

**The Corporation of the City of Kawartha Lakes**  
**Committee of Adjustment Report – MacFadyen**  
Report Number COA2024-049

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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 – Former Village of Bobcaygeon**

**Subject:** The purpose and effect is to permit the demolition and reconstruction of a boathouse situated within the Open Space Exception One (O1-S1) Zone. Additionally, recognition of an existing cabin is required.

**Relief sought:**

1. Section 3.1.b. of the Zoning By-law requires accessory structures to be located in a side or rear yard. The existing cabin is located in the front yard.
2. Section 3.1.c. of the Zoning By-law permits a maximum 8% lot coverage for accessory structures. The existing accessory structure lot coverage is 11.16% (252.83 square metres).
3. Section 3.1.f. of the Zoning By-law permits only 1 cabin on properties where a cabin would be a permitted accessory use. The subject property is zoned to allow for the accessory use of a cabin, and currently has 3 existing cabins.

The variance is requested at **165 Riverside Drive** (File D20-2024-040).

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**Author:** Ahmad Shahid, Planner II

**Signature:**



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**Recommendations**

**That** Report COA2024-049 – MacFadyen, be received;

**That** minor variance application D20-2024-040 be GRANTED, as the application meets the tests set out in Section 45(1) and 45(2) 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 COA2024-049, which shall be attached to and form part of the Committee's Decision;

- 2) **That** prior to the issuance of a building permit, the owner/applicant must demonstrate to the Chief Building Official that all plumbing fixtures, systems and accommodations have been removed from the existing cabin labelled in Appendix C; and,
- 3) **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 COA2024-049. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

## Application Summary

Proposal:	Demolition and reconstruction of a boathouse, as well as recognizing an existing cabin.
Owners:	Mary-Ann MacFadyen
Applicant:	Glenn Wilcox
Legal Description:	Lots 27 to 28, Plan 205
Official Plan <sup>1</sup> :	Urban Settlement Area (City of Kawartha Lakes Official Plan, 2012)  Shoreline (Victoria County Official Plan, 2011)
Zone <sup>2</sup> :	Urban Residential One (R1) Zone and Open Space Exception One (OS-S1) Zone (Village of Bobcaygeon Zoning By-Law 16-78)
Site Size:	2,266.24 square metres (0.56 acres)
Site Access:	Year-round maintained road
Site Servicing:	Municipal water and sewage
Existing Uses:	Residential
Adjacent Uses:	Residential

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<sup>1</sup> See Schedule 1

<sup>2</sup> See Schedule 1

## **Rationale**

### **Recognition of an Existing Cabin**

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

The subject property is situated in the former Village of Bobcaygeon with shoreline frontage onto Green Bay. The neighbourhood is residential in character, with built form consisting of single detached dwellings, boathouses, docks, and other accessory structures with varying proximities to the road and shoreline.

The property currently contains a one-storey dwelling, boathouse, three sheds, a picnic roof shelter, a detached garage, and three existing cabins. The proposal seeks to reconstruct and enlarge an existing boathouse, and recognize an existing cabin. One of the existing cabins contains plumbing fixtures that have been recently installed. As part of this application, the plumbing fixtures will be removed. Once removed, the cabin will not contain any cooking or sanitary facilities, and will only be used for sleeping accommodation.

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 Urban Settlement Area under the City of Kawartha Lakes Official Plan (2012). As the Bobcaygeon Secondary Plan of the City's 2012 Official Plan is under appeal, the Victoria County Official Plan (VCOP) applies. Under the VCOP, the property is designated Shoreline. The predominant use of the Shoreline designation is single detached dwellings with assorted accessory structures.

Performance and siting criteria is implemented through the Zoning By-law.

As such, 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 Urban Residential One (R1) Zone and Open Space Exception One (OS-S1) Zone under the Village of Bobcaygeon Zoning By-Law 16-78. The existing cabin with plumbing is located solely within the R1 Zone. The R1 Zone permits a single detached dwelling and accessory structures/uses. To recognize the current cabin, the existing plumbing features must be removed. Section 3.1.f. of the Zoning By-law prohibits the use of a cabin with cooking and/or sanitary facilities. As such, the applicant has indicated they will be removing the plumbing from the cabin in order to comply with this provision and the definition of a cabin. Reliefs are also required from various provisions regarding the number of cabins, the locations of accessory structures, and accessory structure lot coverage.

Firstly, Section 3.1.b. of the Zoning By-law requires accessory structures to be located in a side or rear yard. The existing cabin is located in the front yard. The

intent of limiting the location of accessory structures to the side or rear yard is to ensure accessory uses remain subordinate to the primary use by being located in less visible areas on the property. Requiring accessory structures to be located within the interior side or rear yard serves to secure ample amenity space in the front yard and ensures the property is cohesive with surrounding properties and area. As the property is a corner lot, the shorter lot line abutting the street is deemed the front line. However, the lot has been developed so that the longer lot line contains the entrance to the property and serves as the front yard. Moreover, the property contains a dense line of trees from both sides of the street guarding any views of the property. All-in-all, the existing cabin is appropriately setback from the street and dwelling, is located to the side of the dwelling, and maintains the intention of this location requirement provision.

Secondly, Section 3.1.c. of the Zoning By-law permits a maximum 8% lot coverage for accessory structures. The intention of this provision is to ensure any accessory use or structure remains subordinate to the principal use or main building, as well as maintaining a balance between built form and open space. The existing accessory structure lot coverage is 11.16% (252.83 square metres). Although the maximum permitted accessory lot coverage is exceeded, it is important to note that no new accessory structures are being proposed and that the total maximum lot coverage (17.03%) is complied with.

Lastly, Section 3.1.f. of the Zoning By-law permits only 1 cabin on properties where a cabin would be a permitted accessory use. The subject property is zoned to allow for the accessory use of a cabin, and currently has 3 existing cabins. By establishing a maximum limit, the intention is to maintain the low-density residential use of properties while also safeguarding against potential overcrowding. All of the cabins are existing structures and are not used year-round. According to the property owner, the cabins are utilized predominantly during the summer season, with occasional instances where they remain unoccupied overnight. Therefore, for the majority of the year it is only the dwelling that is used and not the cabins. As a result, the existing cabins remain subordinate to the primary use of the single detached dwelling.

Therefore, the variances maintain the general intent and purposes 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.

**Reconstruction and Enlargement of Existing Boathouse**

***Legal non-conforming rights***

Section 34 of the Planning Acts authorizes municipalities to pass zoning by-laws to regulate buildings, structures and land use. Section 34(9) of the Act prevents the retroactive use of a zoning by-law. This section sets out the principle prohibiting

zoning by-laws from interfering with the ability to prevent the continued use of lands. These land uses are referred to as legal non-conforming.

This section states:

*34(9) No by-law passed under this section applies,*

*(a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose.*

The extension and/or enlargement of a legal non-conforming use requires an application under Section 45(2) of the Act. Section 45(2)(a)(i) grants power to the Committee to grant permission for the extension or enlargement of legal non-conforming uses. This section states:

*45(2) In addition to its powers under subsection (1), the committee, upon any such application,*

*(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,*

*(i) the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed.*

The Village of Bobcaygeon Zoning By-Law 16-78 was passed December 19<sup>th</sup>, 1978. The applicant has indicated that the existing boathouse, located in the Open Space Exception One (OS-S1) Zone, has existed on the property since 1940. This has also been substantiated by data from the Municipal Property Assessment Corporation (MPAC). The OS-S1 Zone limits its uses to structures associated erosion or flood control or a dock; therefore, the O1-S1 Zone does not permit the use of a boathouse. As such, the boathouse predates the current Zoning By-law and is a legal non-conforming use.

### ***Evaluation of Impact (Boathouse)***

The existing in-water boathouse and dock, which extends beyond the property's shoreline, is in need of severe repair; the dock is collapsing and the boathouse is becoming a safety concern. The existing dock that surrounds the boathouse is not stable and portions appear to be decaying. The existing boathouse is proposed for demolition as it is in poor condition, replacement and moderate enlargement (an additional 3.86 square metres). The existing dock framing and decking above water surface is to be replaced. Both the foundation for the boathouse and dock foundation will be retained.

The existing boathouse is approximately 2.7 metres tall and 42.40 square metres in size. Its proposed reconstruction and enlargement will result in a boathouse 3.56 metres tall and 46.26 square metres in size. The proposed 3.86 square metre enlargement will expand the existing boathouse footprint further north. The location of the proposed boathouse will remain compliant with the Zoning By-law's permitted setbacks, distance from the main dwelling, and height requirements.

The existing setback from the boathouse to the southern lot line abutting the neighbouring property remains unchanged at 1.8 metres. The setback from the northern neighbouring property is reduced but still substantial at 33.4 metres. As a result, the continuation and minor enlargement of the boathouse is not anticipated to impact the abutting neighbouring properties. The Kawartha Region Conservation Authority has already issued a permit for the proposed work which addressed the matters related to development within/to shorelines and watercourses. The applicant and property owner have also received permits from the Trent Severn Waterway (TSW).

The surrounding lands along Riverside Drive are used for residential purposes. The majority of the shoreline lots along the Riverside Drive contain boathouses and/or docks.

Overall, the proposed boathouse reconstruction/expansion is considered desirable as it improves the overall safety and structural condition of the existing structure. Upgrading the structure will improve the view of the property from the shoreline.

#### **Other Alternatives Considered:**

City Staff consulted the applicant and property owner regarding the cabin built with plumbing. Originally, the property owner indicated their intention was to keep the plumbing with the cabin. In order to reach compliance, a rezoning would have been required to allow for the cabin to remain with plumbing. After City Staff consulted with the applicant, the decision was made by the property owner and applicant to remove the plumbing as part of the application.

#### **Consultation Summary**

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

#### **Agency Comments:**

ECA – Development Engineering: “From a Development engineering perspective, we have no objection to or comment for this Minor Variance application.”

DS – Building and Septic: “No comments.”

#### **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 – Elevation Drawings

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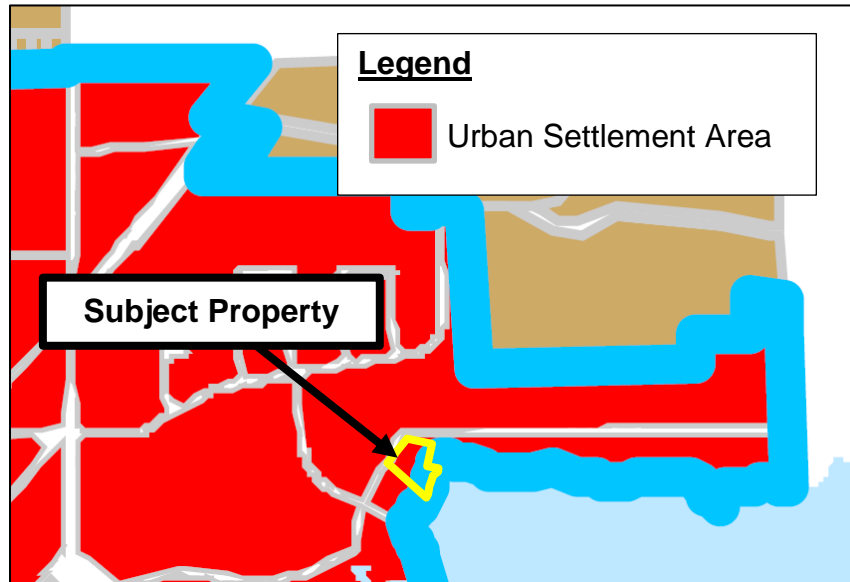
<b>Phone:</b>	705-324-9411 extension 1367
<b>E-Mail:</b>	ashahid@kawarthalakes.ca
<b>Department Head:</b>	Leah Barrie, Director of Development Services
<b>Division File:</b>	D20-2024-040

## Schedule 1

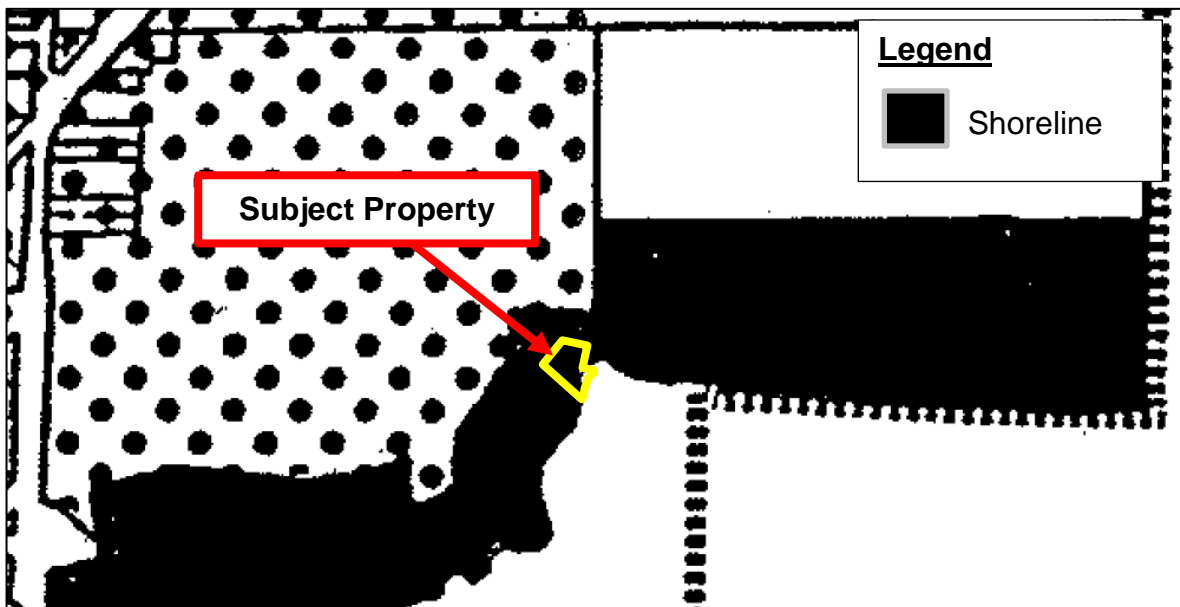
### Relevant Planning Policies and Provisions

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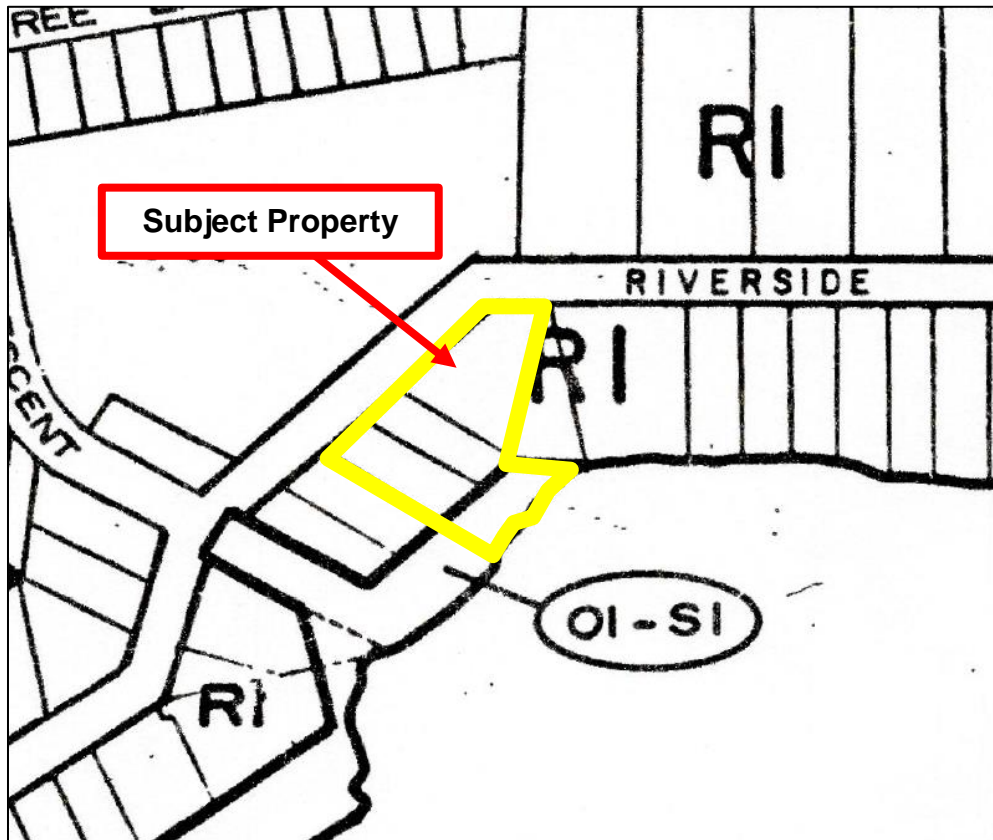
#### City of Kawartha Lakes Official Plan



#### Victoria County Official Plan



## Village of Bobcaygeon Zoning By-Law 16-78



### SECTION 2

#### DEFINITIONS

In this By-law, unless the context otherwise requires, the following terms when used shall have the meanings assigned to them as follows:

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

### SECTION 3

#### GENERAL PROVISIONS

##### 3.1 ACCESSORY BUILDINGS, STRUCTURES AND USES

###### b. Location

An accessory building shall only be erected in a side or rear yard and shall comply with the following requirements:

An accessory building may be erected not closer than 1.2 metres (4 ft.) from a rear lot line and 1.2 metres (4 ft.) from the side lot line nor closer to a flanking street than the required front yard setback for the zone in which it is located and shall not be closer than 1.2 metres (4 ft.) to a residential building.

Notwithstanding the above, a garage may be erected in the front yard on a lot which has a shore lot line provided that it complies with the setback provisions of the specific zone.

c. Lot Coverage Height

The total lot coverage of all accessory buildings shall not exceed eight (8) per cent of the lot area.

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. (B/L 2002-139)

e. Boat House, Pump House, Dock

Notwithstanding any other provisions of this by-law, a boat house, dock, or pump house may be erected and used in the water setback provided that the approval of any other governmental authority having jurisdiction within this area has been obtained.

f. Private Cabins

One private cabin without cooking or sanitary facilities, having a maximum floor area of thirty (30) square metres (323 sq.ft.), may be permitted as an accessory to a permitted dwelling unit on a lot which conforms to the requirement of this by-law for lot area and frontage.

APPENDIX “ A ”

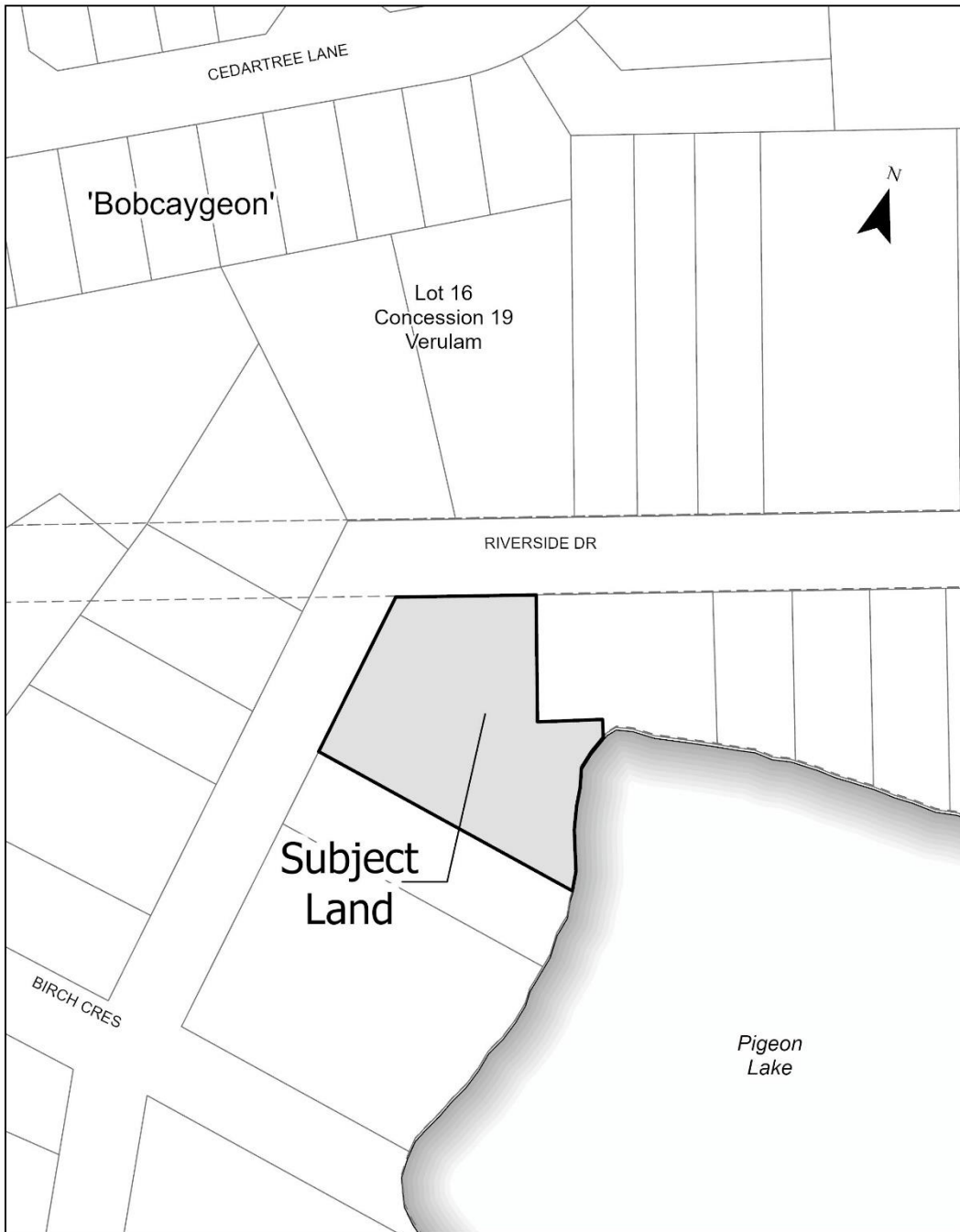
to

REPORT COA2024-049

FILE NO: D20-2024-040

**LOCATION MAP**

**D20-2024-040**



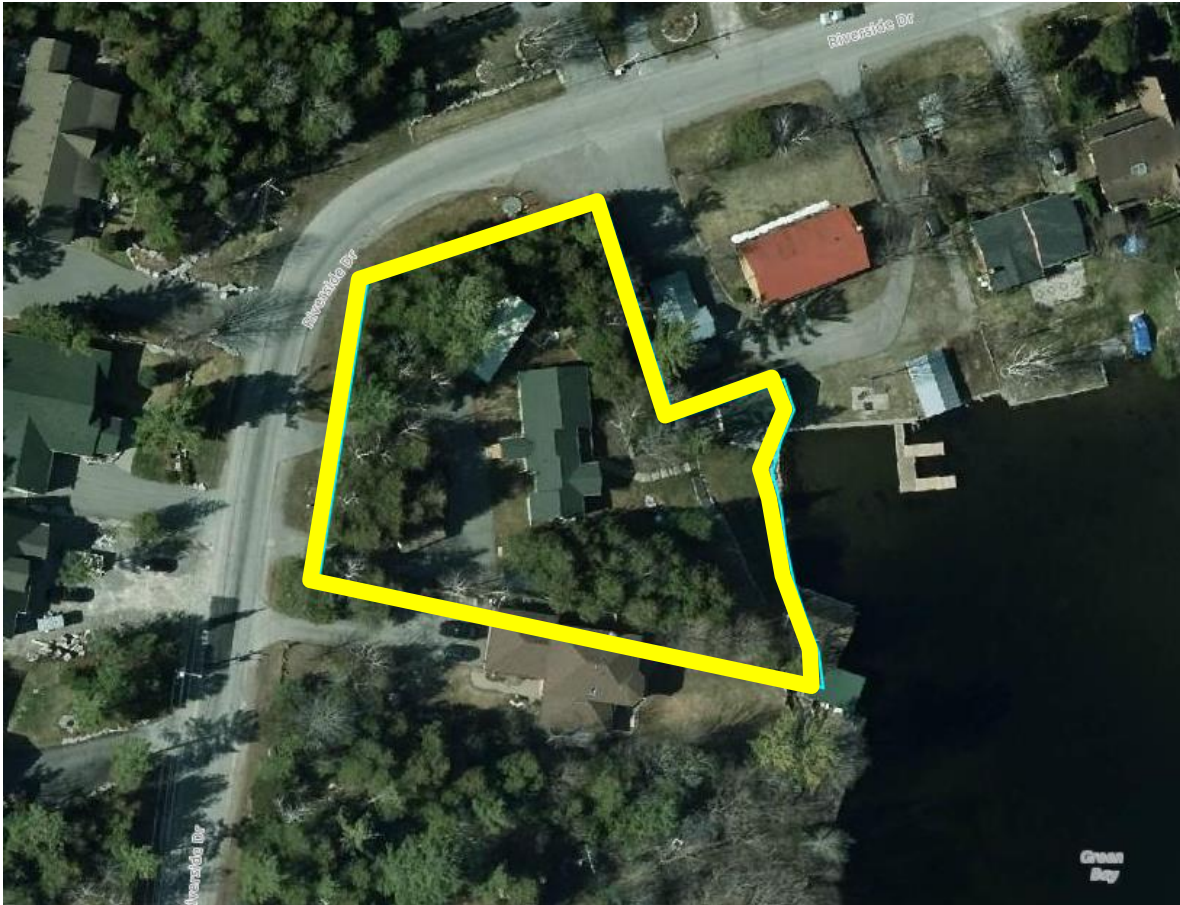
APPENDIX “ B ”

to

**AERIAL IMAGERY (2018)**

REPORT COA2024-049

FILE NO: D20-2024-040



to  
REPORT COA2024-049  
FILE NO: D20-2024-040

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FILE NO: D20-2024-040

The architectural drawings for the New Boathouse and Ramp include the following views and details:

- NEW BOATHOUSE AND RAMP - NORTH ELEVATION**  
Scale: 1/8" = 1'-0"  
This elevation shows the side profile of the boathouse. It features a low-pitched gabled roof with a new ridge vent and asphalt shingles. The exterior walls are clad in new vertical cedar siding. A new front door is centered on the side wall, flanked by new windows. The structure is situated on a sloping site with a driveway on the left and a ramp on the right.
- NEW BOATHOUSE AND RAMP - WEST ELEVATION**  
Scale: 1/8" = 1'-0"  
This elevation shows the rear profile of the boathouse. It features a new rear door and a new window. The roofline is consistent with the other elevations. The structure is situated on a sloping site with a driveway on the left and a ramp on the right.
- NEW BOATHOUSE AND RAMP - SOUTH ELEVATION**  
Scale: 1/8" = 1'-0"  
This elevation shows the front profile of the boathouse. It features a new front door and a new window. The roofline is consistent with the other elevations. The structure is situated on a sloping site with a driveway on the left and a ramp on the right.
- NEW BOATHOUSE - EAST ELEVATION**  
Scale: 1/8" = 1'-0"  
This elevation shows the side profile of the boathouse. It features a new side door and a new window. The roofline is consistent with the other elevations. The structure is situated on a sloping site with a driveway on the left and a ramp on the right.
- NEW BOATHOUSE AND RAMP SECTION**  
Scale: 1/8" = 1'-0"  
This section drawing shows the internal structure of the boathouse. It includes a new front door, a new window, and a new rear door. The roof is shown with a new ridge vent and asphalt shingles. The structure is situated on a sloping site with a driveway on the left and a ramp on the right.