a lot zoned Limited Service Residential Zone which does not have frontage on a public street.

As per Section 18.1.3 b) of the By-law, a maximum height for accessory structures of 5 metres is permitted. The proposed height of the garage is 5.3 metres. The purpose of a maximum height for accessory structures in a residential zone is to ensure the accessory use is visually subordinate to the primary (residential) use and to maintain the residential character of an area.

A detached garage is permitted in the front yard on a property that fronts on a navigable waterway. Additionally, the garage complies with the front and side yard setbacks required in the LSR Zone. The garage abuts a stand of mature trees, which provide a visual buffer between the garage and the neighbouring property to the south. The garage is one storey in height, and it is not anticipated that the 0.3 metre increase in height will be perceptible when viewing the property from the street and the garage will not change the residential character of the property or the area.

Section 18.1.3 a) of the Zoning By-law permits a maximum lot coverage for accessory structures of 8% of the lot area or a maximum of 225 square metres, whichever is less. The proposed lot coverage for accessory structures is 134 square metres or 10% of the lot area. The intent of establishing a maximum lot coverage for accessory structures is to maintain the residential character of the property and to ensure that accessory uses remain subordinate to the primary (residential) use.

Based on the size of the property, 10% of the lot area is 117 square metres. Therefore, the resulting lot coverage, which includes the detached garage and the two sheds, exceeds what is permitted by 17 square metres. It is not anticipated that this coverage will impact the residential character of the property. Also, the accessory structures are dispersed throughout the property, providing visual balance and ensuring the residential character of the property is maintained and the dwelling is visually predominant.

As per Section 5.2 f) of the Zoning By-law requires a minimum water setback of 15 metres. The existing setback of the shed is 4.8 metres. The intent of the minimum water 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.

The location of the existing shed does not change the existing shoreline conditions, and is not anticipated to impact infiltration. The storage shed does not introduce any habitable space in the water setback, so the potential risk from having human habitation within the water setback is not increased with the presence of the shed. Additionally, due to the location of the dwelling, an accessory structure could not be located in the rear yard and maintain the minimum 15 metre setback from the shoreline.

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 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:**

**Engineering and Corporate Assets Division:** “From a Development engineering perspective, we have no objection to or comment for this Minor Variance application.”

**Building and Septic Division (Septic):** “An evaluation has been conducted on the property for the placement of the garage. The proposed garage placement will ensure that the minimum clearance distances to the sewage system are maintained. Additionally, the garage will not incorporate any plumbing fixtures or

habitable space. As such, the Building and Septic Division has no concerns with the minor variance 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

Appendix E – Photo of Existing Carport to be Removed

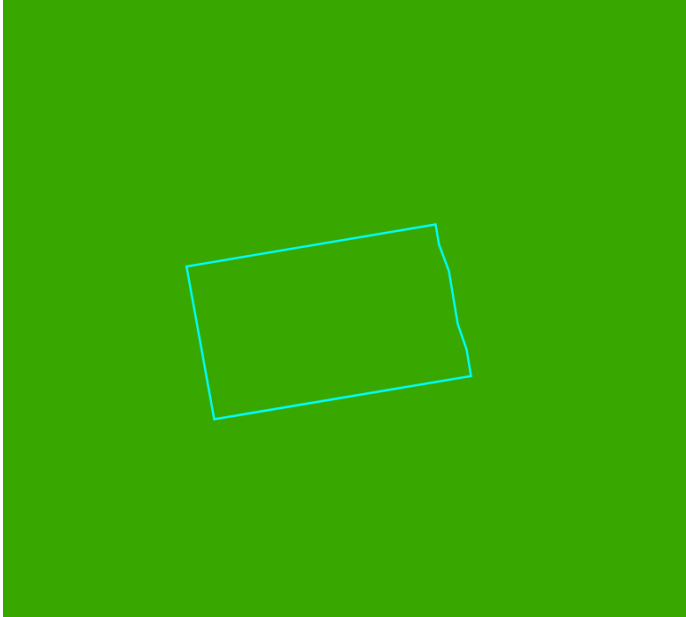
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**Phone:** 705-324-9411 extension 1883  
**E-Mail:** kevans@kawarthalakes.ca  
**Department Head:** Leah Barrie, Director of Development Services  
**Division File:** D20-2024-033

## Schedule 1 Relevant Planning Policies and Provisions

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### City of Kawartha Lakes Official Plan



#### 3.11. Water Setback and Accessory Uses

3.11.1. All buildings, structures and septic systems shall be located a minimum of 30 metres from the high water mark and this setback shall be maintained in its natural state with no disturbance of the vegetation and soils (except for at capacity lake trout lakes where the setback will be 300 metres from the shoreline of the lake, or such that drainage from the tile fields would flow at least 300 metres before reaching the lake or the tile field on each new lot is located such that it would drain into the drainage basin of another waterbody, which is not at capacity). Within the 30-metre water setback, a boathouse and dock will be permitted.

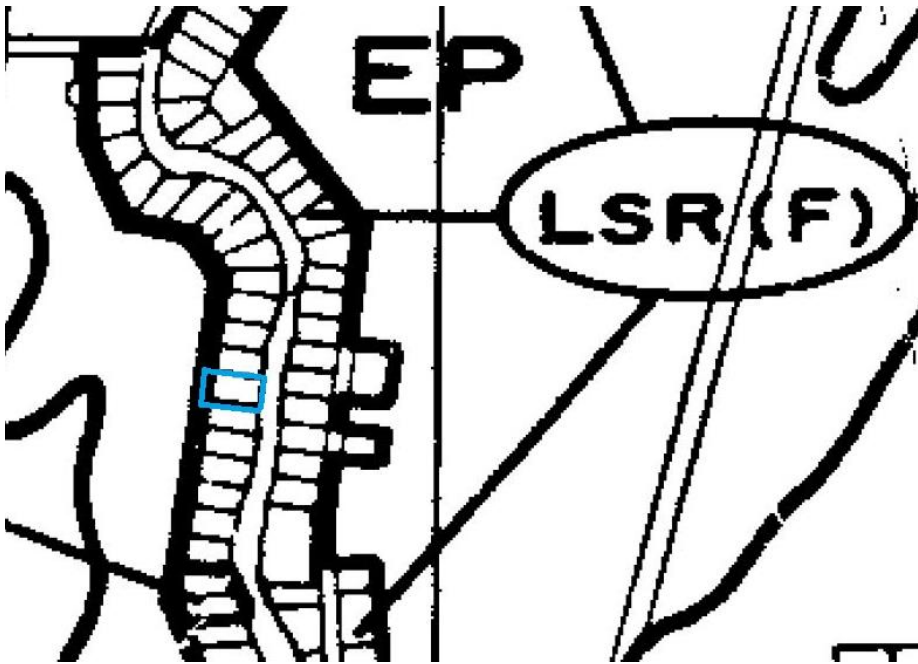
#### 17. Environmental Protection Designation

#### 34. Development Control

##### 34.1. Existing Uses

Nothing in this Plan or the implementing Zoning By-law prevent the use of any land, building or structure for a purpose prohibited by the is Plan, if the land, building or structure was lawfully used for that purpose on the date this Plan was adopted by Council. The City may recognize the existing use of land in an implementing zoning by law.

## Township of Somerville Zoning By-law 78-45



### Section 5 Limited Service Residential (LSR) Zone

#### 5.1 LSR Uses Permitted

#### 5.2 LSR Zone Requirements

- f) Minimum water setback 15 m

### Section 18 General Provisions

#### 18.1 Accessory Buildings, Structures and Uses

##### 18.1.3 Lot Coverage and Height

- a) Except as otherwise provided for herein, the total lot coverage of all accessory buildings and structures, excluding private garages attached to the main building and outdoor swimming pools, shall not exceed 8 percent of the lot area or a maximum of 225 square metres (2,420 sq.ft) whichever is less.
- b) The height of an accessory building or structure, in a residential zone or to a residential use, shall not exceed 5 metres (16.4 ft.). Further, the height of such accessory building or structure shall be measured as the mean level between eaves and ridge of a gabled, hip, gambrel or mansard roof, or other type of pitched roof.
- c) A maximum of three accessory buildings or structures, excluding outdoor swimming pools, shall be permitted on a lot in any class of residential zone.



## 18.8 Frontage on a Public Street

18.8.1 Except as provided for in this section, no persons shall erect any building or structure in any zone, unless the lot upon which such building or structure is to be erected has a lot line which abuts an improved public street, where access can be obtained off such street.

18.8.2 Notwithstanding subsection 18.8.1, a building or structure may be erected and used on the following lots which do not have frontage on an improved public street;

- a. an island lot in a residential zone category;
- b. a lot within a registered plan of subdivision in which the street has not been assumed by the Municipality but in which the street is to be assumed under the terms of a subdivision agreement; and
- c. a lot within the "Limited Service Residential" or a "Limited Service Residential Exception" Zone.

## 18.26 Flood Plain

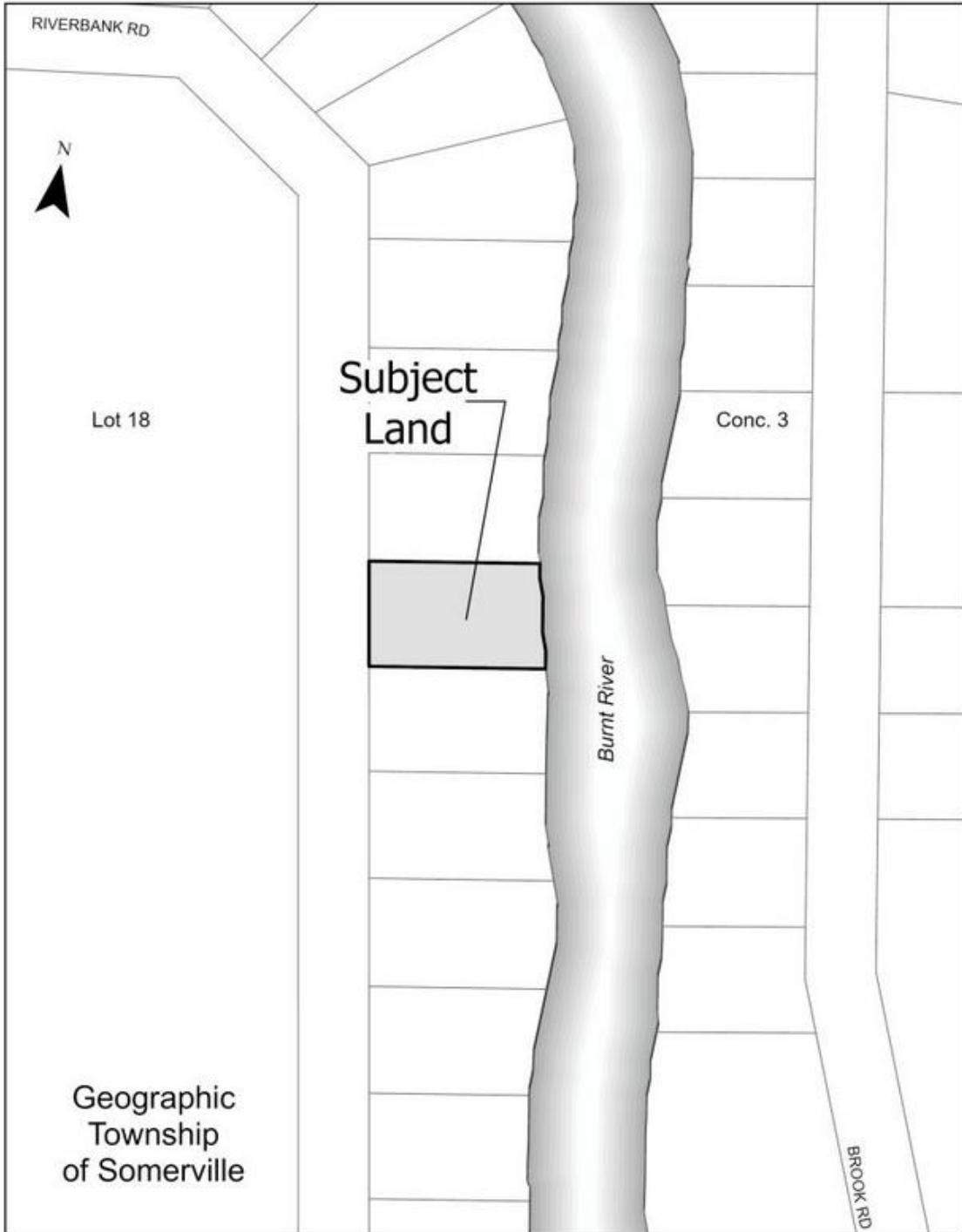
Expected Level of Flooding (FDR Elev) during a Regulatory Flood expressed in metres above sea level based on the Canadian Geodetic Datum for **165131006017800** under the Township of Somerville Zoning By-Law 78-45

Poll	Roll No	Con	Lot	Plan	Lot1	FDR Elev	Spot Elev	Est Fld
6	17800	3	18	417	22	258.69	257.5	1.19

to

**LOCATION MAP**

# D20-2024-033



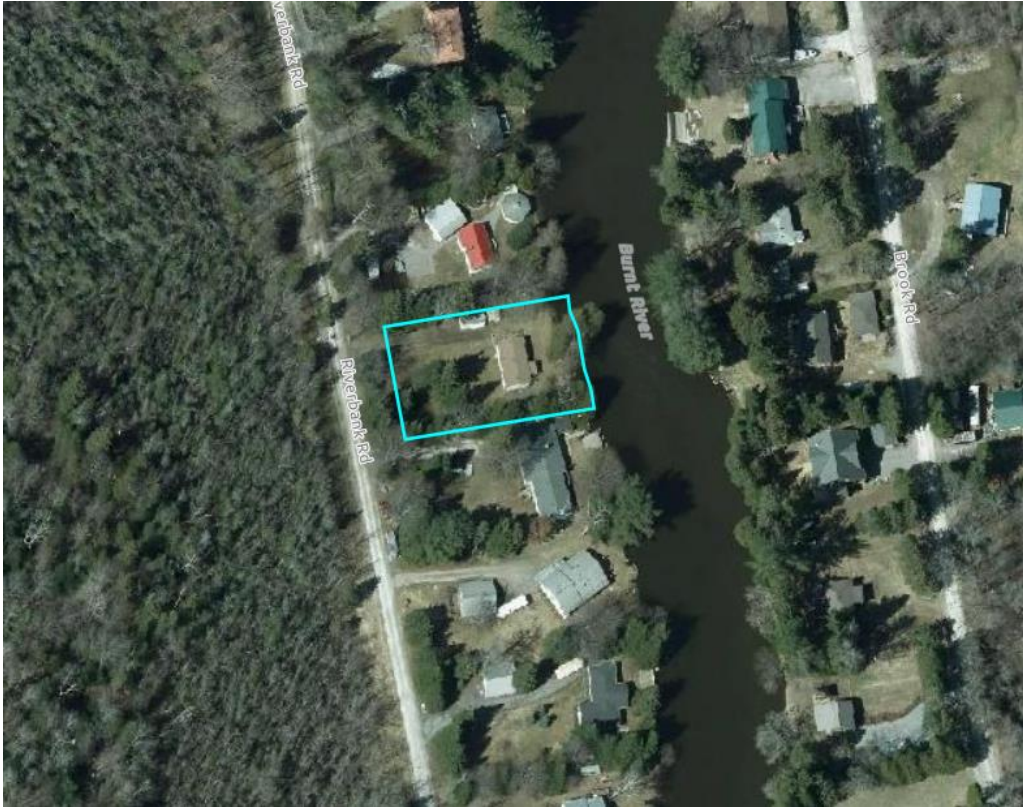
APPENDIX " B "

to

REPORT COA2024-043

FILE NO: D20-2024-033

**AERIAL PHOTO**

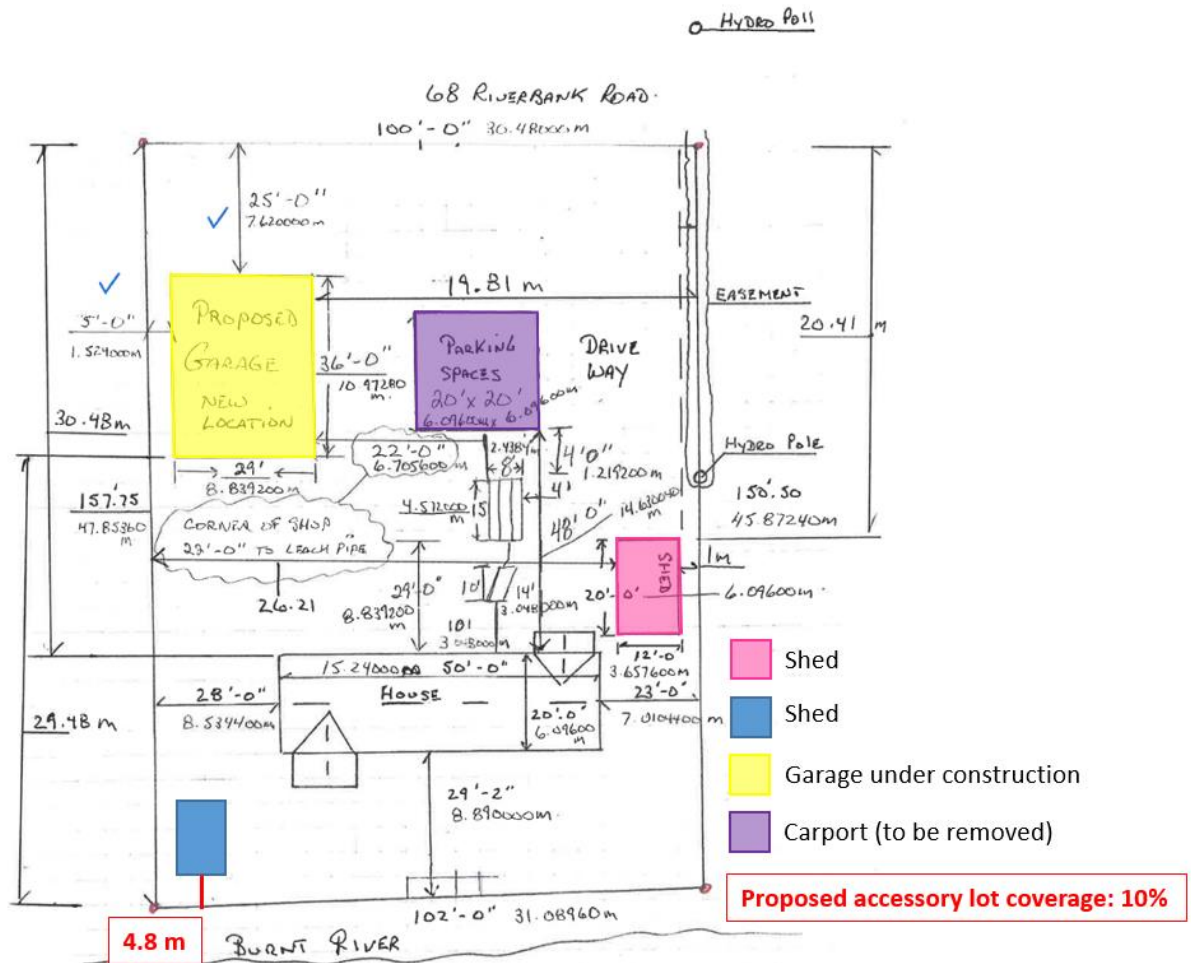


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REPORT COA2024-043

FILE NO: D20-2024-033

APPLICANT'S SKETCH



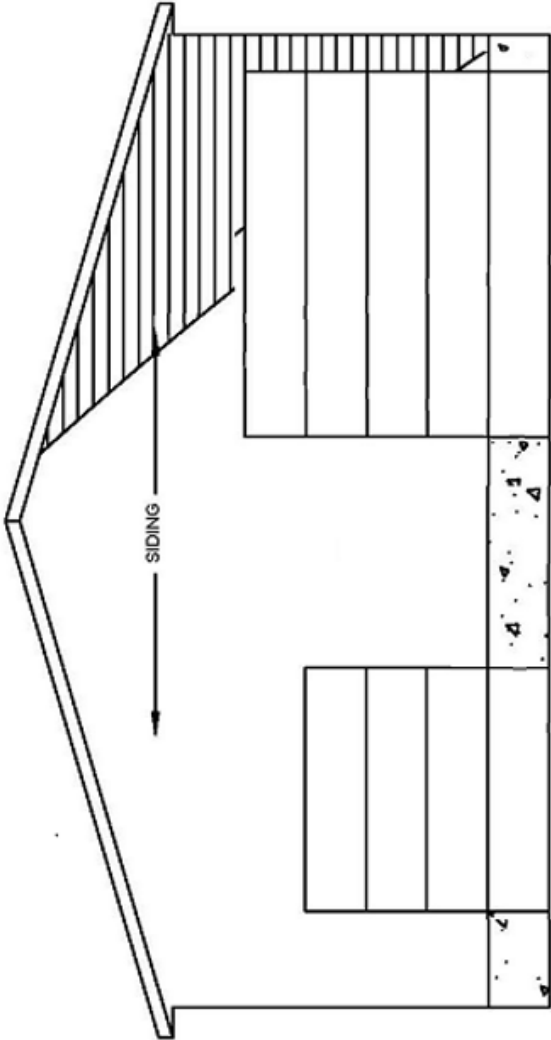
**CONSTRUCTION DRAWINGS**

APPENDIX " D "

to

REPORT COA2024-043

FILE NO: D20-2024-033



**WEST ELEVATION**



**5.3 m**

APPENDIX " E "

to

**PHOTO OF EXISTING CARPORT TO BE REMOVED**

REPORT COA2024-043

FILE NO: D20-2024-033

