

# The Corporation of the City of Kawartha Lakes

## Committee of Adjustment Report – Miller

Report Number COA2024-067

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### Public Meeting

**Meeting Date:** July 25, 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 existing and proposed accessory structures; and to facilitate the demolition of the existing legal non-conforming single detached dwelling (circa 1948) and detached accessory structure (garage, circa 1950); and the construction of a new larger dwelling and detached garage, whereby residential uses and residential accessory uses predate the Zoning By-law adopted in 1978, that zones the lot Environmental Protection 'EP', and Section 7.1 does not otherwise permit residential uses.

### Reliefs Sought:

1. Section 18.1.2 a) of the Zoning By-law provides that an accessory structure shall only be erected in the interior side or rear yard; the existing shipping container is located in the front yard; and,
2. Section 18.1.3 of the Zoning By-law permits a maximum of three accessory structures; the proposed detached garage constitutes the fourth accessory structure.

The variance is requested at **310 Pinery Road** (File D20-2024-057).

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

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### Recommendations

**That** Report COA2024-067 – Miller, be received;

**That** minor variance application D20-2024-057 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 COA2024-067, 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 COA2024-067. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

## Application Summary

Proposal:	To recognize existing and proposed accessory structures; and to facilitate the demolition of the existing legal non-conforming single detached dwelling (circa 1948) and detached accessory structure (garage, circa 1950); and the construction of a new larger dwelling and detached garage, whereby residential uses and residential accessory uses predate the Zoning By-law adopted in 1978, that zones the lot Environmental Protection 'EP', and Section 7.1 does not otherwise permit residential uses.
Owners:	Karyn and David Miller
Applicant:	Karyn Miller
Legal Description:	Part of Lots 7 and 8, Concession 9 (being Part of Part 5 on Reference Plan 57R2522)
Official Plan <sup>1</sup> :	Rural (City of Kawartha Lakes Official Plan, 2012)
Zone <sup>2</sup> :	Environmental Protection (EP) Zone (Township of Somerville Zoning By-law 78-45)
Site Size:	4.1 ac (1.66 ha)
Site Access:	Year round municipal road

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<sup>1</sup> See Schedule 1

<sup>2</sup> See Schedule 1

Site Servicing: Private individual septic system and lake draw water (private individual well proposed)

Existing Uses: Residential

Adjacent Uses: Residential, agricultural, environmental protection

## **Rationale**

### **Recognition of existing and proposed accessory structures**

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

The subject property is within an area comprised primarily of residential, agricultural, and environmental protection uses. The property is located on the western shore of the Burnt River and has frontage on the water. The property currently contains a single detached dwelling constructed in 1948 and a detached garage constructed in 1950 (according to Municipal Property Assessment Corporation), a privy, a cabin, and a shipping container.

The purpose of the Minor Variance under Section 45(1) of the Planning Act is to recognize the existing and proposed accessory structures. The proposed detached garage and existing accessory structures provide storage space on the property for items including bikes, kayaks, lawn and garden tools and equipment, etc. The cabin provides additional sleeping space. The shipping container, privy, and cabin are proposed to remain in their existing locations.

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 Rural under the City of Kawartha Lakes Official Plan. Low density residential uses along with accessory uses are anticipated within this designation. Performance and siting criteria is implemented through the Zoning By-Law.

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 Environmental Protection (EP) Zone under the Township of Somerville Zoning By-law 78-45. The purpose of the Minor Variance under Section 45(2) of the Planning Act is to allow for the demolition,

reconstruction, and enlargement of the existing single detached dwelling and detached garage and the continuation of the legal non-conforming residential use. The purpose of the Minor Variance under Section 45(1) of the Planning Act is to recognize the existing and proposed accessory structures and to request relief from the General Provisions for Accessory Buildings, Structures and Uses section of the Zoning By-law.

Section 18.1.2 a) of the Zoning By-law provides that an accessory structure shall only be erected in the interior side or rear yard. The existing shipping container 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. Locating accessory structures in the interior side or rear yard also ensures there is adequate amenity space in the front yard, and the property is in keeping with the character of the rest of the neighbourhood.

The existing shipping container's setback from the front lot line is 6.89 metres. The setback of the new dwelling is to be 8 metres. As such, the container is closer to the front lot line than the dwelling and is considered to be in the front yard. However, when viewing the property from the street it is not anticipated that with the existing shipping container being approximately 1 metre closer to the front lot line than the dwelling will be perceptible or will result in the dwelling appearing subordinate to the container or that the character of the property will be altered. Additionally, existing vegetation between the container and the road provides visual screening. Sufficient amenity space will be maintained in the front yard.

Section 18.1.3 of the Zoning By-law permits a maximum of three accessory structures. The proposed detached garage constitutes the fourth accessory structure. The intent of establishing a maximum number of accessory structures is to maintain the residential character of the property and to ensure that accessory uses remain subordinate to the primary (residential) use.

The existing cabin and privy are only visible from within the property, as they are surrounded by extensive vegetation. Therefore, only two accessory structures are visible when viewing the property from the street. As such, the dwelling remains predominant and the property does not appear cluttered or unbalanced. Additionally, the proposal complies with the maximum lot coverage for accessory structures, as the maximum is 8% of the lot area to a maximum of 225 square metres, and the proposed lot coverage is 0.6% or approximately 95 square metres.

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.

**Demolition of existing dwelling and detached garage and construction of new larger dwelling and detached garage**

**The application satisfies the provisions of the Planning Act<sup>3</sup>**

In accordance with Section 45(2)(a)(i), the Committee may approve the enlargement or extension of a building or structure if it was lawfully used for a purpose prohibited by the by-law continuously, before the day the by-law was passed. The existing single detached dwelling and detached garage have existed and been used for residential purposes since before the By-law was passed on December 19, 1978. Therefore, the applicant is proposing a building enlargement and extension of use to the existing legal non-conforming building and structures.

The subject property is zoned Environmental Protection (EP) Zone under the Township of Somerville Zoning By-Law 78-45. Based on Section 7.1 of the Bylaw, this zone category only permits conservation and forestry uses; bird and wildlife sanctuaries; flood and erosion control works and docks; and agricultural uses exclusive of building and structures. Within the Environmental Protection Zone, no building or structures are permitted outside those for flooding and erosion control docks.

**Evaluation of impact**

The property has been in the owner's family for over 50 years, being owned previously by both her father and grandfather. The existing dwelling and detached garage are in a state of despair. The proposal is to demolish the existing dwelling and garage and construct a new larger dwelling and new larger detached garage. The existing dwelling is approximately 111.5 square metres in size, and the proposed dwelling is to be approximately 178.6 square metres in size. The existing garage is approximately 22.8 square metres, and the proposed garage is to be approximately 55 square metres.

The demolition and construction of a new dwelling and garage will address the existing structural issues and will improve the overall safety. The new larger dwelling will provide additional living space to better accommodate the property owner. The proposed garage will provide additional storage space on the property as well as covered parking.

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<sup>3</sup> See Schedule 1

The new dwelling will include a covered porch on the front of the dwelling, and a porch and deck off the back of the dwelling. The dwelling will maintain the existing water setback of 11.66 metres. The new deck and porch are to be in line with the dwelling. However, due to the shape of the shoreline, they will be slightly closer to the water with a setback of 9.91 metres. This setback from the water is not anticipated to result in any adverse impacts. The shoreline of the subject property steeply slopes towards the water, potentially mitigating the impact of a flood event. Additionally, no indoor habitable space will be closer to the water than what exists today.

The new garage is to be constructed in the same location as the existing garage. The proposed garage complies with the By-law's general provisions for accessory buildings, structures and uses in terms of location and height. The larger garage will provide the owner with a place to store yard equipment and park a vehicle if desired; ample parking space is also available at the front of the garage and within the existing driveway.

The continuation and enlargement of the existing detached garage and dwelling are not anticipated to impact nearby property owners, environmental features, or the function of the right of way with respect to access, traffic, sightlines, or maintenance. Furthermore, the portion of the property to be re-developed is located greater than 5 metres above the high water mark, reducing the risk of property damage in the event of a flood.

**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 comment or objection to the proposed Minor Variance."

**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

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**E-Mail:** kevans@kawarthalakes.ca  
**Department Head:** Leah Barrie, Director of Development Services  
**Division File:** D20-2024-057

## **Schedule 1**

### **Relevant Planning Policies and Provisions**

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#### **The Planning Act, R.S.O. 1990**

##### **Powers of committee**

##### **45(1)**

##### **Other powers**

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

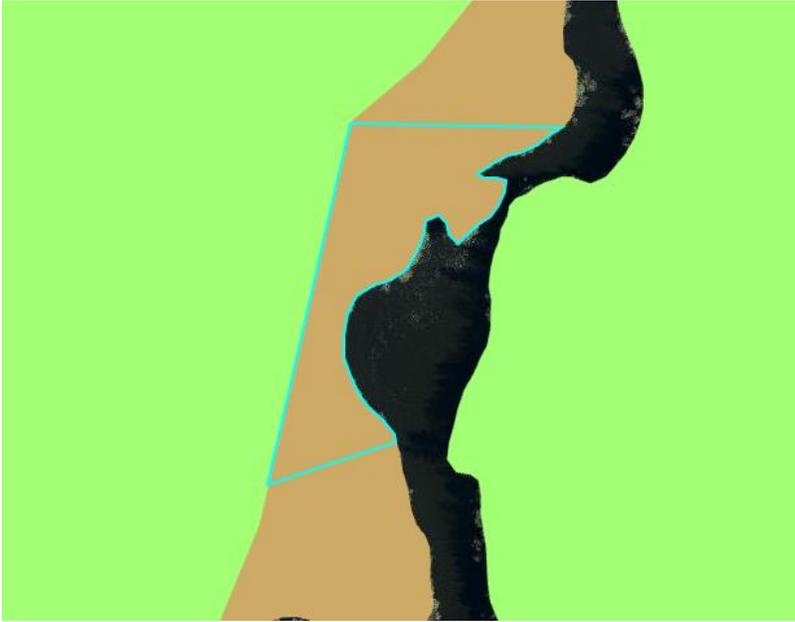
(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(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, or

(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or

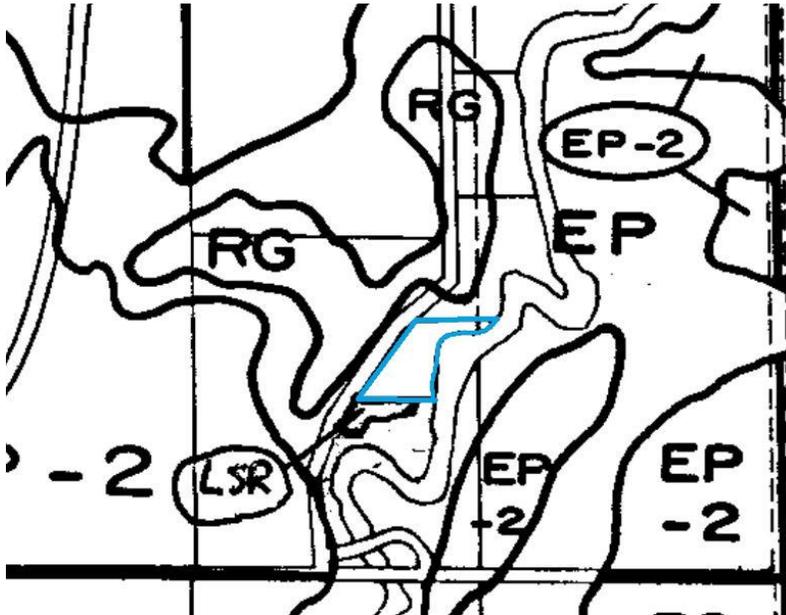
(b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law. R.S.O. 1990, c.P.13, s.45(2).

## City of Kawartha Lakes Official Plan



### 16. Rural Designation

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



### Section 7 – Environmental Protection (EP) Zone

#### 7.1 EP Uses Permitted

No person shall hereafter change the use of any building, structure or land, or use any building, structure or land in an Environmental Protection Zone except for the following uses.

- a. Conservation and Forestry uses
- b. Bird or wildlife sanctuaries
- c. Flood and erosion control works and docks
- d. Agricultural uses exclusive of buildings or structures

#### 7.2 EP Zone Requirements

- a. In an Environmental Protection (EP) Zone, no person shall hereafter erect any building or structure, except structures for flood and erosion control and docks.

## **Section 18 – General Provisions**

### 18.6 Existing uses, buildings and structures

#### 18.6.1 Non-conforming Uses

No person shall use any land or erect or use any building or structure except for those uses permitted in the zone in which such land, building or structure is or is to be located. Uses existing prior to the date of passing of this by-law which were in conformity with and not forbidden by an existing by-law in force at the date of passage of this By-law may continue as an existing, legal, non-conforming use.

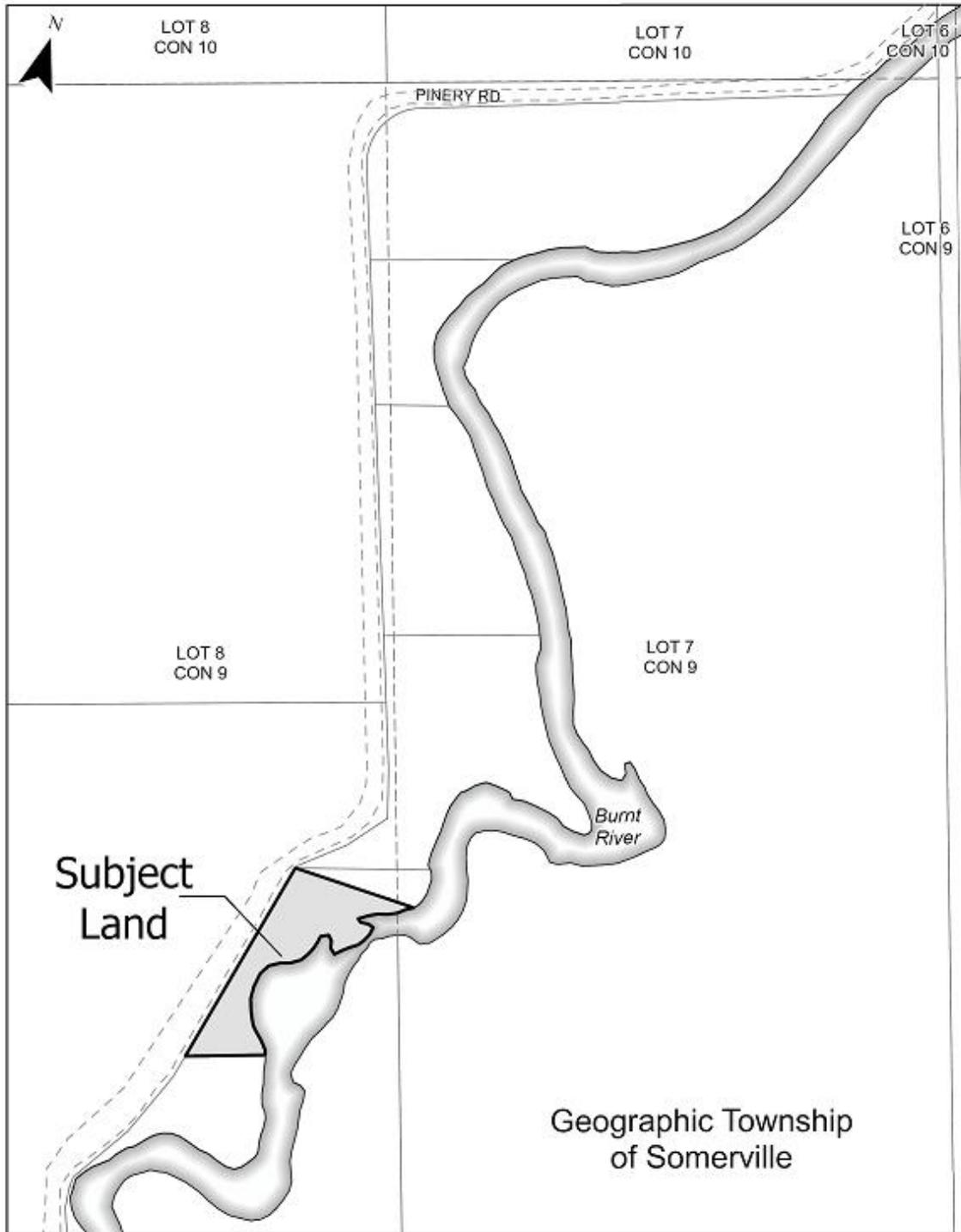
to

REPORT COA2024-067

FILE NO: D20-2024-057

**LOCATION MAP**

# D20-2024-057



APPENDIX " B "

to

REPORT COA2024-067

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**AERIAL PHOTO**





