

The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Palmer

Report Number COA2024-076

Public Meeting

Meeting Date: August 22, 2024

Time: 1:00 pm

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

Ward 3 – Former Village of Fenelon Falls

Subject: The purpose and effect is to facilitate the construction of an addition onto the existing legal non-conforming single detached dwelling (circa 1962) whereby residential uses predate the Zoning By-law adopted in 1989, that zones the lot District Commercial (C2) Zone, and Section 4.10.1 does not otherwise permit a single detached dwelling.

Relief sought:

1. Section 4.10.3 c) i) of the Zoning By-law requires a minimum front yard setback of 12 metres; the proposed setback is 4.7 metres;
2. Section 4.10.3 c) iv) of the Zoning By-law requires a minimum rear yard setback of 12 metres; the proposed setback is 7.1 metres; and,
3. Section 4.10.3 e) of the Zoning By-law requires a minimum setback from the street centreline of 22 metres; the proposed setback is 14.7 metres.

The variance is requested at **3 West Street South** (File D20-2024-067).

Author: Katherine Evans, Planner II

Signature: 

Recommendations

That Report COA2024-076 – Palmer, be received;

That minor variance application D20-2024-067 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

COA2024-076, 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 COA2024-076. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Application Summary

Proposal:	The construction of an addition onto the existing legal non-conforming single detached dwelling (circa 1962) whereby residential uses predate the Zoning By-law adopted in 1989, that zones the lot District Commercial (C2) Zone, and Section 4.10.1 does not otherwise permit a single detached dwelling
Owners:	Janette Palmer
Applicant:	TD Consulting Inc.
Legal Description:	Lot 80, Plan 100 East Side of Lindsay Street
Official Plan ¹ :	Commercial (Fenelon Falls Secondary Plan, 2015)
Zone ² :	District Commercial (C2) Zone (Village of Fenelon Falls Zoning By-law 89-25)
Site Size:	761.8 sq. m. (8,200 sq. ft.)
Site Access:	Year round municipal road
Site Servicing:	Municipal water and sanitary sewers
Existing Uses:	Residential
Adjacent Uses:	Residential and commercial

¹ See Schedule 1

² See Schedule 1

Rationale

Recognition of proposed setbacks

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

The subject property is located on the western boundary of the Village of Fenelon Falls, in an area which contains commercial and residential uses. The property is irregular in shape, and currently contains a single detached dwelling and detached garage constructed in 1962 (according to Municipal Property Assessment Corporation), and a shipping container.

The proposal is to construct an addition onto the existing dwelling. The purpose of the Minor Variance under Section 45(1) of the Planning Act is to request relief for the reduced setbacks of the proposed addition. The existing dwelling is 74.4 square metres in size, and the addition will add 27.5 square metres for a total of 101.9 square metres. The addition will provide more living space to better accommodate the property owner.

The existing shipping container is temporary, and is to be removed. As per Section 5.24 of the Zoning By-law, a tool shed, construction trailer, scaffold or other building or structure incidental to construction is permitted in all Zones within the Corporation on the lot where it is situated and only for so long as it is necessary for the work in progress and until the work is completed or abandoned.

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 Commercial under the Fenelon Falls Secondary Plan. A variety of commercial and tourism uses are permitted within the Commercial designation. The City of Kawartha Lakes Official Plan continues to provide policy framework as well as goals, policies, and objectives. As per the Official Plan, nothing in the plan shall 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 residential use on the subject property has been established since at least 1962, predating the Official Plan and the Fenelon Falls Secondary Plan.

Therefore, the variance is considered to maintain the general intent and purpose of the Official Plan and the Secondary Plan.

The variance maintains the general intent and purpose of the Zoning By-law.

The subject property is zoned District Commercial (C2) Zone under the Village of Fenelon Falls Zoning By-law 89-25. The purpose of the Minor Variance under Section 45(2) of the Planning Act is to allow for the construction of an addition onto the legal non-conforming dwelling. The purpose of the Minor Variance under

Section 45(1) of the Planning Act is to recognize the proposed reduced setbacks of the addition.

Section 4.10.3 c) i) of the Zoning By-law requires a minimum front yard setback of 12 metres. The proposed setback of the addition is 4.7 metres. Additionally, Section 4.10.3 e) of the Zoning By-law requires a minimum setback from the street centreline of 22 metres. The proposed setback is 14.7 metres. The intent of the minimum front yard setback is to ensure adequate spatial separation between built form and the travelled portion of the street as to not impede traffic, snow removal, and streetscaping maintenance, as well as to maintain features such as sight lines and the character of the streetscape. The street centreline setback appears to have been devised on the premise that, should a road allowance be of a non-standard width, built form will be adequately set back from it in the event the municipality decided to take a road widening.

The proposed addition is to be in line with the existing dwelling, and will encroach into the front yard setback and street centreline setback no further than what exists today. There is an approximately 4-metre-wide gravel shoulder between the front lot line and the travelled portion of the road, providing visual and physical separation between the road and the dwelling. It is not anticipated that the construction of an addition at this proposed setback will result in impacts to traffic, road maintenance, or sightlines. Additionally, the road allowance for West Street South is currently approximately 20 metres wide. It is unlikely the municipality would pursue road widenings in this vicinity given the reduced lot sizes that would result, and due to the fact that there are buildings and structures within the street centreline setback area.

Section 4.10.3 c) iv) of the Zoning By-law requires a minimum rear yard setback of 12 metres. The proposed setback is 7.1 metres. The intent of the rear yard setback is to reduce land use and privacy conflicts between abutting properties, address massing impacts, and provide sufficient rear yard amenity space.

The dwelling currently has a rear yard setback of 8.2 metres, as such the proposal results in a minimal encroachment beyond what exists today. The rear lot line of the subject property abuts a property that contains an eight-unit apartment building. A fence and mature vegetation separate the subject property from the neighbouring property, and as such privacy issues are not anticipated. Additionally, as the apartment building is 2 storeys, the one storey addition to the subject dwelling will not result in massing impacts. Due to the configuration of the lot lines and the location of the dwelling on the subject property, sufficient rear yard amenity space will be maintained.

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.

Construction of an addition onto the legal-nonconforming dwelling

The application satisfies the provisions of the Planning Act³

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 single detached dwelling has existed and been used for residential purposes since before the By-law was passed on November 20, 1989. Therefore, the applicant is proposing a building enlargement and extension of use to the existing legal non-conforming building.

The property is zoned District Commercial (C2) Zone under the Village of Fenelon Falls Zoning By-law 89-25. As per Section 4.10.1 of the Zoning By-law, residential uses are prohibited except where a dwelling unit is located within a portion of a non-residential building permitted within the District Commercial (C2) Zone. As such, a single detached dwelling is not a permitted use.

Evaluation of impact

The dwelling has existed since at least 1962. It is relatively small in size and the new addition will provide more space for the property owner, including two new bedrooms. The surrounding area is comprised of a mixture of large and small scale commercial uses, higher density residential uses, and low density residential uses similar to the subject property. The continuation of the residential use on this property is in keeping with the existing built form, uses, and character of the surrounding area. The continuation and enlargement of the residential use and existing dwelling are not anticipated to impact neighbouring properties, environmental features, or the function of the municipal right of way.

Other Alternatives Considered:

No alternatives considered.

Consultation Summary

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

³ See Schedule 1

Agency Comments:

Building and Septic Division (Building): “No 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.

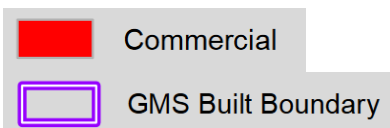
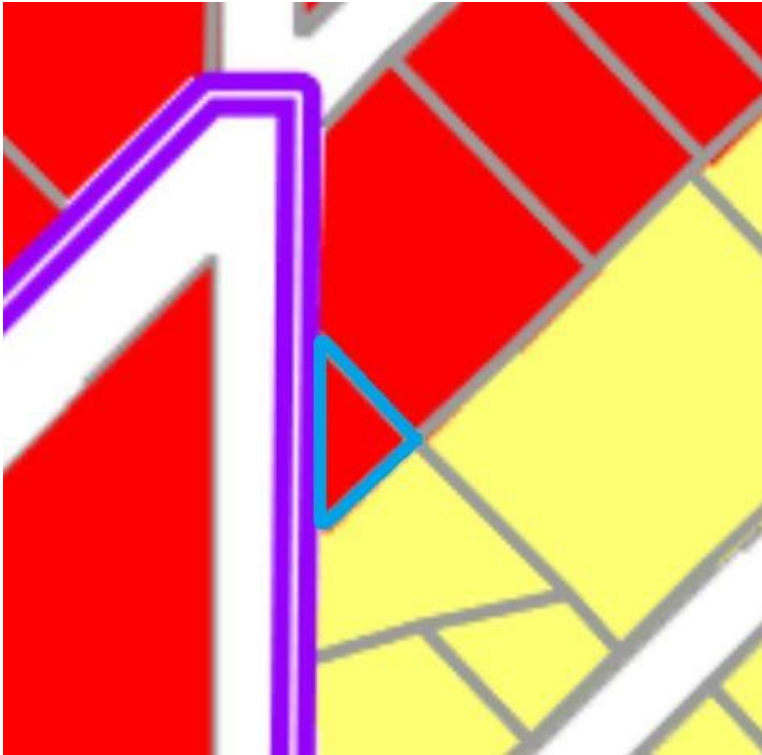
Attachments

Appendix A – Location Map
Appendix B – Aerial Photo
Appendix C – Applicant’s Sketch

Phone: 705-324-9411 extension 1883
E-Mail: kevans@kawarthalakes.ca
Department Head: Leah Barrie, Director of Development Services
Division File: D20-2024-067

Schedule 1 Relevant Planning Policies and Provisions

Fenelon Falls Secondary Plan

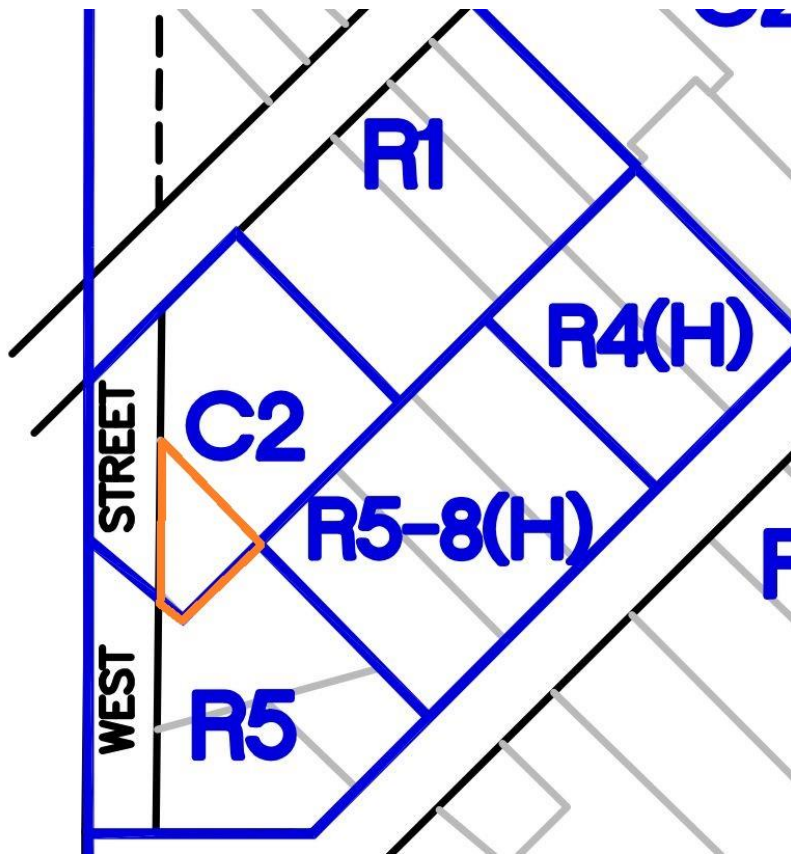


31.4.3.5 Commercial

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.

Village of Fenelon Falls Zoning By-law 89-25



Section 5 General Zone Provisions

5.5.2 Permitted Exterior Extension

The exterior of any building or structure, which building or structure at the date of passing of this By-law was lawfully used for a purpose not permissible within the Zone in which it is located, shall not be enlarged, extended, reconstructed or otherwise structurally altered, unless such building or structure is thereafter to be used for the purpose permitted within such Zone and complies with all requirements of this By-law for such Zone.

Section 4.10 District Commercial (C2) Zone

4.10.1 Permitted Uses

a) Residential Uses

Residential uses are prohibited except where a dwelling unit is located within a portion of a non-residential building permitted within the District Commercial (C2) Zone.

Section 4.10 3. Regulations for Non-Residential Uses Exclusive of Retail Gasoline Establishments

- c) Minimum yard requirements
 - i) Front yard 12 m
 - iv) Rear yard 12 m
- e) Minimum setback from street centreline 22 m

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

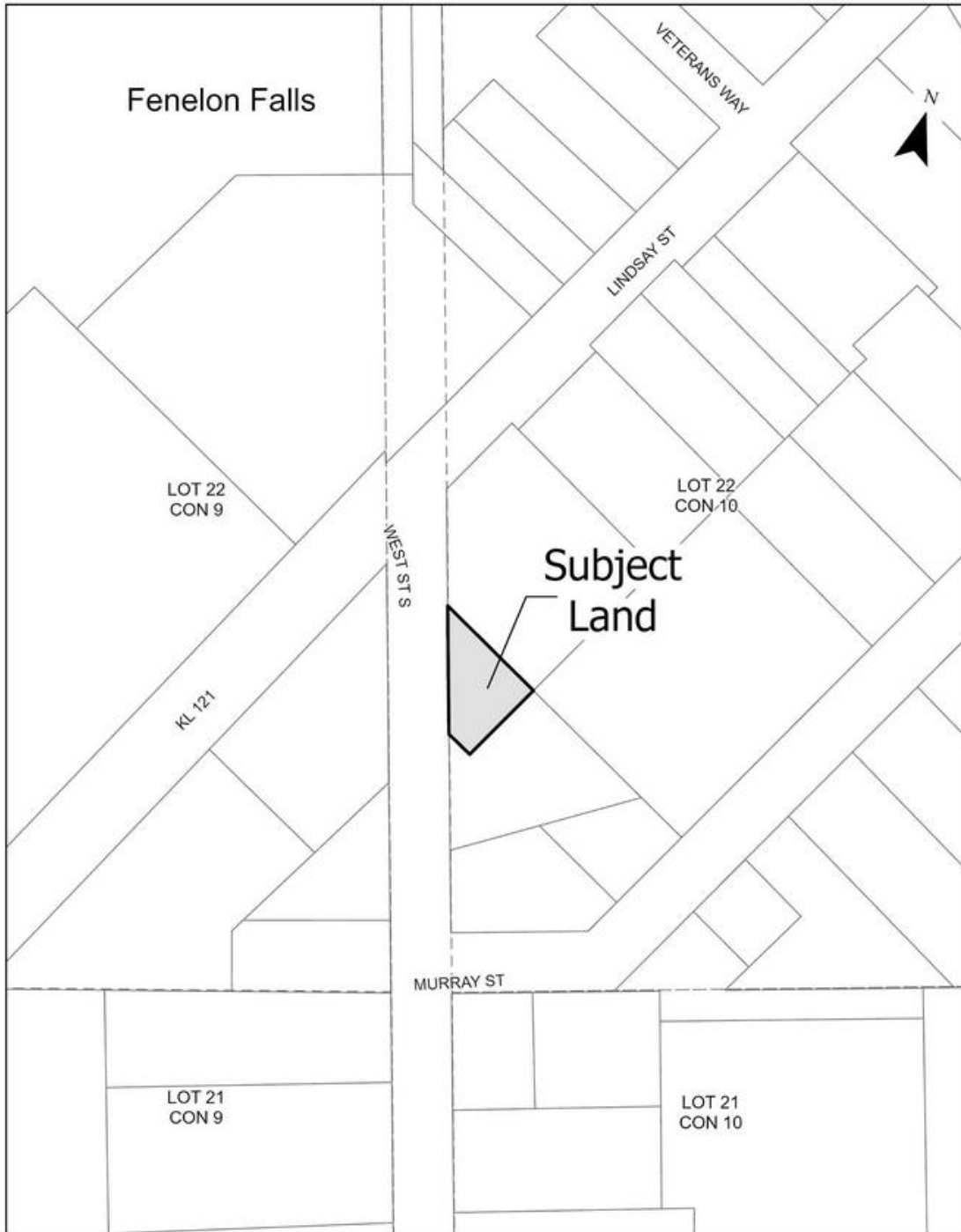
(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law 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).

to

LOCATION MAP

D20-2024-067

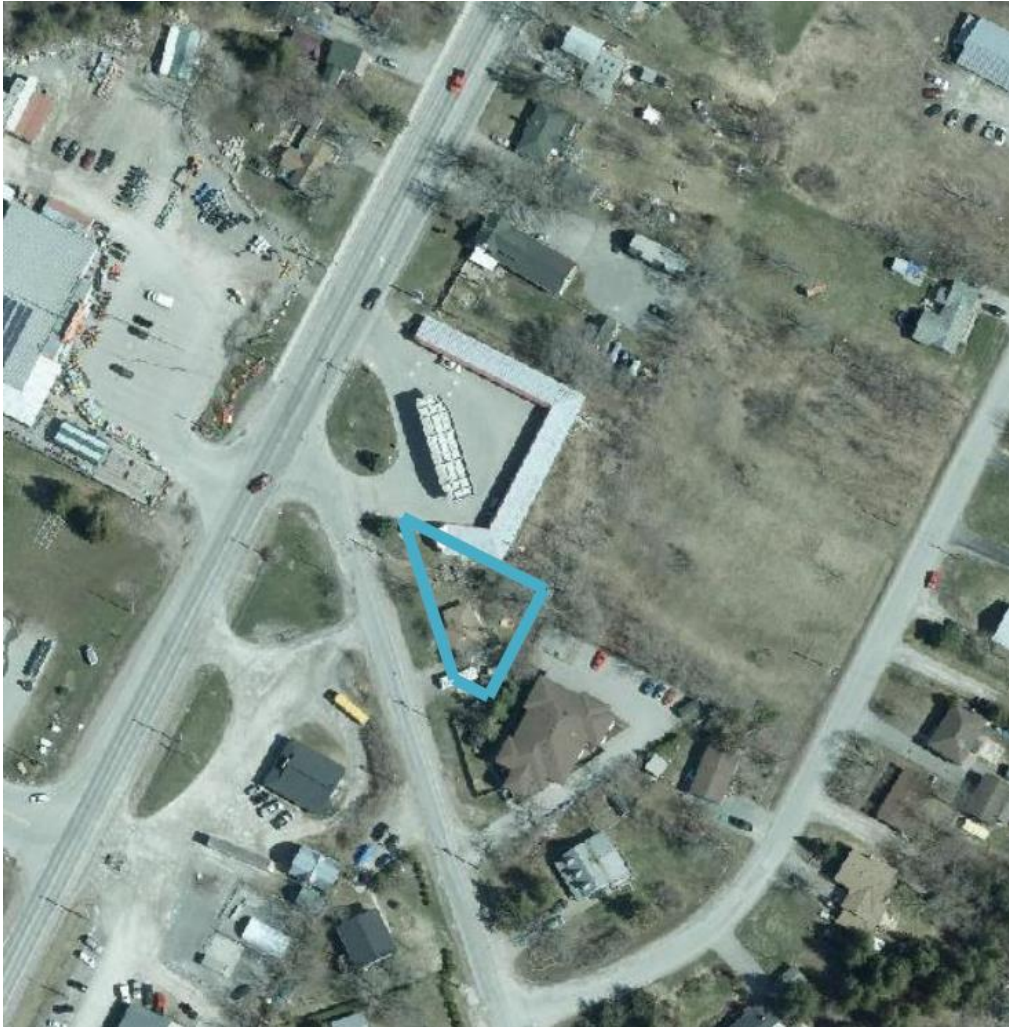


to

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AERIAL PHOTO



to

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APPLICANT'S SKETCH

