

The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Ben-Zvi

Report Number COA2024-079

Public Meeting

Meeting Date: August 22, 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 the recognition of an existing lakeside deck constructed in 2022.

Relief sought:

1. Section 15.2.1.3.a. of the Zoning By-law requires a minimum front yard setback of 7.5 metres. The existing front yard setback, from Walnut Street to the deck, is 4.57 metres; and,
2. Section 15.2.1.3.b. of the Zoning By-law requires a minimum interior side yard setback of 3 metres on one side, 1.3 metres on the opposite side for a single storey or 2.3 metres (if greater than one storey). The existing interior side yard setbacks from the deck are 1.17 metres (south) and 0.55 metres (north).

The variance is requested at **44 Walnut Street** (File D20-2024-070).

Author: Ahmad Shahid, Planner II

Signature:



Recommendations

That Report COA2024-079 –Ben-Zvi, be received;

That minor variance application D20-2024-070 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 COA2024-079, which shall be attached to and form part of the Committee's Decision; and,

- 2) **That** this approval shall be in effect 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.

This approval pertains to the application as described in report COA2024-079. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Application Summary

Proposal:	Recognition of existing lakeside deck constructed in 2022.
Owners:	Avy Ben-Zvi
Applicant:	Owner
Legal Description:	Part Lot 31, Concession 11 (being Parts 1 to 5 of Reference Plan 57R8852)
Official Plan ¹ :	Waterfront (City of Kawartha Lakes Official Plan, 2012)
Zone ² :	Limited Service Residential (LSR) Zone (Township of Fenelon Zoning By-law 12-95)
Site Size:	1,618.74 square metres (0.4 acres)
Site Access:	Private right of way
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 eastern shore of Fells Bay with access from Walnut Street. Walnut Street is a private road that that is not maintained by the City. As per the Public Works Department, the street is only maintained during the summer. Walnut Street is used by the neighbouring properties southeast of the subject property for access. The subject property is the last property along Walnut

¹ See Schedule 1

² See Schedule 1

Street to use the private right of way for access, as such, the private right of way ends at the subject property. According to the Municipal Property Assessment Corporation (MPAC), the area primarily consists of one-to-two-storey seasonal dwellings constructed during various periods of time ranging from the late 1800's to late 1990's and early 2000's.

The property currently contains a one-storey cottage (1950) with a lakeside deck. The application seeks to recognize the existing lakeside deck constructed in 2022.

Considering the age of the existing cottage, and overall neighbourhood, it can be expected for property owners to redevelop their properties to achieve the highest and best use. For context, the neighbouring property to the south, 42 Walnut Street, was approved for a minor variance with the same reliefs, however the scope of the project did differ as that application involved the raising of the dwelling to allow for a basement walkout. The subject property's existing deck allows for direct access to Fells Bay which the applicant has indicated was constructed to provide a safer access way to the lake as the property contains a steep topography towards the water.

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 Waterfront under the City of Kawartha Lakes Official Plan. Residential uses and accessory structures are anticipated within the Waterfront designation. The goal of the designation is to permit seasonal and limited permanent residential development adjacent to the lakes and rivers within the City. The existing deck does not negatively impact density or massing, and maintains the residential character of the property.

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 (LSR) Zone under the Township of Fenelon Zoning By-Law 12-95. The LSR Zone permits a single detached dwelling as well as accessory structures. The proposal complies with all provisions of the Zoning By-law except the minimum interior side yard setback, and the front yard setback.

Section 15.2.1.3.a. of the Zoning By-law requires a minimum front yard setback of 4.57 metres. The intention of the front yard setback is to ensure development does not interfere with the street. Additionally, the front yard setback aims to provide an area to accommodate the placement of garbage bins, mailboxes and other necessary amenities without obstructing the street. At the property, the front yard setback is measured from the closest edge of Walnut Street, a private right of way. The purpose of measuring the front yard setback from Walnut Street is to ensure

development does not interfere with the usage of the street, as neighbouring properties use the street to access their properties. In this case, the subject property is the final property along Walnut Street to utilize the private right-of-way for access. Therefore, the private right-of-way ends at the subject property. Regardless, the existing deck does not interfere with the private right-of-way and continues to provide for a sufficient setback.

Secondly, Section 15.2.1.3.b. of the Zoning By-law requires a minimum interior side yard setback of 3 metres on one side, 1.3 metres on the opposite side for a single storey or 2.3 metres (if greater than one storey). The existing dwelling is one-storey with no basement walkout, as such, the one-storey setbacks apply. The intent of the interior side yard setback is to ensure there is sufficient space between neighbouring properties, avoiding overcrowding, and a space for maintenance and access to the rear yard.

The existing interior side yard setback from the deck are 1.17 metres (south) and 0.55 metres (north). The existing dwelling on the property is also non-compliant with its interior side yard setback. Consequently, any attempt to attach a deck to either side of the dwelling while adhering to the side yard requirements would likely result in an irregular or unconventional shape. The existing south side yard setback although deficient accommodates passageway for maintenance for maintenance purposes and access to and from the rear and front yards. Although the north side yard setback is minimal from both the existing dwelling and deck, privacy is provided to neighbours by the existing vegetation surrounding the neighbouring lot to the north.

In terms of access, the existing north yard setback is difficult for passageway but remains adequate for maintenance purposes. It should also be understood that the 0.55 metre setback is measured from the closest point of the deck, whereas the setback increases as one moves further along the side lot line into the rear where the existing side yard setback from the dwelling is 1.44 metres. As such, although limited, the existing interior side yard setback of 0.55 metres is approximately average shoulder width, and would allow for access into the side yard.

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.

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.”

ECA – Development Engineering: “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 – Supplementary Materials

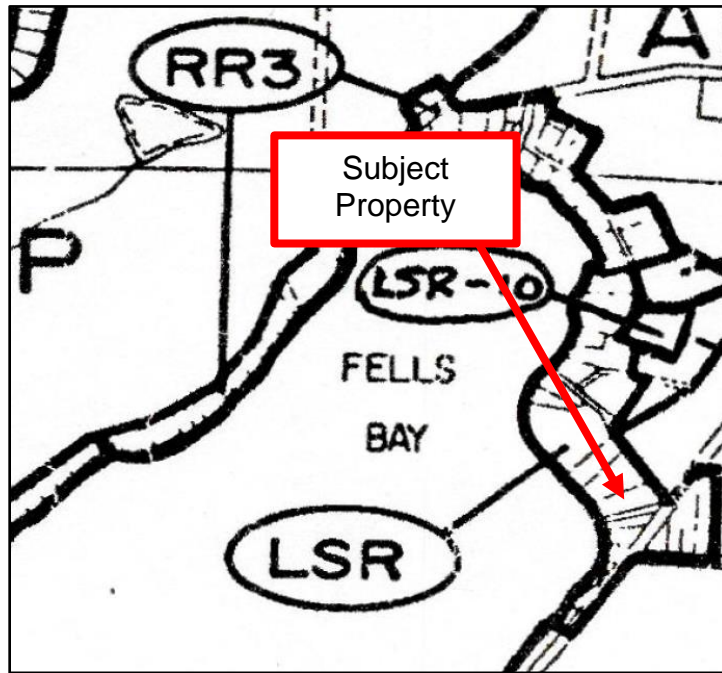
Phone: 705-324-9411 extension 1367
E-Mail: ashahid@kawarthalakes.ca
Department Head: Leah Barrie, Director of Development Services
Division File: D20-2024-070

Schedule 1 Relevant Planning Policies and Provisions

City of Kawartha Lakes Official Plan

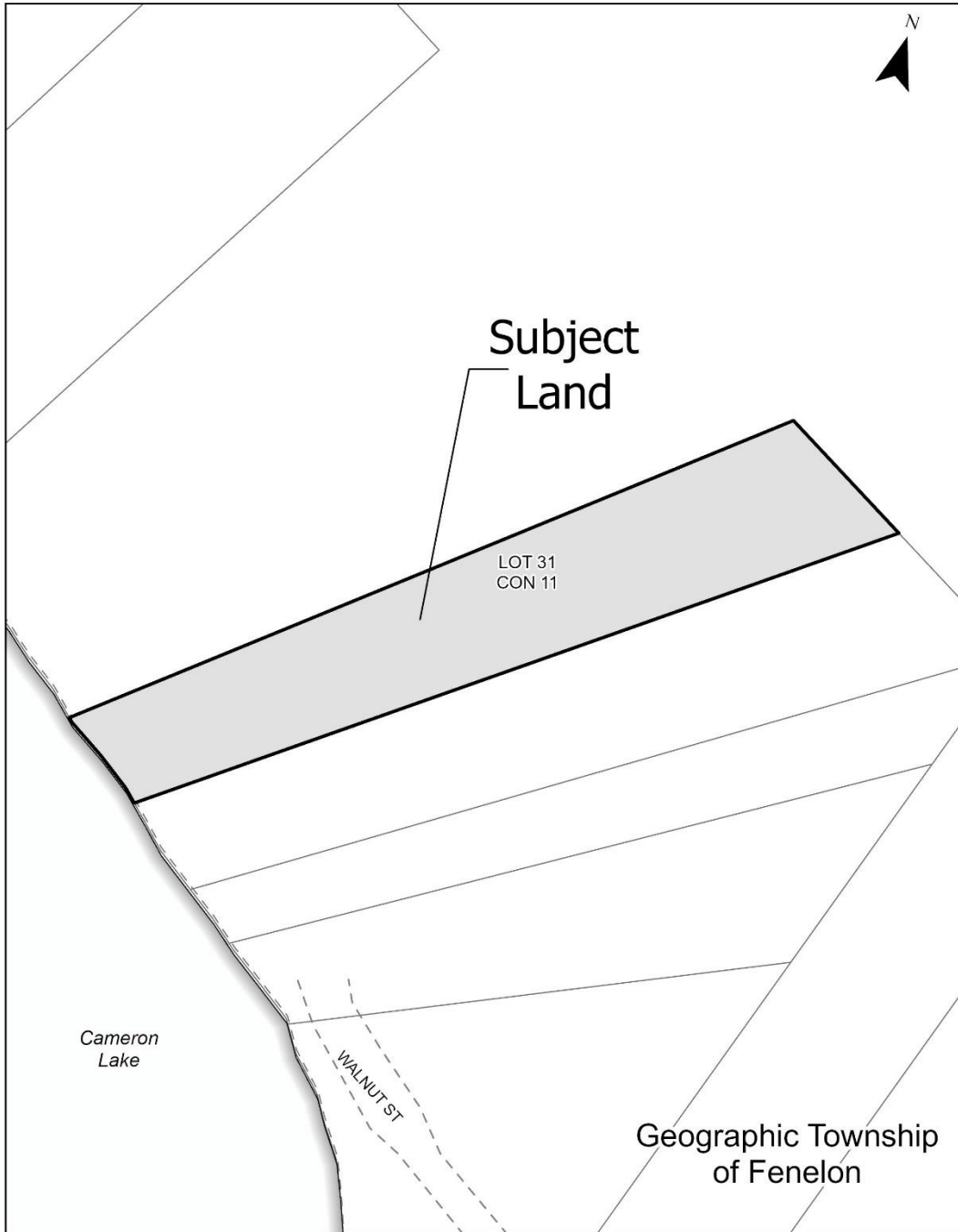


Township of Fenelon Zoning By-law 12-95



LOCATION MAP

D20-2024-070



APPENDIX " B "

to

REPORT COA2024-079

FILE NO: D20-2024-070

AERIAL PHOTO

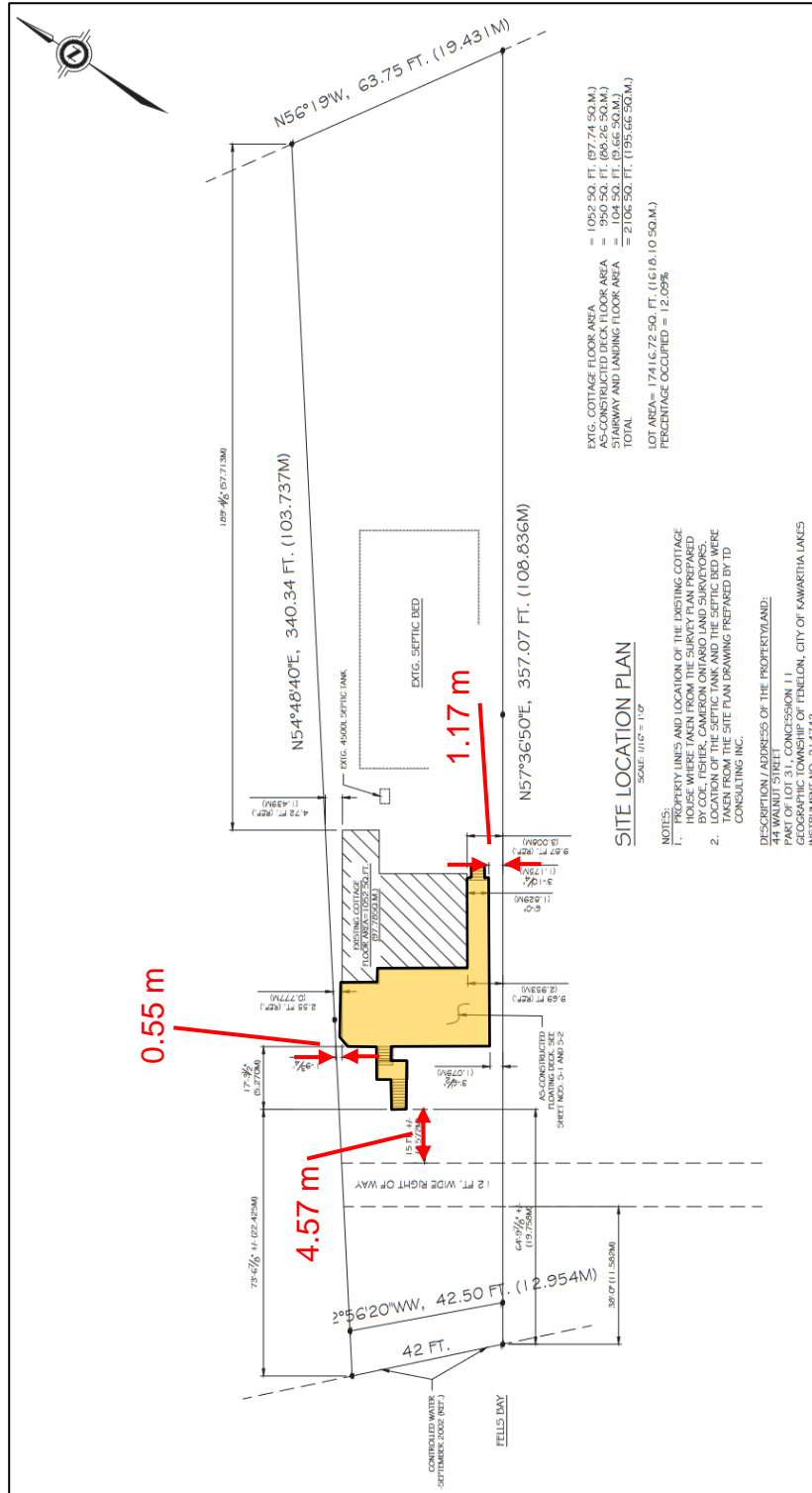


to

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APPLICANT'S SKETCH



to

SUPPLEMENTARY MATERIALS

