

The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Firth

Report Number COA2024-073

Public Meeting

Meeting Date: August 22, 2024

Time: 1:00 pm

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

Ward 1 – Geographic Township of Laxton

Subject: The purpose and effect is to facilitate the recognition of two gazebo's, a cabin, and three sheds.

Relief sought (the numbers in the closed brackets correspond to the numbers shown on Appendix A):

1. Section 5.2.g. of the Zoning By-law requires a 15 metre water setback. The existing setback from each of the subject accessory structures is as follows: Gazebo (#2) is 1.0 metre setback; Boat Supply Shed (#4) is 9 metre setback; and, the Hot Tub Gazebo (#5) is 8.4 metre setback;
2. Section 18.1.b. of the Zoning By-law requires a minimum 1.3 metre rear yard setback. The existing setback from the Gazebo (#2) is 1.0 metres; and,
3. Section 18.1.b. of the Zoning By-law requires accessory structures to be located in a side or rear yard. The following structures are located in the front yard: Bunkie (#3), Boat Supply Shed (#4), Storage Shed (#6), and the Garden Tool Shed (#7).

The variance is requested at **33 Douglas Drive** (File D20-2024-064).

Author: Ahmad Shahid, Planner II

Signature:



Recommendations

That Report COA2024-073 – Firth, be received;

That minor variance application D20-2024-064 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 COA2024-073, 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 COA2024-073. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Application Summary

Proposal:	Recognition of two gazebo's, a cabin, and three sheds. No new structure is being built or proposed.
Owners:	Kathy Firth
Applicant:	Owner
Legal Description:	Part Lot 10, Concession 5 (being Part 9 of Reference Plan 57R3844)
Official Plan ¹ :	Waterfront (City of Kawartha Lakes Official Plan, 2012)
Zone ² :	Limited Service Residential (LSR) Zone (United Townships of Laxton, Digby and Longford Zoning By-Law 32-83)
Site Size:	3,197.02 square metres (0.79 acres)
Site Access:	Partially maintained
Site Servicing:	Potable water from lake and individual septic system
Existing Uses:	Residential
Adjacent Uses:	Residential

Rationale

¹ See Schedule 1

² See Schedule 1

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

The subject property is situated in the former Township of Laxton on the shore of Head Lake with access from Douglas Drive. The portion of the road the subject property fronts on is unmaintained, however, leading up to the property is maintained year-round. The area in which the property is located is predominantly residential comprise of built-form characterized by low-density residential dwellings and assorted accessory structures with varying proximities from both the road and shoreline. Based on aerial imagery, much of the built form along Douglas Drive are setback closer to the shoreline than to the road. Additionally, along the shoreline of Head Lake, it is not uncommon to see lots with structures located close to the shoreline within their respective water setbacks. Based on the Municipal Property Assessment Corporation (MPAC), the majority of the dwellings in the area are for seasonal use with most constructed in the mid-to-late 1900s.

The subject property currently contains a vacation dwelling (1964), two gazebo's, a cabin (also referred to as Bunkie), three sheds, and a detached garage. The proposal seeks to facilitate the recognition of the two gazebo's, a cabin, and three sheds. To provide some context, the current property owners purchased the property in 1992 to use as a seasonal cottage property. According to the applicant many of the structures have been existing on the property since date of purchase, and some have been replaced and rebuilt due to deterioration.

These applicable structures are as follows (the numbers in the closed brackets correspond to the numbers shown on Appendix A):

- Gazebo (#2), 10.82 m²: Similar structure was situated in the same location when property was purchased and rebuilt/replaced in 2002;
- Bunkie (#3), 19.18 m²: Structure has been existing unchanged since purchase of property; and,
- Boat Supply Shed (#4), 8.93 m²: Similar structure was situated in the same location when property was purchased and rebuilt/replaced in 1996.

The remaining structures subject to this minor variance application are detailed below:

- Hot Tub Gazebo (#5), 9.85 m²: Constructed in 2023;
- Storage Shed (#6), 18.91 m²: Constructed in 2023; and,
- Garden Tool Shed (#7), 2.06 m²: Constructed in 2001.

The Hot Tub Gazebo (#5) was constructed in 2023 around the existing hot tub, which has been existing since 2000, in order to place the hot tub in an enclosed space protected from the natural elements. Excluding the Bunkie (#3), the remaining structures neither contain nor are utilized for human habitation. No new structures are being proposed, and most of the structures have been existing for an extended duration of time. Moreover, due to the existing vegetation and topography of the lot, none of the structures are visible from the road to the public. From the lake, the only structures visible are the cottage, the gazebos, and the Boat Supply Shed (#4) very minimally. Overall, given the locational context of the

property along Head Lake and its seasonal use, it is suitable for property owners to seek to the most optimal utilization of their land.

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 (2012). The objective of the Waterfront designation is to recognize low density residential development as the primary land use, as such, dwellings and accessory uses are permitted within the designation.

The Official Plan establishes water setback policies in Section 3.11 to provide sufficient spatial separation to protect development from erosion hazards and protect and enhance the ecological function of the waterbody. Through the establishment of a water setback, a buffer is created between the built form and waterbody for vegetation and to protect and enhance the ecological function of the waterbody and its fish habitat. The proposal is not seeking an expansion of any of the existing structures within the water setback. Moreover, the proposal does not change the existing land use, maintains a low profile and preserves the existing shoreline. The configuration of the existing dwelling and deck on the lot make reduce the size of the rear yard. Nonetheless, all of the structures are generally in-line along the shoreline. The shoreline is to be maintained and will remain in its natural state.

Policy 20.30.11. states that preservation of social values including landscapes, aesthetics, and recreational opportunities to the waterfront will be supported. The Waterfront designation states that shoreline character shall be retained by encouraging non-intrusive use of the waterfront. With respect to density and massing, Section 20.5 states all building and structures within the Waterfront designation shall maintain a low profile and blend with the natural surroundings without exceeding the height of the tree canopy. Furthermore, the Waterfront designation establishes policies regarding shoreline activity areas. As per Policy 20.5.2., the shoreline activity areas are meant to serve as an appropriate balance of natural and built form along the shoreline, and include but are not limited to docks, boathouses, and other structures.

As previously mentioned, the only structures visible from the lake along the shoreline are the existing cottage, gazebos, and the Boat Supply Shed (#4). These structures all maintain a low profile, and do not exceed the height of the existing tree canopy. Additionally, these structures support the recreational use of the shoreline and provide an appropriate valance between built form and natural form. The Gazebo (#2) provides an enclosed viewing shelter space, the Hot Tub Gazebo (#5) allows the property owners to enjoy the hot tub while being protected from the elements in an enclosed private space, and the Boat Supply Shed (#4) provides storage space within the water setback that would otherwise result in items being stored outdoors and potentially visible from the lake.

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 United Townships of Laxton, Digby and Longford Zoning By-Law 32-83. The LSR Zone permits multiple uses, including a vacation dwelling or a single detached dwelling and, as well as accessory structures. In order to recognize the existing structures, relief is required from the location of the subject accessory structures, rear yard setback and water setback.

Firstly, Section 18.1.b. of the Zoning By-law requires accessory structures to be located in a side or rear yard. The following structures are located in the front yard: Bunkie (#3), Boat Supply Shed (#4), Storage Shed (#6), and the Garden Tool Shed (#7). 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, as well as, ensures the property is cohesive with surrounding properties and area.

The topography of the subject property fluctuates and slopes down from the front lot line to the shoreline. As a result, many of the structures are located at a lower topography not visible even when on the subject property. Moreover, the subject property is well covered by existing vegetation, hedges, and a tall dense tree canopy. From the public view of the road, the property and its structures are largely not visible. With respect to lot coverage, the total lot coverage of all accessory structures (3.34%) is well within compliance and ensure the accessory structure remain subordinate to the primary use of the property.

In addition, with respect to the location of the subject accessory structures, there is limited space in the rear yard to situated any accessory structure due to the very minimal rear yard setback of the existing cottage dwelling to the rear lot line. As a result, the accessory structures are limited to the front yard and/or interior side yard. The Boat Supply Shed (#4) is mostly situated in the interior side yard but the southern wall encroaches into the front yard therefore being considered to be in the front yard. The Bunkie (#4), Storage Shed (#6), and the Garden Tool Shed (#7), are all setback a minimum of 80 metres from the road, distantly located and completely hidden from the road.

Secondly, Section 5.2.g. of the Zoning By-law requires a 15 metre water setback. The existing setback from each of the subject accessory structures is as follows: Gazebo (#2) is 1.0 metre setback; Boat Supply Shed (#4) is 9 metre setback; and, the Hot Tub Gazebo (#5) is 8.4 metre setback. The intent of the minimum water setback is to protect built form from natural hazards, protect and enhance the

ecological function of waterbodies by creating a buffer between built form and water for the establishment and preservation of vegetation. It is important to note, the water setback from the existing cottage dwelling is non-complaint at 8.0 metres from the dwelling and 4.65 metres from the deck. The subject accessory structures within the water setback do not contain habitable space nor is habitable space being introduced within these structures, as such, there is no concern with water hazards and dangers to habitable space.

The Gazebo (#2) and the Boat Supply Shed (#4) have both been existing over the past 20 plus years. The Boat Supply Shed (#4) is used to store recreational water items and is located nearby the shoreline. A similar structure to the Gazebo (#2) was existing when the property was purchased in 1992 and was rebuilt in 2002. The Gazebo (#2) is used for storage but primarily for social and recreational use, for the scenic enjoyment allowing the property owner to appreciate the lake within an enclosed space. Similarly, the Hot Tub Gazebo (#5) was constructed in 2023 around the existing hot tub, which has been existing since 2000, in order to place the hot tub in an enclosed space protected from the natural elements. Prior to the gazebo being constructed, the hot tub was exposed and becoming damaged from the debris of the trees. Furthermore, there is an elevation from the water to the property, as the elevation rises towards to the property. As such, although the structures are within the water setback, they are situated at a high elevation reducing the concern from natural hazards. The existing shoreline is to be maintained and retained.

For comparative purposes, the Rural Zoning By-law (RZBL) that was adopted by Council although not currently in effect, takes a different view of the existing subject accessory structures. The RZBL, in support of the City of Kawartha Lakes Official Plan, has introduced a "Shoreline Activity Area" which dedicates a portion of the land along the shorelines to serve as a "Shoreline Naturalization Buffer". The RZBL states that the "Shoreline Activity Area" may contain shoreline structures, pathways, and native vegetation. Shoreline structures, as defined by the RZBL, include any building or structure such as a dock, hot tub, outdoor sauna, storage shed, and gazebos, within any yard abutting a waterbody. The RZBL excludes shoreline structures from being subject to the minimum water setback requirement. As a result, the subject accessory structures may be considered shoreline structures under the RZBL and not subject to the minimum water setback. However, as the RZBL is under appeal, its policies are not in effect.

Thirdly, Section 18.1.b. of the Zoning By-law requires a minimum 1.3 metre rear yard setback. The existing setback from the Gazebo (#2) is 1.0 metres. The intention of a rear yard setback is to ensure adequate amenity space and open space is provided. The subject property, due to the existing building footprint of the dwelling and deck, does not provide a large rear yard for amenity space. It is typical of waterfront properties and owner to view the portion of their property fronting onto the water with a shoreline as their front yard. The existing rear yard setback from the Gazebo (#2) although deficient serves its purpose as the structure provides an enclosed space for property owners to enjoy their yard and scenic

views. Moreover, the existing lot coverage of all accessory structures (3.34%) is in compliance ensuring sufficient open space is provided overall.

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

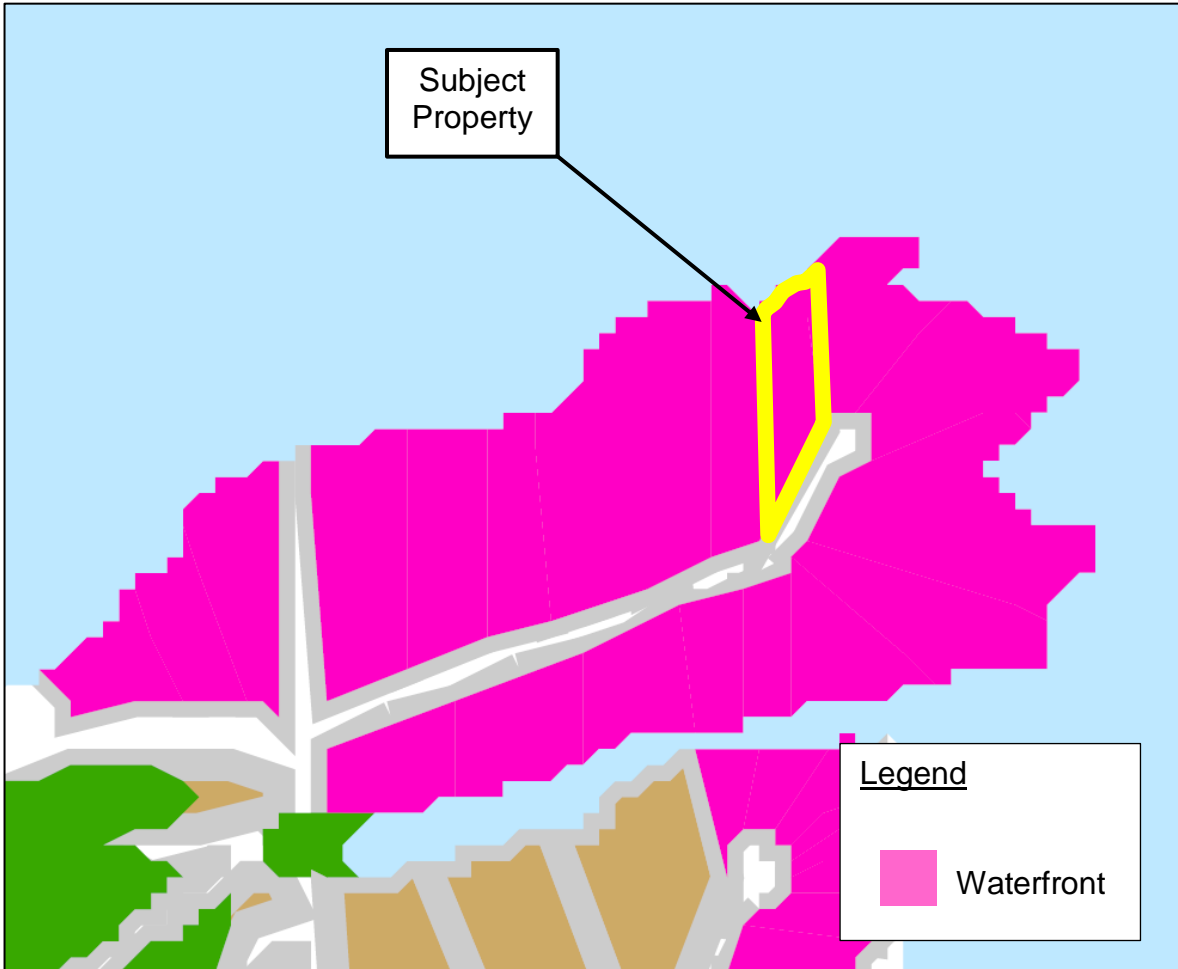
- Appendix A – Location Map
- Appendix B – Aerial Photo
- Appendix C – Applicant’s Sketch

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Department Head: Leah Barrie, Director of Development Services
Division File: D20-2024-064

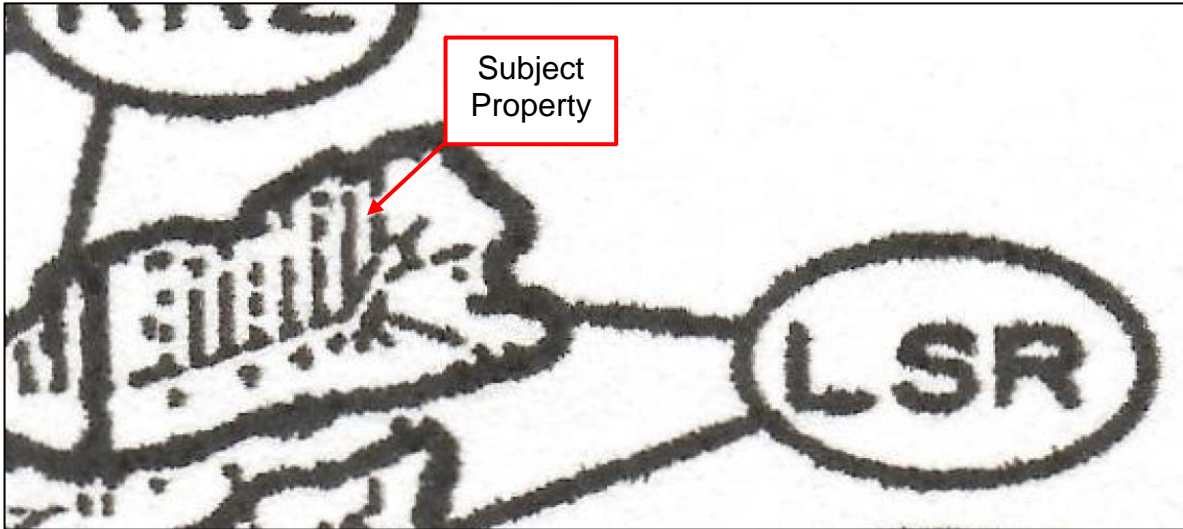
Schedule 1

Relevant Planning Policies and Provisions

City of Kawartha Lakes Official Plan

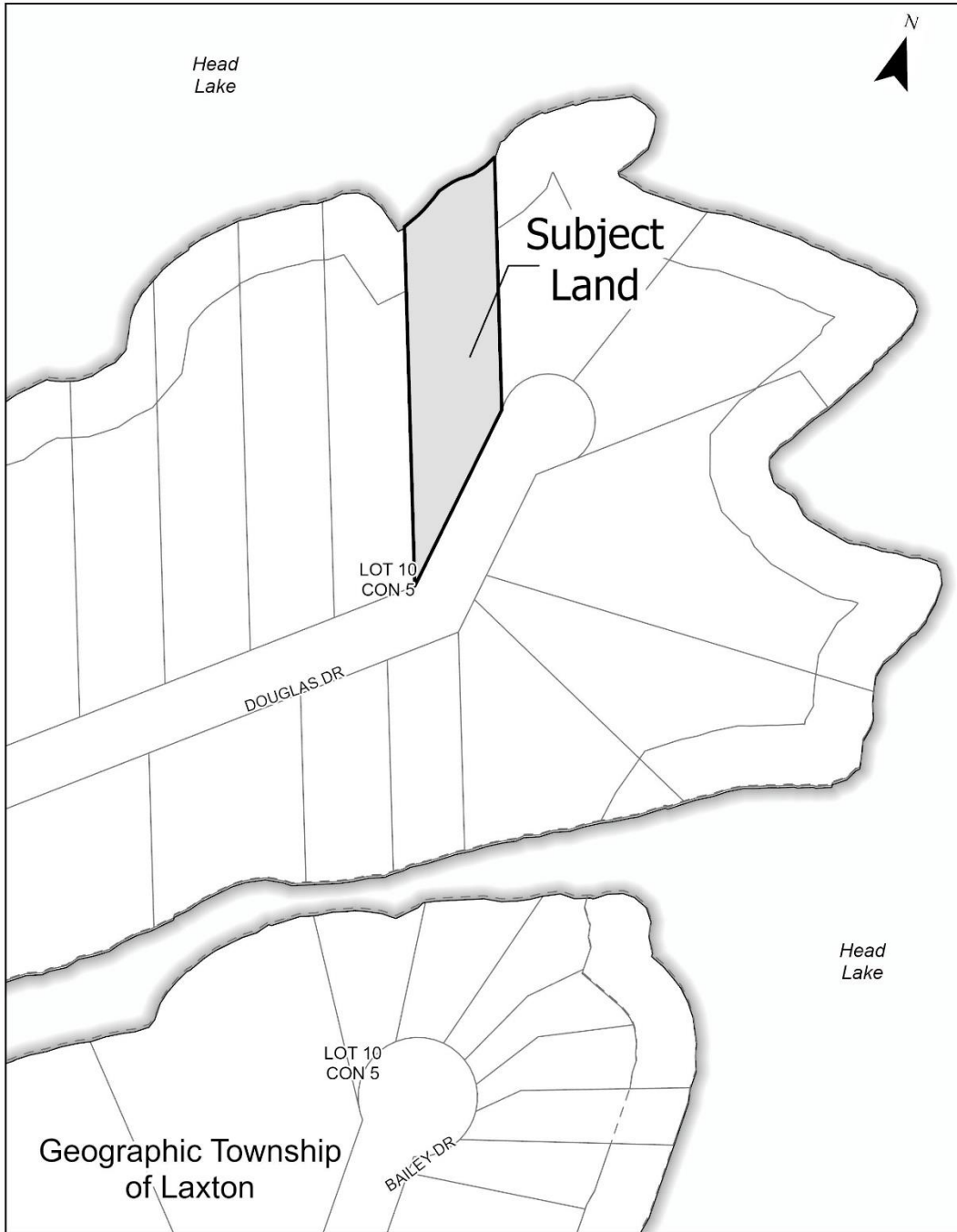


United Townships of Laxton, Digby and Longford Zoning By-Law 32-83



LOCATION MAP

D20-2024-064



APPENDIX " B "

to

REPORT COA2024-073

FILE NO: D20-2024-064

AERIAL PHOTO

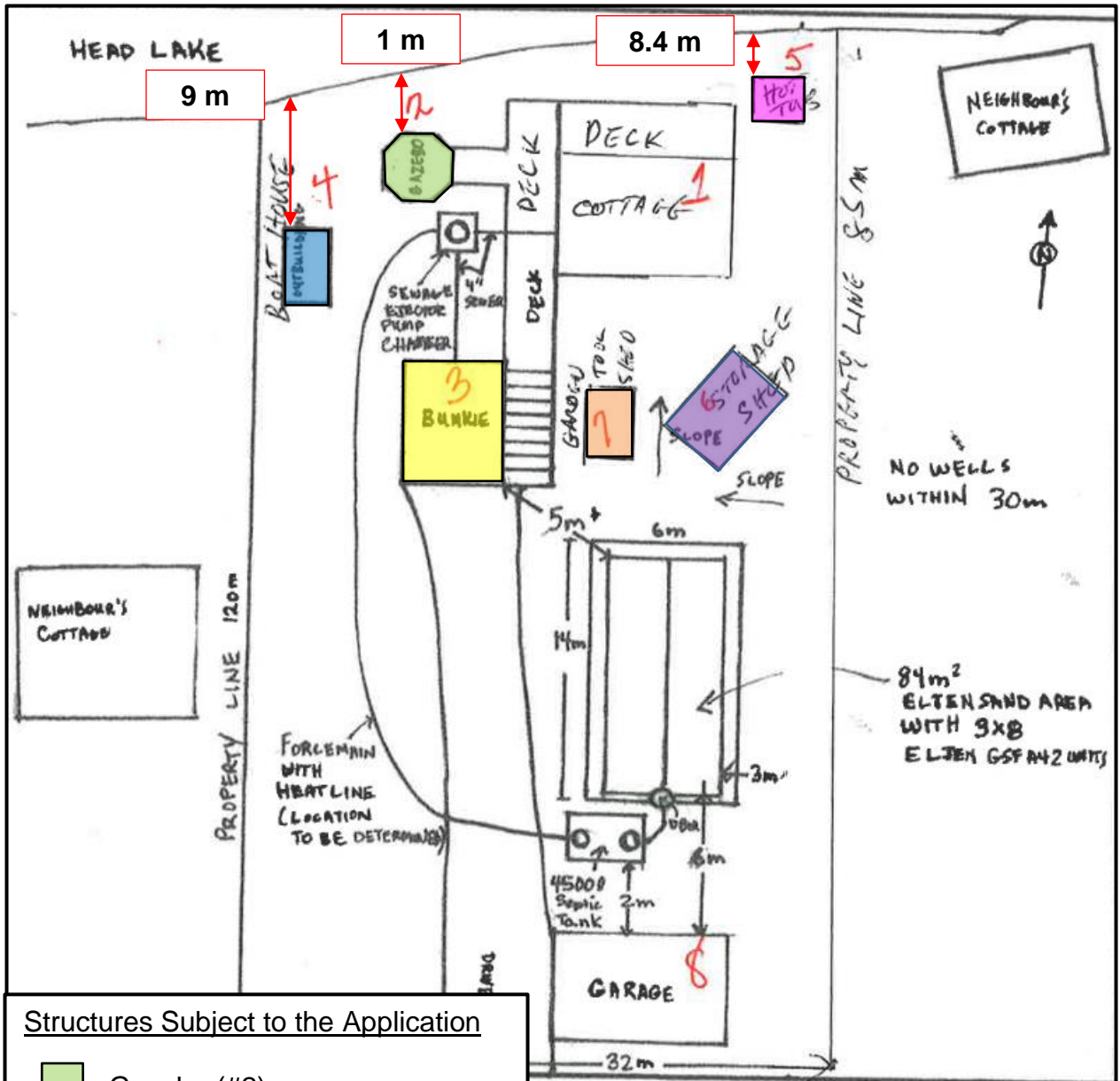


to

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APPLICANT'S SKETCH



Structures Subject to the Application

- Gazebo (#2)
- Bunkie (#3)
- Boat Supply Shed (#4)
- Hot Tub Gazebo (#5)
- Storage Shed (#6)
- Garden Tool Shed (#7)

The number corresponds with the numbers shown on the sketch