

The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Edwards

Report Number COA2024-089

Public Meeting

Meeting Date: September 26, 2024

Time: 2:00 pm

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

Ward 6 – Former Village of Omemee

Subject: The purpose and effect is to facilitate the severance of the property to create one (1) new residential lot with frontage on Walnut Street West to contain a future single detached dwelling.

Relief sought:

1. Section 8.2.1.1 b) of the Zoning By-law requires a minimum lot area of 830 square metres for a lot serviced by municipal sewers and private individual wells; the proposed lot areas are 665.5 square metres for the severed lot and 663.1 square metres for the retained lot;
2. Part 2 of the Zoning By-law defines 'Accessory Building' as a detached building or structure on the same lot as the main building devoted exclusively to an accessory use; as a result of the severance, the three (3) accessory buildings (sheds) would temporarily remain on the severed lot as stand-alone structures without a main use (therefore primacy of use); and,
3. Section 3.1.3.3 of the Zoning By-law provides that a maximum of two (2) accessory buildings or structures shall be permitted on a lot in any class of residential zone; the proposed severed lot is to contain three (3) accessory buildings (sheds).

The variance is requested at **18 Deane Street North** (File D20-2024-081 and D03-2024-023).

Author: Katherine Evans, Senior Planner

Signature: 

Recommendations

That Report COA2024-089 – Edwards, be received;

That minor variance application D20-2024-081 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

That consent application D03-2024-023 be GRANTED, as the application represents good planning, and is in accordance with Section 53(1) of the Planning Act.

Conditions of Approval for Minor Variance

- 1) **That** development related to this approval shall proceed generally in accordance with the sketch in Appendix C submitted as part of Report COA2024-089, which shall be attached to and form part of the Committee's Decision;
- 2) **That** development 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; and,
- 3) **That** the three (3) sheds located on the proposed severed lot identified in Appendix E be relocated to comply with the minimum interior side and rear yard setbacks of 1.2 metres within a period of three (3) months after the date of the Notice of Decision. This condition will be considered fulfilled upon the owner providing photographic evidence to the Secretary-Treasurer that the sheds have been relocated.

This approval pertains to the application as described in report COA2024-089. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding.

Conditions of Provisional Consent

See Appendix F

These approvals pertain to the application as described in report COA2024-089. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding and for the consents to be fulfilled.

Application Summary

Proposal:	The severance of the property to create one (1) new residential lot with frontage on Walnut Street West to contain a future single detached dwelling
Owners:	Rob and Judy Edwards
Applicant:	Rob Edwards
Legal Description:	Lot 19 and Part of Lot 18, Plan 109 (being Parts 1 and 2 on Reference Plan 57R-1372)

Official Plan ¹ :	Urban Settlement Area (City of Kawartha Lakes Official Plan, 2012); Urban (Victoria County Official Plan, 1978)
Zone ² :	Residential Type One (R1) Zone (Village of Omemee Zoning By-law 1993-15)
Site Size:	Total: 1,328.6 sq. m. (14,300.9 sq. ft.); Severed lot: 665.5 sq. m. (7,163.4 sq. ft.); Retained lot: 663.1 sq. m. (7,137.5 sq. ft.)
Site Access:	Year round municipal road
Site Servicing:	Individual private well and municipal sewer
Existing Uses:	Residential
Adjacent Uses:	Residential and community facility

Rationale

Growth Plan for the Greater Golden Horseshoe (2019) and the Provincial Policy Statement 2020

The Growth Plan for the Greater Golden Horseshoe (Growth Plan), 2019 is a regional growth management policy for the Greater Golden Horseshoe area of southern Ontario, Canada. The Growth Plan classifies the Village of Omemee as a settlement area. Section 2.2.1 states that growth and development will be directed to settlement areas.

The Provincial Policy Statement (PPS), 2020 provides policy direction on matters of provincial interest related to land use planning and development. The PPS also classifies the Village of Omemee as a settlement area. Section 1.1.3.1 states that settlement areas shall be the focus of growth and development. This direction ensures the more efficient use of land, existing urban services and infrastructure. The proposal conforms to the applicable policies of the Growth Plan is consistent with the applicable policies of the PPS.

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

The subject property is located in the northwestern portion of the former Village of Omemee. The property is rectangular in shape and is a corner lot. The property currently contains a single detached dwelling constructed in 1900 (according to Municipal Property Assessment Corporation), a detached garage, and three sheds.

The proposal is to sever the lot to create one (1) new residential lot with frontage on Walnut Street West to contain a future single detached dwelling. Relief is

¹ See Schedule 1

² See Schedule 1

required to permit both the severed and retained lots to have less lot area than required under the Zoning By-law, and to recognize the existing three sheds located on the proposed severed lot.

Through the Minor Variance, relief is sought to allow the sheds to temporarily remain on the severed lot without a primary use, and to permit three accessory structures (the maximum being two accessory structures). The owner proposes to keep the sheds on the severed lot temporarily, as they will be selling the sheds.

As per the Zoning By-law, the minimum interior side yard setback for an accessory structure is 1.2 metres, and the minimum rear yard setback for an accessory structure is 1.2 metres. The sketch in Appendix D labels the sheds as Shed 1, Shed 2, and Shed 3. Shed 1 does not comply with the minimum side yard setback, Shed 2 does not comply with the minimum side or rear yard setback, and Shed 3 does not comply with the minimum rear yard setback. The proposal is to remove the sheds from the property, but Condition 3 is in place to ensure the sheds are relocated on the property in compliance with these minimum setbacks until they are removed.

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 Urban Settlement Area under the City of Kawartha Lakes Official Plan (2012) and Urban under the Victoria County Official Plan (1978).

As the Urban Settlement Area Designation in the City's 2012 Official Plan as it relates to the Omeme Secondary Plan is under appeal, the Urban designation of the Victoria County Official Plan (VCOP) applies. Within the Urban Designation, the permitted uses are residential, recreational, institutional, industrial, cultural, and commercial uses. A broad range of residential uses are permitted as well as buildings and structures accessory to residential uses. Performance and siting criteria is implemented through the Zoning By-law. The maximum density is 25 units per hectare, and the proposed density is approximately 15 units per hectare.

As per Policy 8.3.1 of the VCOP, consents may be considered only when the land fronts on an assumed public road and should not be considered where access may create a traffic hazard. The retained lot will continue to be accessed via the existing driveway off of Deane Street North and the proposed severed lot is to be accessed via Walnut Street West, which are both assumed municipal roads that are maintained year round. The proposed severed lot is approximately 32.8 metres from the intersection of Walnut Street West and Deane Street North, and impacts to traffic are not anticipated.

Additionally, the VCOP provides that the proposed lot size should be appropriate for the uses proposed and the services available. The proposed lot sizes are

considered to be appropriate for the construction of a single detached dwelling, and the lot is serviced by municipal sewers.

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 Residential Type One (R1) Zone under the Village of Omeme Zoning By-law 1993-15. A single detached dwelling as well as accessory buildings and structures are permitted within this zone. The proposal complies with all provisions of the Zoning By-law with the exception of the minimum lot area, the definition of 'Accessory Building', and the maximum number of accessory buildings or structures.

Section 8.2.1.1 b) of the Zoning By-law requires a minimum lot area of 830 square metres for a lot serviced by municipal sewers and private individual wells. The proposed lot areas are 665.5 square metres for the severed lot and 663.1 square metres for the retained lot. The intent of the minimum lot area requirement is to ensure lots are large enough to accommodate development while ensuring there is adequate space for amenity uses, private services (when required), and stormwater infiltration.

The proposed lot area of the severed and retained parcels is sufficient for stormwater infiltration and for the accommodation of development within a building envelope that complies with the provisions of the Zoning By-law. Adequate amenity space will be maintained. As the property is serviced by municipal sewers, space is not required for a private individual septic system. A new well has been established on the severed lot. Additionally, both the severed and retained lots comply with the minimum frontage requirement under the Zoning By-law, being 17 metres.

Part 2 of the Zoning By-law defines 'Accessory Building' as a detached building or structure on the same lot as the main building devoted exclusively to an accessory use. As a result of the proposed severance, the three (3) accessory buildings (sheds) would temporarily remain on the severed lot as stand-alone structures without a main use. Additionally, Section 3.1.3.3 of the Zoning By-law provides that a maximum of two accessory buildings or structures shall be permitted on a lot in any class of residential zone. The proposed severed lot is to contain three accessory buildings.

Relief is required to permit accessory structures, being the three sheds, to be located on a lot without a primary use. The granting of a variance will allow the accessory use to continue without a primary use until the decision of the Committee of Adjustment lapses. After this time, a primary use will need to be established for the accessory structure to be compliant with the Zoning By-law.

The sheds are to be kept on the property on a temporary basis as the property owners intend to sell the sheds. As per Condition 3, the sheds will be relocated on the property so they are 1.2 metres from the side lot line and 1.2 metres from the

rear lot line. Therefore, they will be compliant with the setbacks until such time that they are removed from the property. While the proposal is to sever the lot, when viewing the property from the street it will continue to appear to be one lot, so the accessory structures will not look out of place. The accessory structures are relatively dispersed throughout the property and do not appear cluttered.

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 the Consent application was circulated in accordance with the requirements of the Planning Act, including the mail circulation and the public notice sign. The mail circulation for the Minor Variance was circulated in accordance with the requirements of the Planning Act. The public notice sign for the minor variance was posted nine days before the Committee of Adjustment meeting instead of the statutory ten days.

Agency Comments:

Public Works (Roads Division): “Public Works Roads requests that an entrance review approval letter be obtained for all existing and proposed entrances on both the severed and retained parcels. This is to confirm existing entrances comply with By-Law 2017-151 or that an entrance compliant with the same would be possible if one does not currently exist.”

Building and Septic Division (Building): “No comments.”

Engineering and Corporate Assets Division: “From an engineering perspective, Development Engineering has no objection or comment regarding this Consent application. From a Development engineering perspective, we have no objection to or comment for this Minor Variance application.”

Community Services Division: “Our Department would request that, as a condition of these Consents, the Committee consider the appropriate cash-in-lieu of parkland against the value of each lot created.”

Ministry of Transportation: “The ministry has determined that the subject lands are not within MTO’s permit control area, therefore we have no comments to offer this application.”

Hydro One: “We have reviewed the documents concerning the noted Application and have no comments or concerns at this time.”

Enbridge: “Enbridge Gas does not object to the proposed application(s) however, we reserve the right to amend or remove development conditions. This response does not signify an approval for the site/development. Please always call before you dig. It is the responsibility of the applicant to verify the existing gas servicing does not encroach on more than one property when subdividing or severing an existing land parcel. Any service relocation required due to a severance would be at the cost of the property owner.”

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 (Consent)
- Appendix D – Applicant’s Sketch (Minor Variance)
- Appendix E – Sheds to be relocated
- Appendix F – Proposed Conditions of Provisional Consent

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Department Head: Leah Barrie, Director of Development Services
Division File: D20-2024-081 and D03-2024-023

Schedule 1

Relevant Planning Policies and Provisions

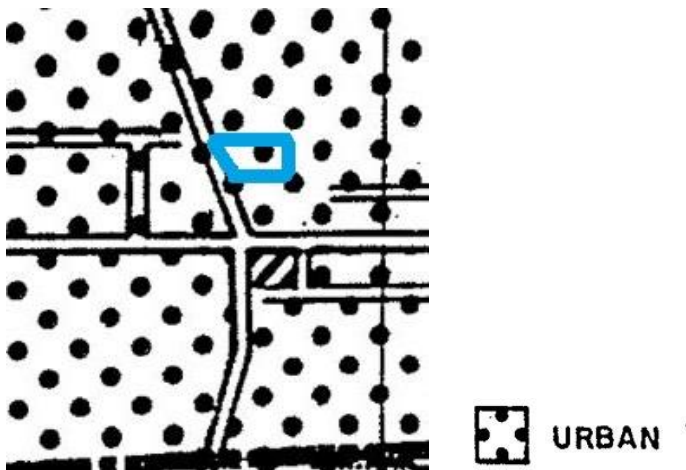
City of Kawartha Lakes Official Plan



18. Urban Settlement Designation

18.8. Omemee

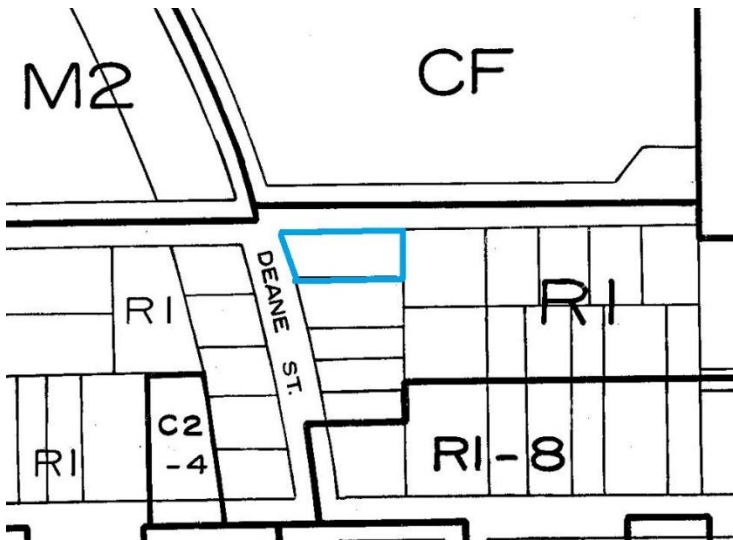
Victoria County Official Plan



6.2 Urban Designation

8.3 Consents

Village of Omeme Zoning By-law 1993-15



Part 2 Definitions

ACCESSORY BUILDING means a detached building or structure on the same lot as the main building devoted exclusively to an accessory use. For the purpose of this By-law swimming pools shall be considered an accessory building or structure.

ACCESSORY USE means a use subordinate and naturally, customarily and normally incidental to and exclusively devoted to a main use of land or building and located on the same lot.

Part 3 General Provisions

3.1 Accessory Buildings, Structures and Uses

3.1.3 Lot Coverage and Height

3.1.3.3 A maximum of two accessory buildings or structures, excluding outdoor swimming pools, shall be permitted on a lot in any class of residential zone.

Part 8 Residential Type One (R1) Zone

8.1 Uses Permitted

8.3 Zone Provisions

8.2.1.1 Lot Area (min.)

b) services with municipal sewers only 830 sq. m.

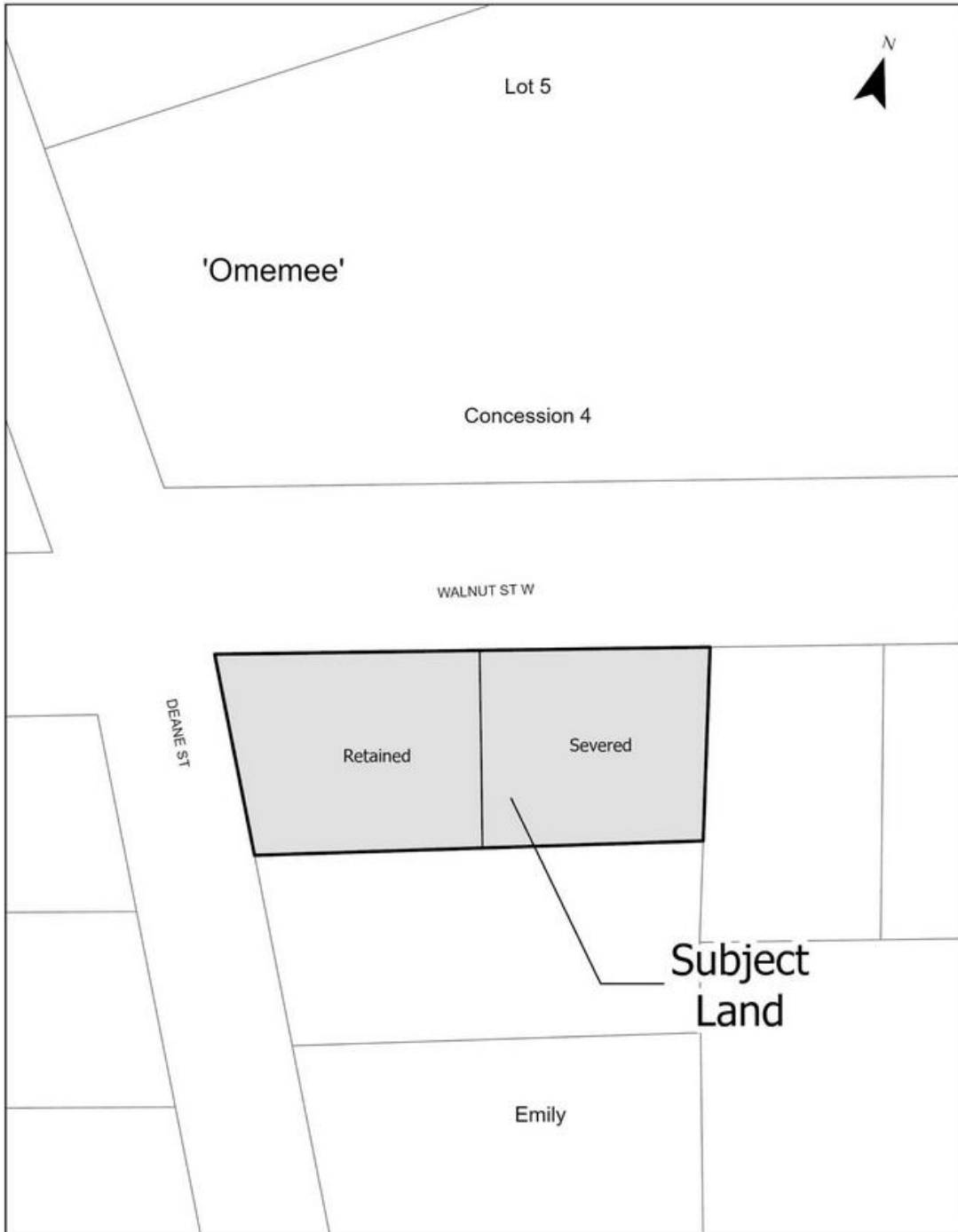
to

REPORT COA2024-089

FILE NO: D20-2024-081
D03-2024-023

LOCATION MAP

D03-2024-023



APPENDIX " B "

to

REPORT COA2024-089

FILE NO: D20-2024-081
D03-2024-023

AERIAL PHOTO



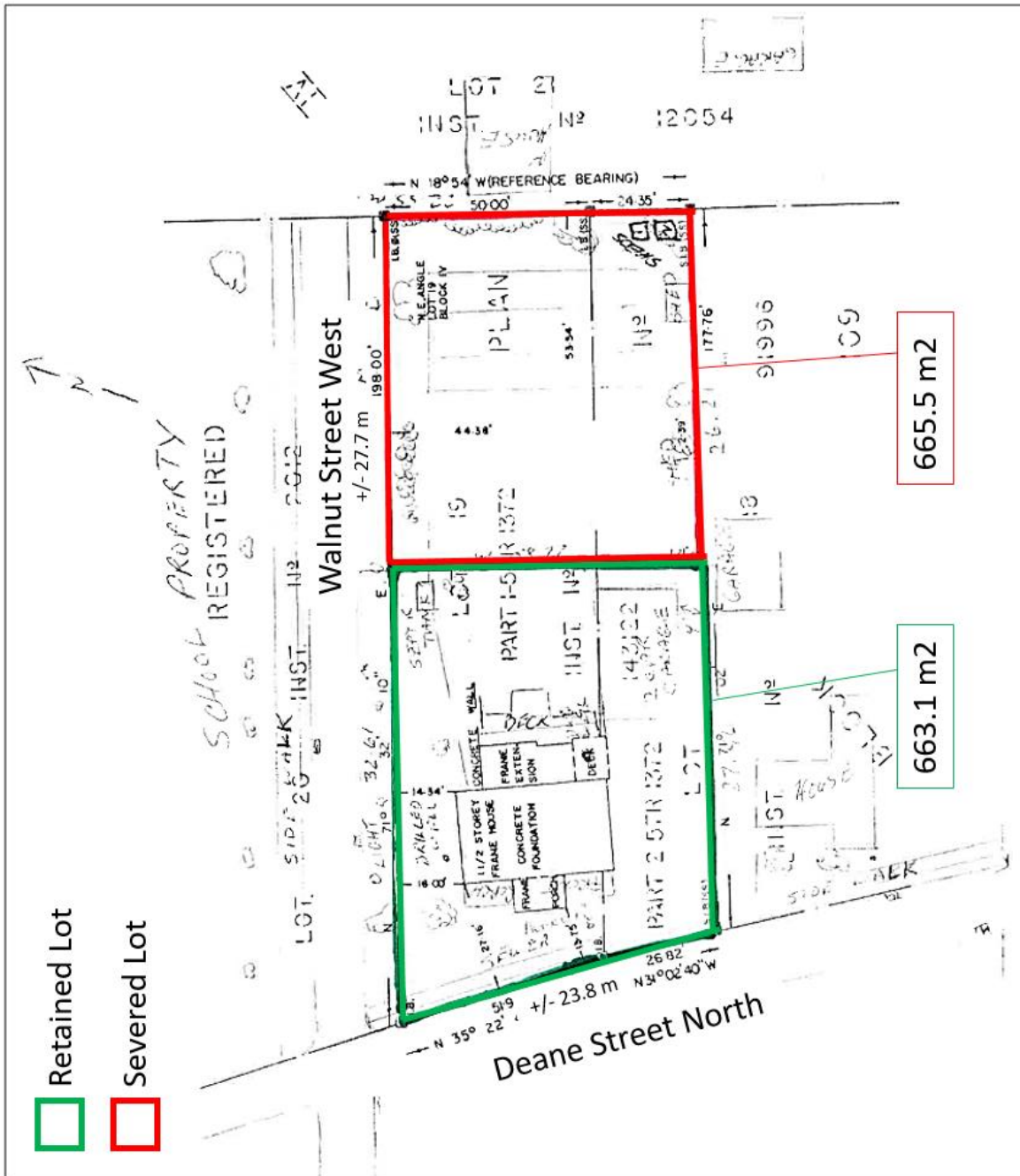
to

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D03-2024-023

APPLICANT'S SKETCH (CONSENT)



to

REPORT COA2024-089

FILE NO: D20-2024-081

D03-2024-023

APPLICANT'S SKETCH (MINOR VARIANCE)

Severed Lot: 665.5 m²

- Shed 1 (existing)
- Shed 2 (existing)
- Shed 3 (existing)

Sheds are to remain on the severed lot temporarily and are to be relocated to comply with minimum side and rear yard setback of 1.2 metres

Retained Lot: 663.1 m²

- Detached garage (existing)



APPENDIX " E "

to

REPORT COA2024-089

FILE NO: D20-2024-081
D03-2024-023

SHEDS TO BE RELOCATED



to

REPORT COA2024-089FILE NO: D20-2024-081
D03-2024-023**PROPOSED CONDITIONS OF PROVISIONAL CONSENT**

1. Submit to the Secretary-Treasurer one (1) copy of the preliminary reference plan of survey of the lot to be severed for review and endorsement and the subsequent registered reference plan of survey; or, alternatively, the applicant's solicitor or an Ontario Land Surveyor shall provide a legal description that can be tendered for registration and meets the intent of the consent as applied for.
2. Submit to the Secretary-Treasurer payment of all past due taxes and charges added to the tax roll, if any, at such time as the deeds are stamped.
3. Submit payment to the City of Kawartha Lakes of the stamping fee prevailing at the time the Transfer/deed are stamped, for the review and clearance of these conditions. The current fee is \$500.00. Payment shall be by certified cheque, money order, or from a lawyers trust account.
4. Payment of the cash-in-lieu of the dedication of parkland, equal to 5% of the appraised value of the land to be severed, as determined by an experienced and qualified land appraiser (CRA or AACI) as of the day before the day the provisional consent was given. The appraisal report shall accompany the cash-in-lieu payment. The City is not required to accept the appraisal report and reserves the right to peer-review the appraisal report and negotiate the cash-in-lieu payment. Payment shall be made by certified cheque, money order, or from a lawyers trust account.
5. The owner shall apply for and pay the prescribed fee to obtain an Entrance Review Approval Letter for all existing and proposed entrances and submit it to the Secretary-Treasurer as written confirmation from the City's Manager of Roads Operations (or his/her designate) to confirm that the existing entrance complies with By-Law 2017-151 and that an entrance permit would be available for the lot to be severed.
6. Submit to the Secretary-Treasurer a deed in triplicate for endorsement with the certificate of consent which deed shall contain a registerable description of the parcel of land described in the decision.
7. The owner's solicitor shall provide a written undertaking to the Secretary-Treasurer confirming, pursuant to Subsection 53(43) of the Planning Act, that the deed in respect of this transaction shall be registered in the proper land registry office within six months from the date that the Secretary-Treasurer's certificate is stamped on the deed, failing which the consent shall lapse.
8. The owner's solicitor shall also undertake to provide a copy of the registered Transfer to the Secretary-Treasurer as conclusive evidence of the fulfillment of the above-noted undertaking.

9. All of these conditions shall be fulfilled within a period of two (2) years after the giving of the Notice of Decision, failing which, pursuant to Subsection 53(41) of the Planning Act, this consent shall be deemed to be refused.