

Minor Variance Report

Application No.: A-04-23
Applicant: Donald and Anna Husack
Property Description: Part Lot 33, Con. 7 (Dummer)
1076 Duck Pond Lane
1522-020-005-75700

Background:

The Owners wish to construct an approximately 22 square metre canoe storage building (boathouse) to the west of the existing detached frame garage. Given the design of the structure, asphalt shingles are proposed to be used on the exterior facing walls.

The proposed canoe storage building meets the definition of boathouse in the Township Zoning By-law (S. 22.23). A boathouse must comply with the provisions set out in Section 3.1.6 of the By-law. Specifically, a minimum setback of 9 metres from the side lot line is required (S. 3.1.6 (c)). In addition to Section 3.1.6, a minimum setback of 15 metres is required from any lot line abutting a private road (S. 3.1.2 (d)). Finally, Section 3.4 (f) of the By-law prohibits asphalt shingles to be used for the exterior facing on any wall of any building or structures which is located partly or wholly within 90 metres of any improved public street or navigable waterway.

The purpose of the minor variance is to reduce the side lot line from 9 metres to 3.4 metres and to reduce the setback from the private road from 15 metres to 10 metres to accommodate the proposed construction as shown on the site plan prepared by Elliott and Parr (Peterborough) OLS, dated May 2, 2023.

The minor variance is also required to permit asphalt shingles to be used on the exterior facing walls of the boathouse as shown on the Elevation Plans (Drawing A1) prepared by Dawn Victoria Homes, dated 23-03-21.

The required public meeting for the application took place at the December 8, 2023 Committee of Adjustment meeting. A copy of Report Planning-2023-36 and related attachments presented at the December 8, 2023 meeting is available on the [Township website](#). The application was deferred to allow the Owners an opportunity to address issues related to the Scoped Environmental Impact Assessment (sEIA), flooding hazards and archaeological potential.

An update to the application was presented at the January 19, 2024 Committee of Adjustment meeting. A copy of Report Planning-2024-02 and related attachments presented January 19, 2024 is available on the [Township website](#).

After hearing all comments, the Committee passed the following Resolution (subject to approval of the January 19, 2024 Minutes):

Resolution Number 02-2024

Moved By: Rod Manley

Seconded By: Robert Lamarre

That the Committee review and consider all verbal and written comments received regarding Minor Variance Application File A-04-23;

That the Committee defer Minor Variance Application A-04-23 until peer review acceptance of the sEIA and any supporting material has been received; demonstration to the satisfaction of ORCA that flooding hazards have been addressed; and if required by Hiawatha First Nation, an archaeological assessment has been completed and accepted by the Ministry to ensure the application is appropriate for the development of this land and maintains the general intent and purpose of the Official Plan.

Carried

On January 25, 2024, the Owners provided photographs of the area of proposed construction and a site plan prepared by Elliott and Parr dated May 2, 2023 and revised January 22, 2024. The revised site plan includes an enlargement of the proposed boathouse location and illustrates the proposed boathouse will be located outside of the floodplain contour with a 0.01 metre and 0.02 metre clearance. The site photographs and revised site plan are attached to this Report.

The site photographs and revised site plan were provided to Otonabee Conservation and in correspondence dated January 25, 2024, ORCA stated that, in this singular occurrence the proposed canoe storage can be interpreted as meeting the intent of the Provincial Policy Statement Section 3.1 [which references natural hazards]. A copy of ORCA's correspondence is attached to this Report.

In separate correspondence on January 25, 2024, the Owners provided a revised planting plan prepared by Oak Ridge Environmental Ltd. (ORE) dated January 2024. A copy of the revised planting plan is attached to this Report. Planning Staff reviewed the planting plan along with [ORCA's Healthy Shorelines Planting Guide](#). Planning Staff also sought additional information from ORE with respect to Stantec's peer review comments dated January 11, 2024.

In correspondence dated March 8, 2024, ORE provided additional information with respect to Stantec's peer review comments and the revised planting plan. In summary, ORE stated that the revised planting plan illustrates where the plantings should be situated and that the types of trees and/or shrubs to be planted are based on what tree species would survive in the shallow soil conditions on site. ORE recommends that proof

be provided of the final planting forwarded to the Municipality and/or confirmed on-site by the Township's Building Inspector.

ORE noted that the proposed planting plan and areas to be planted will enhance/improve the overall condition of the site and offset the impacts by the proposed boathouse. Therefore, complying with the GPGGH [Growth Plan].

A copy of the complete ORE response is attached to this Report.

Based on the additional information supplied by ORE, Planning Staff are satisfied that the proposal will address Section 2.1.8 of the PPS and Section 4.2.4.5 (b) of the Growth Plan provided the following conditions are included in the decision:

- That a mitigation measures agreement be entered into between the Owners and the Municipality which would ensure the recommendations outlined in Section 12 of the sEIA prepared by Oak Ridge Environmental Ltd. dated September 2023 are implemented prior to the issuance of a building permit and prior to the building permit final inspection being given; and
- That prior to the building permit final inspection being given, the Township's Chief Building Official is satisfied that the planting plan prepared by ORE dated January 2024 has been implemented.

In terms of the archaeological assessment, the Owners contacted Hiawatha First Nation (HFN) via e-mail on January 25, 2024 regarding their requirements. HFN responded on January 26, 2024 indicating the area is located in a highly probable "Area for Archaeology" and suggested it would be best to have an archaeologist view the disturbed soil area. Township Staff sought additional clarification from HFN via e-mail dated February 1, 2024 requesting a specific requirement to be added as a condition of the minor variance decision. Township Staff provided a further e-mail to HFN on March 7, 2023 indicating that, unless otherwise directed, the following condition be recommended to the Committee regarding archaeological resources:

- That if any archaeological artifacts are found during construction, all development shall be halted immediately and the proper agency be contacted.

A copy of the above noted e-mail correspondence is attached to this Report. To date, Township Staff have not received any additional correspondence regarding archaeological potential. It is therefore the opinion of Staff that, with the inclusion of the above noted condition, the application will address Policy 2.6.2 and 2.6.5 of the PPS.

Planning Review:

Section 45 of the Planning Act provides the tests that must be satisfied to support a minor variance application. The tests are as follows:

1. Does the minor variance maintain the general intent and purpose of the Official Plan?

The subject property is designated Lakeshore Residential and Environmental Constraint in the Official Plan (OP).

Within the Environmental Constraint designation, the erection of buildings and structures or the placing or removal of fill of any kind whether originating on the site or elsewhere, are prohibited except where buildings or structures are intended for flood or erosion control, landscape stabilization or essential utilities. Those works must be in accordance with the regulations and the approval of the Otonabee Region Conservation Authority or the Ministry of Natural Resources. (S. 6.2.15.3 (a)). ORCA has indicated that the application has addressed their outstanding concerns. A permit (Permit Number: 2023-132) for the proposed construction has been issued by their agency and a copy is attached to this Report.

In the Lakeshore Residential designation, the preservation of naturally-vegetated shoreline is encouraged in order to minimize destruction to the shoreline and wetbeach habitat, minimize visual impact on the waterbody, maintain wildlife habitats and corridors and improve water quality. (S. 6.2.6.3 (c)).

Boat houses are a permitted use and may encroach into the 30-metre setback without a minor variance provided that the property Owners can demonstrate to the Township's satisfaction and, if appropriate, the authority having jurisdiction over the waterway, that it does not negatively affect the waterfront environment. (S. 6.2.6.3 (c)).

Based on the revised planting plan and additional information provided by ORE and with the recommended conditions, Township Staff are satisfied that the proposal has demonstrated that it will not negatively affect the waterfront environment. As such, the minor variance appears to maintain the general intent and purpose of the Official Plan.

2. Does the minor variance maintain the general intent and purpose of the Zoning By-law?

The subject property is zoned Limited Service Residential (LSR). A maximum of one boathouse not exceeding a total area of 80 square metres is permitted on a lot (S. 3.1.6 (a)). Boathouses must be located above the high-water mark but may be located within the water yard (Ss. 3.1.6 (f) and 3.1.6). The maximum height for a boathouse is 4.57 metres (3.1.6 (d)).

Although the proposal will not meet the minimum setbacks from the side lot line and a lot line abutting a private road, the Owners desire to locate the proposed structure within the trees in order to maintain the landscape as much as possible. The Owners advised that they would like to seek relief from the section of the By-Law prohibiting the use of asphalt shingles so that the structure is sympathetic to the other structures on his property and the surrounding area. In all other respects, the proposal complies with the Zoning By-law.

The application appears to meet the general intent and purpose of the Zoning By-law.

3. Is the proposed use desirable for the appropriate development or use of the land?

Based on the additional ORE information, ORCA's comments and the recommended conditions, the proposed use has demonstrated that it is desirable and appropriate to the development of the subject land.

The air photo attached to this Report illustrates the subject property is well treed and the property is located on a point of land. The proposed construction will not impact the view of the lake from adjacent properties and the proposed structure will be appropriately screened from surrounding properties. There have been no concerns raised by adjacent land Owners and the Owners of the property most impacted by the proposed construction (Roll No. 1522-020-005-75812) has indicated they have no objections to the application. A copy of these comments are attached to this Report.

4. Is the variance minor?

The proposed variance is minor in nature.

The proposed development will comply with all standards of the By-law for a boathouse except the minimum setbacks from the side lot line and lot line abutting a private road and for the use of asphalt shingles on the exterior facing walls.

Conformity to PPS and A Place to Grow:

This application appears to be consistent with the Provincial Policy Statement (PPS) and to conform to A Place to Grow, Growth Plan for the Greater Golden Horseshoe.

Application of Four Tests:

The Committee should state in the decision how the application meets/or does not meet the four tests:

- 1) The application is (or is not) minor in nature.
- 2) The application is (or is not) desirable and appropriate to the development of this land.
- 3) The application meets (or does not meet) the general intent of the Official Plan.
- 4) The application meets (or does not meet) the general intent of the Zoning By-law.

Summary:

The Committee will need to decide if the request is considered minor, that it is desirable and appropriate development of this parcel, and that the intended use meets the general intent of the Official Plan and Zoning By-law.

After hearing public comment and considering all written submissions, the Committee has the following options:

1. approve the minor variance with no conditions;
2. approve the minor variance with conditions;
3. defer the minor variance for further consideration at a later date; or
4. reject the minor variance.

Recommendation:

That the Committee review and consider all verbal and written comments received regarding Minor Variance Application File A-04-23;

That the Committee approve Minor Variance Application A-04-23 as requested, for the life of the structure, to facilitate the construction of the approximately 22 square metre canoe storage building (boathouse) as shown on the site plan prepared by Elliott and Parr dated May 2, 2023 and revised January 22, 2024 attached to the Decision as Schedule 'A' and the revised planting plan prepared by Oak Ridge Environmental dated January 2024 attached to the Decision as Schedule 'B' and to bring the structure into compliance with the Zoning By-law by reducing the side lot line from 9 metres to 3.4 metres, reducing the setback from the private road from 15 metres to 10 metres and to permit asphalt shingles to be used on the exterior facing walls of the boathouse as shown on the Elevation Plans (Drawing A1) prepared by Dawn Victoria Homes, dated 23-03-21 attached to the Decision as Schedule 'C'.

This variance is deemed to be minor in nature and is appropriate for the development of this land. The application maintains the general intent and purpose of the Official Plan and Zoning By-law. Approval is conditional on the following:

- i. Obtaining any necessary permits from ORCA, Douro-Dummer Building Department and any other required ministry/agency;
- ii. That verification from an Ontario Land Surveyor be provided to the Township's Chief Building Official after the structure is framed to confirm that all applicable setback requirements have been met and to ensure compliance with any relief granted by this decision of the Committee;
- iii. That a mitigation measures agreement be entered into between the Owners and the Municipality which would ensure the recommendations outlined in Section 12 of the sEIA prepared by Oak Ridge Environmental Ltd. dated September 2023 are implemented prior to the issuance of a building permit and prior to the building permit final inspection being given;
- iv. That prior to the building permit final inspection being given, the Township's Chief Building Official is satisfied that the revised planting plan prepared by ORE dated January 2024 has been implemented.
- v. That if any archaeological artifacts are found during construction, that all development shall be halted immediately and the proper agency be contacted.

Report Approval Details

Document Title:	A-04-23 (Husack) (Update 2).docx
Attachments:	<ul style="list-style-type: none"> - A-04-23 22-19-398-00-SITEPLAN-22JANUARY2024_REVISED.pdf - A-04-23 picture 5.jpg - A-04-23 picture 6.jpg - A-04-23 ORCA Comments File PPLD-2292 (January 25, 2024).pdf - A-04-23 23-3316 Figure 1 -Revised Planting Plan.pdf - A-04-23 Additional ORE EIS information (March 8, 2024).pdf - A-04-23 PPRD-2512 ORCA Placard.pdf - A-04-23 HFN Correspondence (January 25 - March 7, 2024).pdf - A-04-23 Air Photo.pdf - A-04-23 - G. Bradley Comments (December 5, 2023).pdf
Final Approval Date:	Apr 5, 2024

This report and all of its attachments were approved and signed as outlined below:

Martina Chait-Hartwig