

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Cordick and Lownsborough
Report Number COA2025-009

Public Meeting

Meeting Date: January 30, 2025
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 request permission to extend a legal non-conforming use (personal storage) through the construction of a storage building. An existing storage structure (Structure C, shown on sketch) is also to be recognized. The use of the property for personal storage from 1982 predates the Zoning By-law adopted in 1995.

The permission is requested at **9 Sandy Beach Road** (File D20-2024-112).

Author: Ahmad Shahid, Planner II **Signature:** 

Recommendations

That Report COA2025-009 – Cordick and Lownsborough, be received;

That permission application D20-2024-112 be GRANTED, as the application is in accordance with Section 45(2)(ii) of the Planning Act and represents good planning.

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 COA2025-009, which shall be attached to and form part of the Committee's Decision;
- 2) **That** approvals and/or permits required by the Ministry of Transportation (MTO), are applied for and granted prior to the issuance of a Building Permit; and,
- 3) **That** building construction related to the application 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 COA2025-009. Fulfillment of all conditions is required for the Permission to be considered final and binding.

Application Summary

| | |
|------------------------------|--|
| Proposal: | Construction of a second personal storage building (construction similar to an existing legal non-conforming use) |
| Owners: | Bradford Cordick, Ian Cordick, and Kimberley Lownsborough |
| Applicant: | Owners |
| Legal Description: | Part of Lot 29, Concession 7 (Part 1 of Reference Plan 57R-2379) |
| Official Plan ¹ : | Rural (City of Kawartha Lakes Official Plan, 2012) |
| Zone ² : | Agricultural (A1) Zone (Township of Fenelon Zoning By-law 12-95) |
| Site Size: | 9,591.05 square metres (2.37 acres) |
| Site Access: | Year-round maintained road |
| Site Servicing: | No servicing |
| Existing Uses: | Personal storage |
| Surrounding Uses: | Agricultural, Motel, Commercial, Residential |

Rationale

Legal non-conforming rights

Section 34 of the Planning Act authorizes municipalities to pass zoning by-laws to regulate buildings, structures and land use. Section 34(9) of the Act prevents the retroactive use of a zoning by-law. This section sets out the principle prohibiting zoning by-laws from interfering with the ability to prevent the continued use of lands. These land uses are referred to as legal non-conforming.

This section states:

34(9) No by-law passed under this section applies,

¹ See Schedule 1

² See Schedule 1

(a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose.

The extension and/or enlargement of a legal non-conforming use requires an application under Section 45(2) of the Act. Section 45(2)(a)(ii) grants power to Committee to permit a legal non-conforming property to be used for a purpose similar to or more compatible with the current zoning than its original use. This section states:

45(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 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.

The Township of Fenelon Zoning By-Law 12-95 was passed in the year 1995. The applicant has indicated that the use of the property as personal storage has been continuously existing since 1982. The predating use has also been substantiated by data from the Municipal Property Assessment Corporation (MPAC). The property has been used as personal storage across multiple generations. As per Section 8.2.1.7 of the Zoning By-law, the subject property is less than 1 hectare (2.47 acres) in size and as a result, the permitted uses and provisions of the 'Rural Residential Type One (RR1) Zone' apply. The RR1 Zone permits a single detached dwelling, a home occupation, and a public park.

Evaluation of Impact

The subject property is situated on the southwest intersection of Sandy Beach Road and Highway 35. Directly surrounding the subject property is agricultural lands with residences. In the greater surrounding context, the area contains various uses including commercial retail, motel, and low-density residential uses. The subject property contains two existing storage structures, identified as Structures "A" and "C" in Appendix C. Both the structures are used for personal storage, storing items such as a recreational vehicle, car, snowmobiles, trailers, canoes, kayaks, and boats. Structure 'A' is an existing storage building in the form of a gambrel roof structure. According to MPAC, Structure 'A' being the oldest existing structure on the subject property, has been existing since 1983. The owners have indicated that a portion of the structure was removed in April of 2022.

Proposed Structure 'B' does not change the existing use of the property for personal storage.

Structure 'A' is 166.53 square metres in size, and Structure 'C' is 39.78 square metres in size. The proposed storage building (Structure 'B') is 438 square metres.

With the area being predominantly agricultural, the proposed building aligns with built form massing one would typically see in an agricultural area. The proposed building is located distantly from Highway 35, and is not directly adjacent to any neighbouring structure or building. The proposed building has 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. The property owner has indicated that there is no intention to connect the existing or proposed structures to servicing.

The City of Kawartha Lakes Official Plan states that nothing in the Plan shall prevent any use that was lawfully existing on the date the plan was passed. The use of the property has been established prior to the adoption of the Official Plan in 2012. The Official Plan states that in considering applications for enlargements or extensions, the compatibility with surrounding land uses must be examined. The established storage use of the property, and the proposed structure aligns with the character of the area, and does not disturb any of the existing uses.

The subject property is zoned Agricultural (A1) Zone under the Township of Fenelon Zoning By-law 12-95. As per Section 8.2.1.7 of the Zoning By-law, the subject property is less than 1 hectare (2.47 acres) in size and as a result, the permitted uses and provisions of the 'Rural Residential Type One (RR1) Zone' apply. The existing structures and proposed structure all comply with the provisions of the RR1 Zone (i.e., yard requirements, lot coverage, building height), excluding the permitted uses. Moreover, the proposed storage building complies with what would be required under the A1 Zone for an agricultural structure.

Other Alternatives Considered:

The circulated notice illustrated an exterior side yard setback from Sandy Beach Road of 8 metres for proposed Structure 'B'. After consultation with the property owners, the proposed setback was further distanced to 15 metres. Although relief is not required for the proposed setback, it was determined that aligning the setback of proposed Structure 'B' with that which would be present on an agricultural property would fit within the agricultural context of the surrounding area.

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 comments or objections for this Minor Variance application.”

MTO – Ministry of Transportation: “The subject lands are within MTO’s permit control area; therefore, Ministry approvals and permits are required prior to the construction and/or alteration of any buildings, structures, or lots and prior to the issuance of any municipal building permits or approvals as per section 8. (2) (a) of the Building Code Act.”

Public Comments:

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

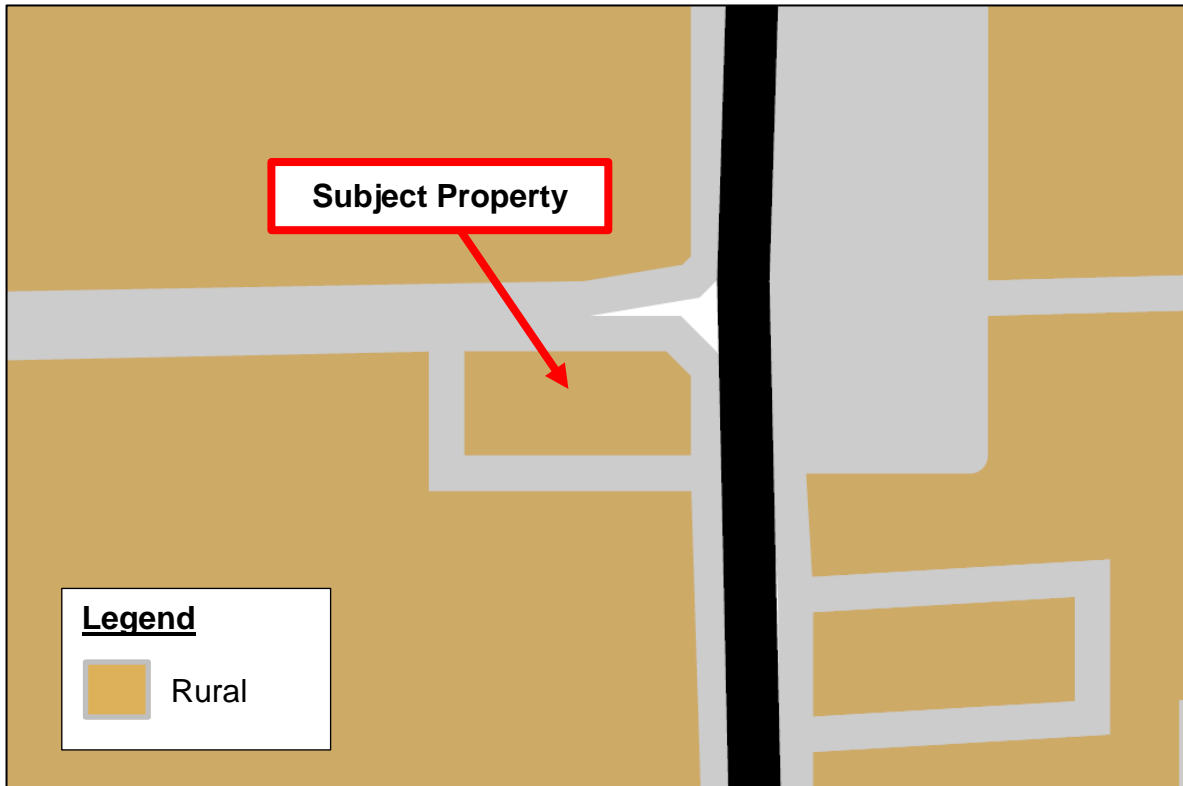
Attachments

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

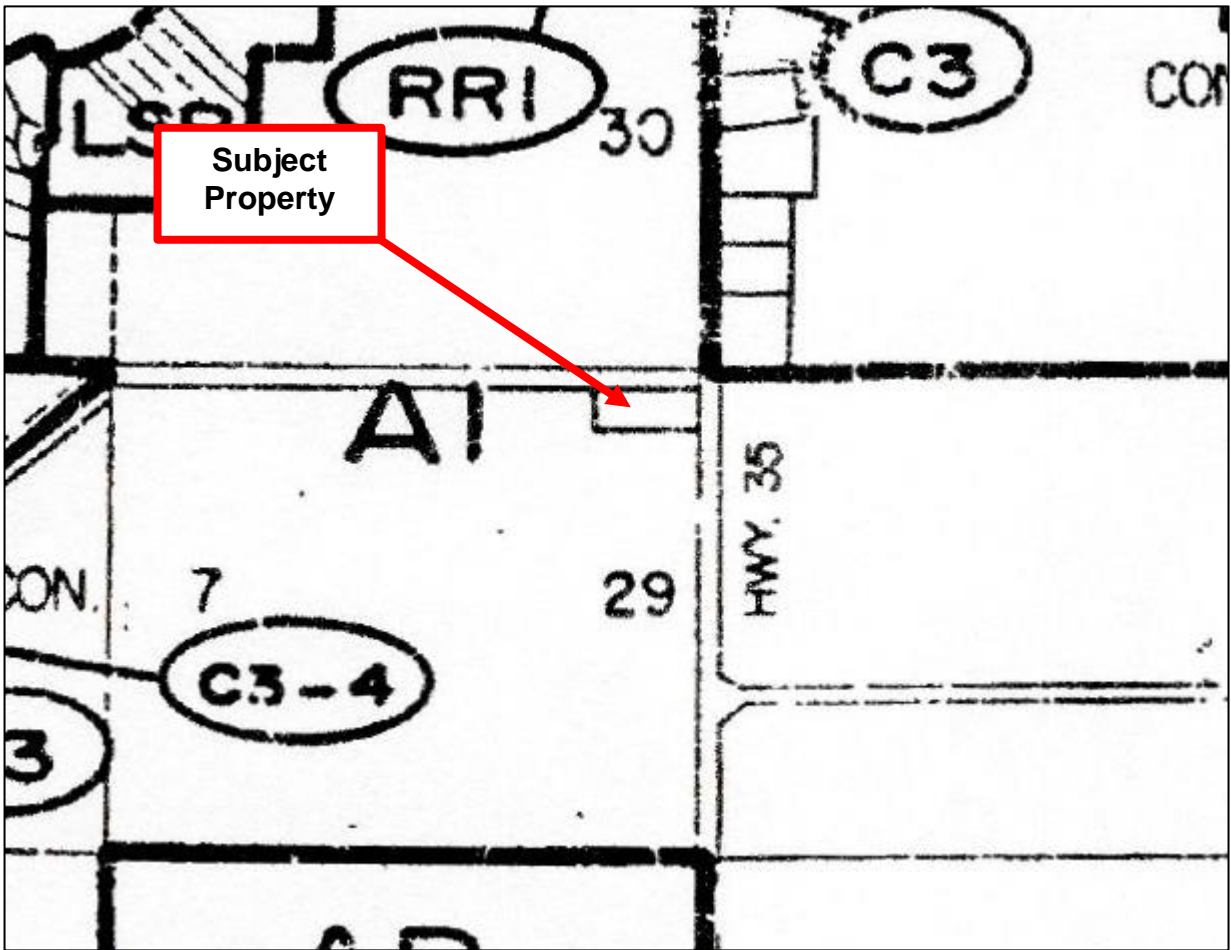
Phone: 705-324-9411 extension 1367
E-Mail: ashahid@kawarthalakes.ca
Department Head: Leah Barrie, Director of Development Services
Division File: D20-2024-112

Schedule 1 Relevant Planning Policies and Provisions

City of Kawartha Lakes Official Plan



Township of Fenelon Zoning By-law 12-95



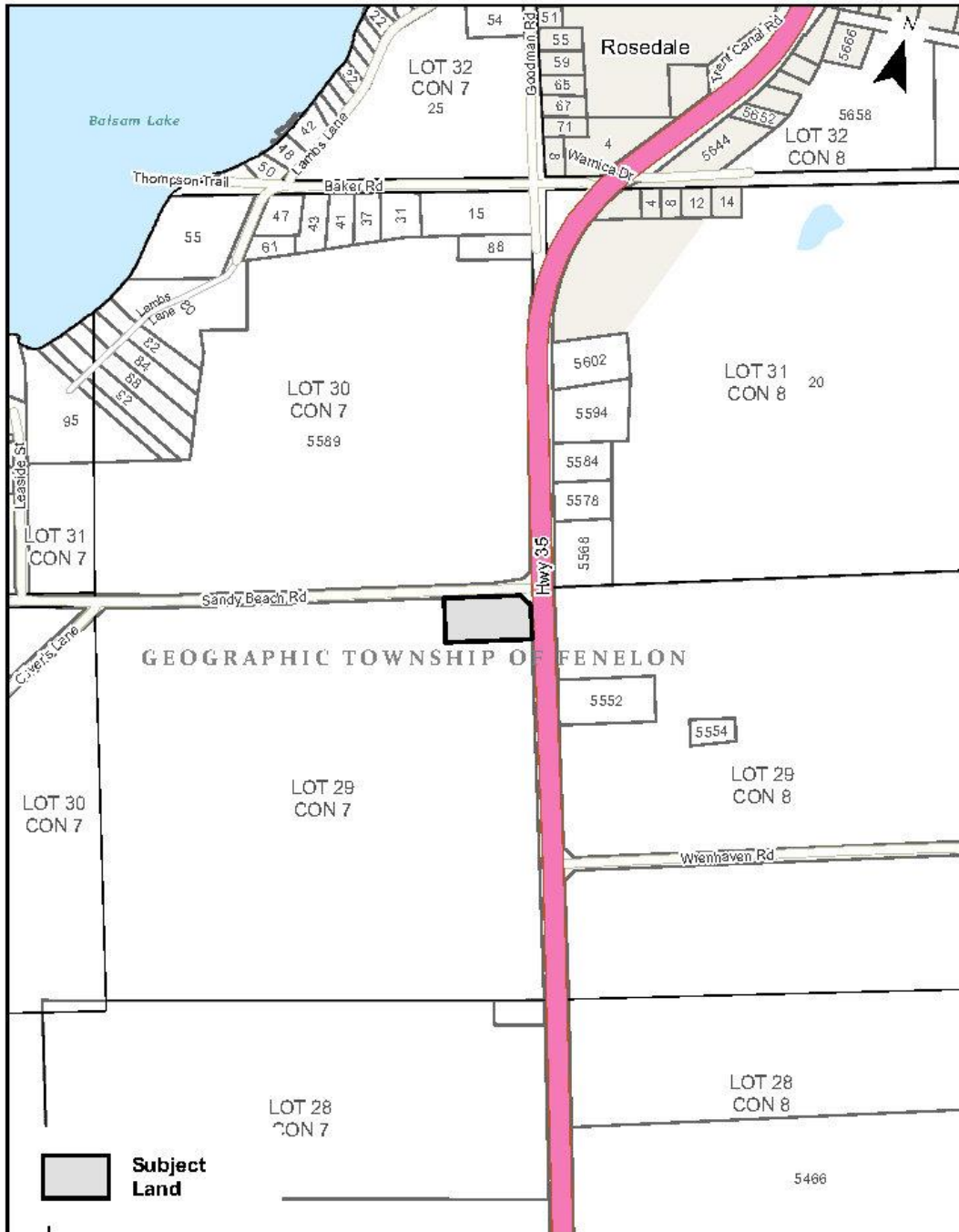
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LOCATION MAP

D20-2024-112



APPENDIX " B "

to

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AERIAL PHOTO (2023)

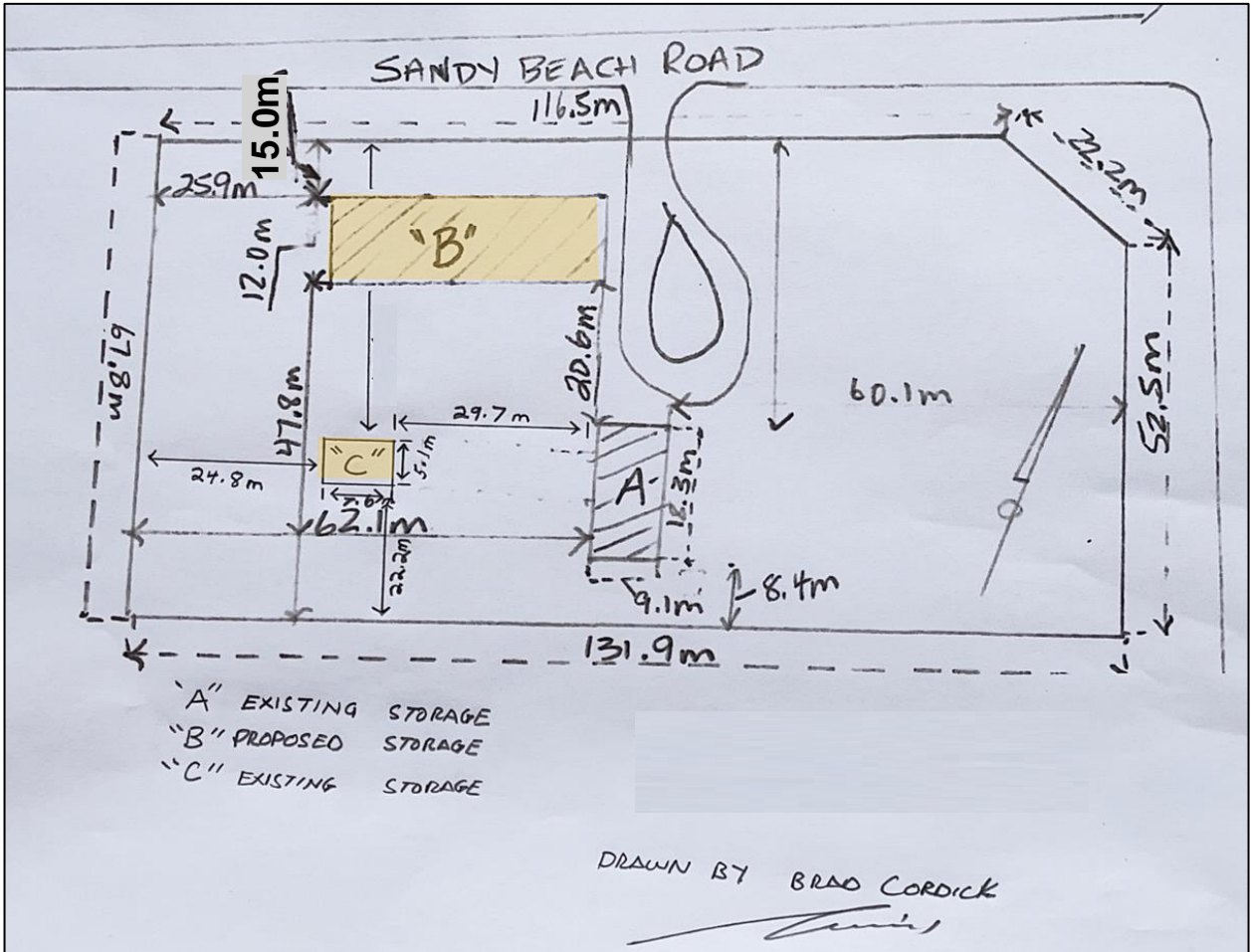


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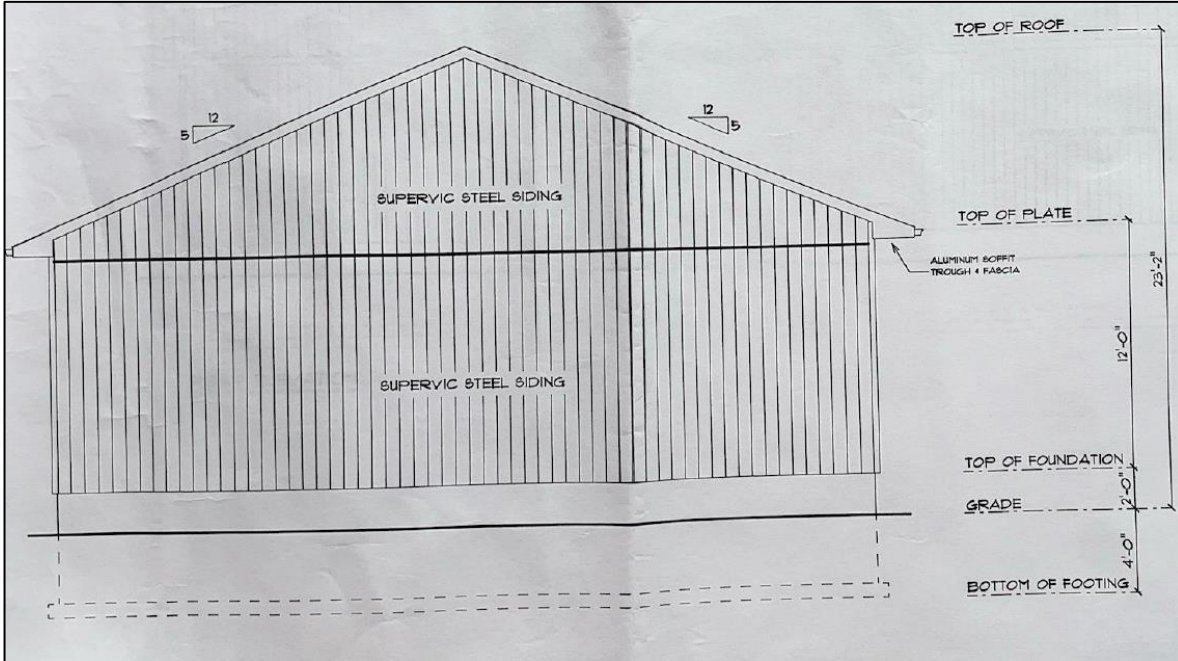
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APPLICANT'S SKETCH



to

ELEVATION DRAWING



Proposed Building (Structure 'B')