

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Gienow and Berry
Report Number COA2024-098

Public Meeting

Meeting Date: October 24, 2024

Time: 1:00 pm

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

Ward 8 – Geographic Township of Emily

Subject: The purpose and effect is to recognize an existing shed/bar structure and existing storage container.

Relief sought:

1. Section 3.1.2.1 of the Zoning By-law requires accessory structures to be located in a side or interior yard; the existing storage container is located in the front yard;
2. Section 12.2.1.3 of the Zoning By-law requires a minimum 30 metre water setback; the existing water setback from the shed/bar is 19.50 metres.

The variance is requested at **131 Kenedon Drive** (File D20-2024-090).

Author: Ahmad Shahid, Planner II

Signature:



Recommendations

That Report COA2024-098 – Gienow and Berry, be received;

That minor variance application D20-2024-090 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 COA2024-098, which shall be attached to and form part of the Committee's Decision;
- 2) **That** the detached garage identified in Appendix C, submitted as part of Report COA2024-098, be removed within a period of twelve (12) months after the date of the Notice of Decision. This condition will be considered

fulfilled upon the owner providing photographic evidence that the structure has been removed to the Secretary-Treasurer; and,

- 3) **That** this approval shall be in effect a period of twelve (12) 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 COA2024-098. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Application Summary

Proposal:	Recognition of an existing shed/bar structure and an existing storage container.
Owners:	Jodi Gienow and Robert Berry
Applicant:	Owners
Legal Description:	Part of Lot 17, Concession 7 (being Parts 1 and 3 of Reference Plan 57R-5230)
Official Plan ¹ :	Waterfront (City of Kawartha Lakes Official Plan, 2012)
Zone ² :	Rural Residential Type Three Exception Seven (RR3-7) Zone (Township of Emily Zoning By-Law 1996-30)
Site Size:	2,873.27 square metres (0.71 acres)
Site Access:	Year-round maintained road
Site Servicing:	Private individual well and septic system
Existing Uses:	Residential
Adjacent Uses:	Residential, Agricultural

Rationale

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 Emily on the shore of Pigeon Lake. The surrounding area is primarily residential, with built-form

¹ See Schedule 1

² See Schedule 1

consisting of single-detached dwellings and assorted accessory structures with varying proximities and locations in relation to the road and shoreline. Located across the street, south of the subject property, is an agricultural property with a residential dwelling. Along Kenedon Drive, particularly to the east of the subject property, the residential lots are effectively shielded from the roadway by a natural barrier of trees and hedges. West of the subject property, residential lots present open views from the road.

The subject property currently contains a single-detached dwelling with an attached Additional Residential Unit (ARU), a shed/bar structure at the lakeside, a garbage shed, as well as a detached garage and storage container in the front yard. The proposal seeks to recognize both the existing shed/bar structure and existing storage container. As part of the application, the existing detached garage in the front yard will be removed.

The property serves as a multi-generational residence through the use of the existing ARU. The shed/bar structure is 11.54 square metres with 3.74 square metres space dedicated to the shed storage component. According to the property owners, the shed/bar has been existing since 1968. However, this cannot be substantiated using aerial imagery or third party data from the Municipal Property Assessment Corporation. The shed/bar does not contain any habitable space and is located in the rear yard.

The existing storage container is 26.47 square metres in size and was placed on the property in 2020, according to the property owners. Given the removal of the existing detached garage and the multi-generational household, the use of a storage container is considered appropriate. The existing storage container is located in the front yard, largely screened from the public view by the existing row of hedge and trees along the road.

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.

Policy 20.3.10. 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. 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. The shed/bar structure supports the social use or element of the waterfront, and encourages its recreational use.

Accessory uses to single detached dwellings are permitted in the Waterfront 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 Rural Residential Type Three Exception Seven (RR3-7) Zone under the Township of Emily Zoning By-Law 1996-30. The RR3-7 Zone permits various uses including a vacation dwelling or a single detached dwelling as well as accessory structures. Relief is required from the following provisions of the Zoning By-law:

- Location Of Accessory Structure: Section 3.1.2.1 of the Zoning By-law requires accessory structures to be located in a side or interior yard; the existing storage container is located in the front yard;
- Water Setback: Section 12.2.1.3 of the Zoning By-law requires a minimum 30 metre water setback; the existing water setback from the shed/bar is 19.50 metres.

Firstly, the intent of the minimum front yard setback is to ensure adequate spatial separation between built form and the travelled portion of the street and to maintain features such as the character of the streetscape. Limiting the location of accessory structures to the side or rear yard ensures accessory uses remain subordinate to the primary use by being located in less visible areas on the property. This ensures the property is cohesive with surrounding properties and area. The existing storage container complies with the minimum front yard setback of the applicable zone and, does not interrupt or impact the travelled portion of the road. As previously mentioned, the property is effectively screened from the public view by the existing vegetative cover along the road. The storage container is located directly behind this vegetative cover, mitigating concerns regarding any major visual impact to the property from the public view. Moreover, front yard accessory structures in the form of detached garages and storage structures are commonly found along Kenedon Drive based on aerial imagery from 2023 and data from MPAC.

With respect to the water 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. The shed/bar structure does not contain habitable space nor is habitable space being introduced within the structure, as such, there is no concern with water hazards and dangers to habitable space. The existing shoreline conditions are not anticipated to change due to the existing shed/bar, and as such, the structure will not negatively impact vegetation or infiltration.

For comparative purposes, the Rural Zoning By-law (RZBL) that was adopted by Council although under appeal and 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 shed/bar structure may be considered a shoreline structure under the RZBL and not subject to the minimum water setback. However, as the RZBL is under appeal, its policies are not in effect.

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.”

DS – Building and Septic (Septic): “A sewage system installation report for a replacement sewage system has been issued under file SS2020-0441. The shed/bar and storage container are located on the property to ensure the minimum clearance distances to the sewage system. These structures will not cause any change to the capacity requirements of the sewage system.

As such, the Building and Septic Division have no concerns with the minor variance proposal as it relates to private on-site sewage disposal.”

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

Public Comments:

No comments received as of the writing of the staff report.

Attachments

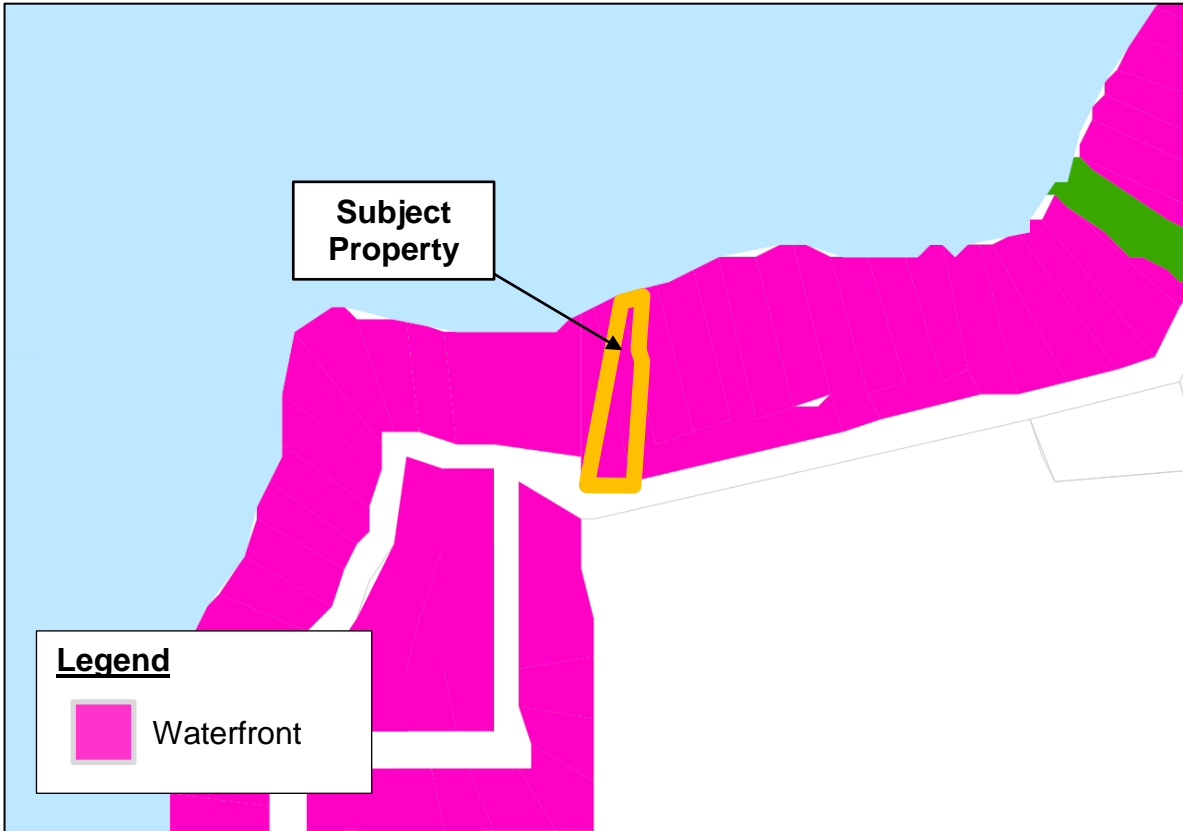
Appendix A – Location Map
Appendix B – Aerial Photo
Appendix C – Applicant’s Sketch

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E-Mail: ashahid@kawarthalakes.ca
Department Head: Leah Barrie, Director of Development Services
Division File: D20-2024-090

Schedule 1

Relevant Planning Policies and Provisions

City of Kawartha Lakes Official Plan



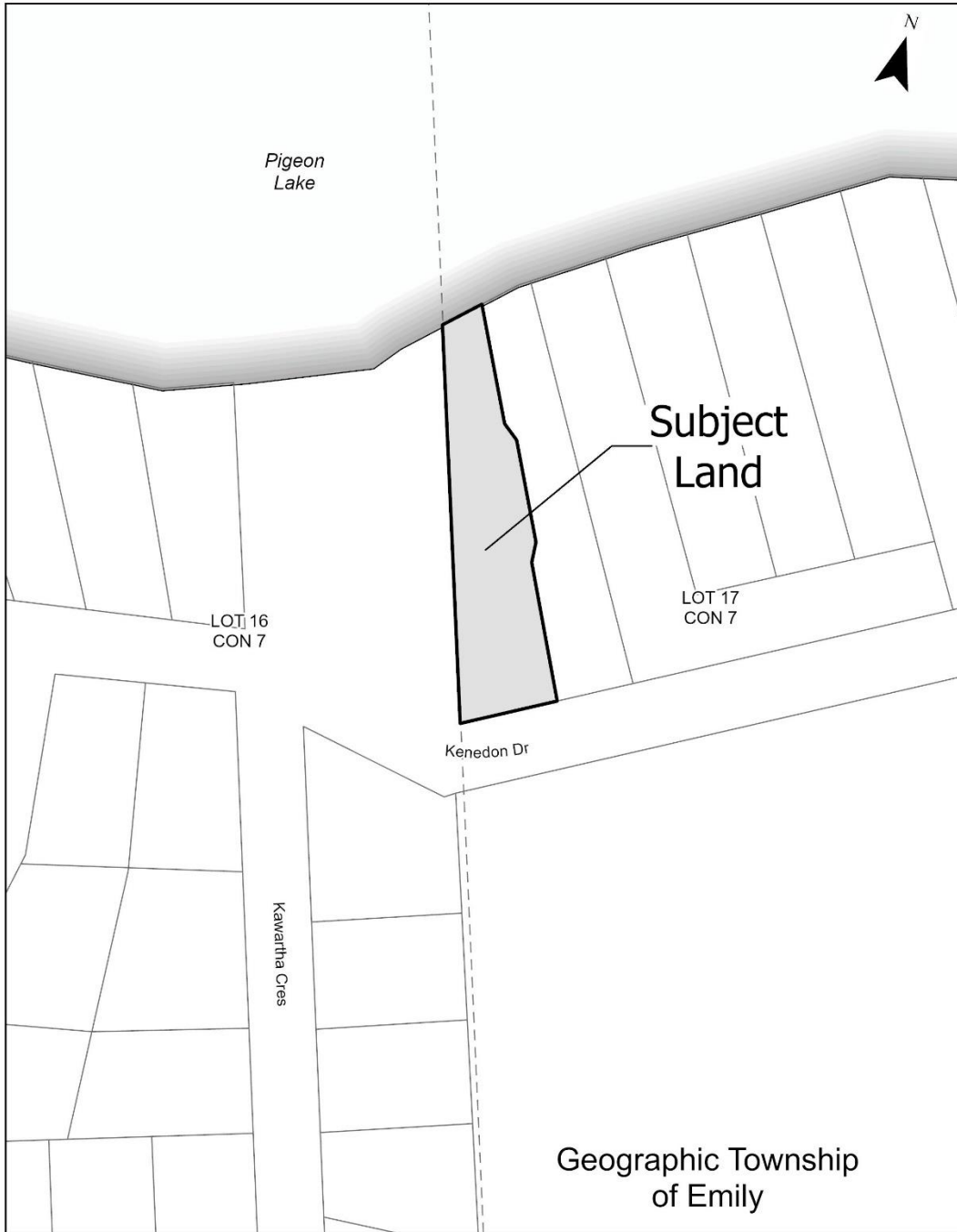
Township of Emily Zoning By-Law 1996-30



to

LOCATION MAP

D20-2024-090



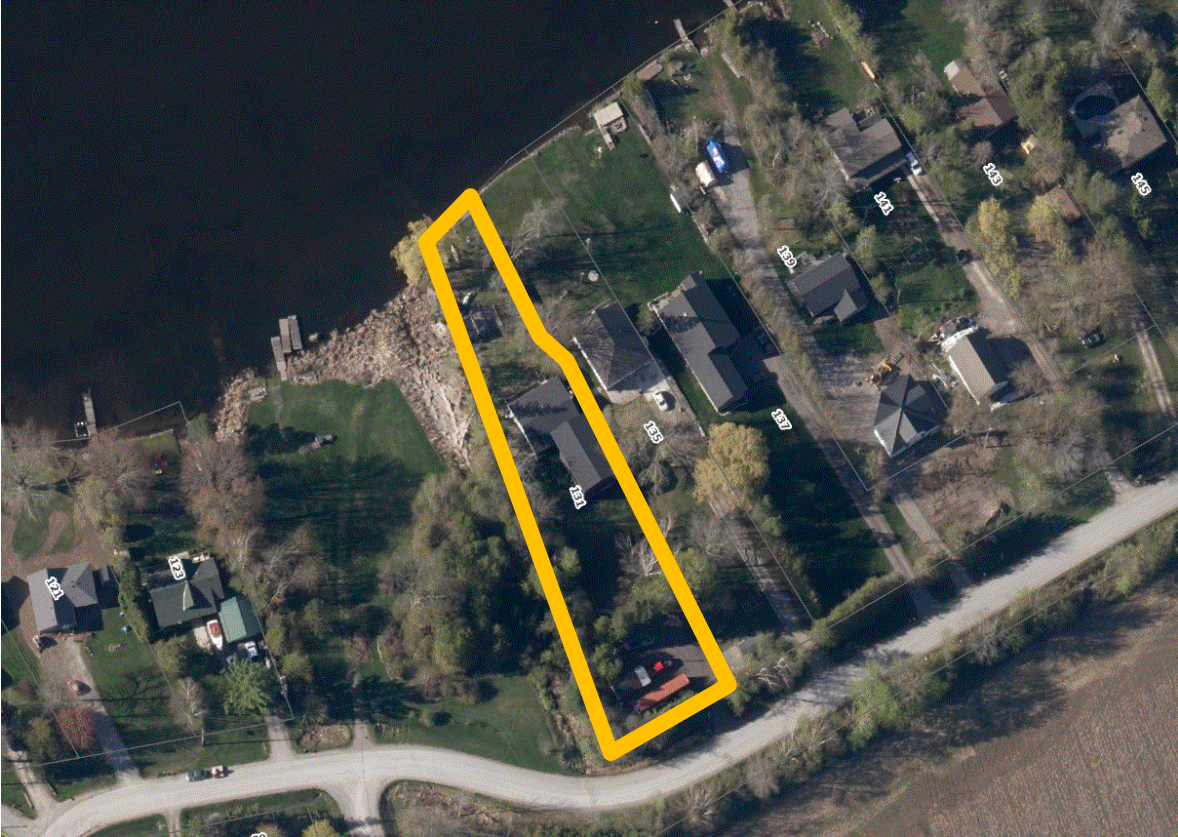
APPENDIX " B "

to

REPORT COA2024-098

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AERIAL PHOTO (2023)



to

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APPLICANT'S SKETCH

