

Minor Variance Report

Application No.: A-05-24
Applicant/Agent: Chris Petraitis/Laura Stone
Property Description: Part Lot 25, Con. 4 (Douro)
3796 Highway 28
1522-010-001-23300

Purpose of Application:

The Owner desires to construct a detached garage with a ground floor area of 44.59 square metres (480 square feet) on the subject property. The subject property is zoned Residential (R) as illustrated on Schedule B4 to By-law No. 10-1996, as amended. The property is an existing lot of record which has less than the minimum lot frontage and minimum lot area required for the (R) Zone and is developed with a single detached dwelling and two sheds.

The detached garage is proposed to be setback 3.05 metres (10 feet) from a private road (i.e. Lake Edge Road) and does not comply with Section 3.1.2 (d) of the Zoning By-law which requires a 15 metre (49.21 foot) setback for an accessory structure from any lot line abutting a public or private road. The total lot coverage of the proposed garage and existing accessory structures is 5.91% and does not comply with Section 3.1.3 of the Zoning By-law which requires that the total lot coverage of all accessory structures must not exceed 5%.

Staff have adjusted the requested values above to provide for some minor flexibility for the final development. Therefore, the purpose of the minor variance is to reduce the north lot line setback from a private road from 15 metres (49.21 feet) to 3 metres (9.84 feet) and to increase the maximum lot coverage for accessory structures from 5% to 6% to facilitate the construction of a detached accessory garage.

Notice of the public meeting was provided on January 13, 2025, by e-mail to all prescribed persons and public bodies and to every person and public body that has provided a written request for Notice.

Notice of the public meeting was circulated by ordinary mail to every owner of land within 60 metres of the subject property on January 13, 2025. Signs were posted on the Highway 28 frontage of the subject property and on the property line abutting Lake Edge Road. Notice was also posted on the Township Website.

The giving of Notice complies with the applicable Regulations of the Planning Act.

Agency Comments:

As of the writing of this Report, there have been no written or verbal comments received from the prescribed persons or public bodies.

Public Comments:

As of the writing of this Report, there have been no written or verbal comments received from members of the public.

Staff Comments:

The application was circulated to Senior Staff on January 13, 2025. There were no concerns identified by Senior Staff.

Pre-Consultation:

A pre-consultation meeting was held on August 29, 2024. The meeting included Township Staff; Pete Hynes, Peterborough County Engineering and Design; and Adam Leggett, Agent. Otonabee Region Conservation Authority (ORCA) Staff and Ministry of Transportation (MTO) Staff sent regrets but provided written comments in advance of the meeting.

The pre-consultation identified additional information to be provided regarding the final proposal along with potential supporting study requirements for a complete Planning Act application. The process for a minor variance application and prescribed timelines was outlined.

The pre-consultation identified that the subject property is within 300 metres of a secondary sand and gravel resource and a Class 'A', above water licensed aggregate pit.

Policy 4.5.2.4 of the PPS, 2024 requires that mineral aggregate operations be protected from development and activities that would preclude or hinder their expansion or continued use or would be incompatible for reasons of public health, public safety or environmental impact.

Policy 4.5.2.5 of the PPS, 2024 states that, in known deposits of mineral aggregate resources and on adjacent lands, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

- a) resource use would not be feasible; or
- b) the proposed land use or development serves a greater long-term public interest; and
- c) issues of public health, public safety and environmental impact are addressed. adjacent to a known pit and known deposits of mineral aggregate resources.

Based on the above, a statement addressing the above noted policies was requested as part of a Planning Justification Report (PJR).

A PJR was prepared by One Community Planning Inc., dated November 5, 2024, and submitted in support of the application. A copy is attached to this Report.

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 property is an existing lot of record, developed with a single detached dwelling having a ground floor area of 93.27 square metres, a 3.72 square metre attached deck and two accessory sheds totalling 10.77 square metres in area. The existing development is serviced by a private well and septic system.

The property is designated Hamlet and within the Young's Point Settlement Area as illustrated on Schedule A4-3 to the Official Plan. While the area is not identified as a recognized Growth Centre within the Township (S. 6.2.3.1), single detached residential dwellings are permitted in the Hamlet designation (S. 6.2.3.2) and must comply with the policies outlined in Section 6.2.3.3.

The PJR prepared by One Community Planning Inc., has outlined the applicable sections of the Official Plan and Planning Staff agree with the conclusion that the proposed development meets the intent and purpose of the Official Plan.

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

The property is Zoned Residential (R) as illustrated on Schedule B4 to the Zoning By-law. A permanent single detached dwelling and accessory uses are permitted within the (R) Zone (Ss. 4.1.1 and 3.1.1).

The subject property is an existing lot of record which has less than the minimum lot frontage and minimum lot area required for the (R) Zone and is developed with a single detached dwelling and two sheds. Section 3.11 of the By-law states that, where any lot has less than the minimum lot frontage and/or minimum lot area required in the applicable zone, such lot may be used and any building erected, altered or used thereon for any residential purpose permitted in the applicable zone, provided that all other applicable provisions and regulations of this By-law are complied with.

Section 3.1.2 (d) of the By-law requires that accessory buildings and structures must be set back a minimum 15 metres from any lot line abutting a private road. The proposed garage is approximately 3.05 metres (10 feet) from the north lot line abutting Lake Edge Road.

Section 3.1.3 of the By-law stipulates that the maximum lot coverage of all accessory buildings and structures must not exceed 5%. The proposed garage and existing sheds will have a total lot coverage of 5.91%.

Relief is required from the above noted sections to facilitate the construction of the detached accessory garage.

The application and PJR have stated that the total lot coverage of all existing and proposed structures will be 16.27% (i.e. 10.36% for the existing dwelling with attached deck and 5.91% for the existing sheds and proposed garage). The Owner has also requested relief from Section 4.2.1 (j) of the By-law which stipulates that the maximum lot coverage in the (R) Zone must not exceed 15%. However, Section 3.1.3 further states that the maximum lot coverage for accessory structures shall be considered in addition to any other lot coverage regulations specified in the By-law.

The lot coverage for the existing dwelling does not exceed 15% and therefore complies with Section 4.2.1 (j) of the By-law and relief is only required from the lot coverage provisions for the accessory structures, Section 3.1.3 of the By-law.

In all other respects, the proposal complies with the Zoning By-law and the application meets 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?

The proposed use is desirable and appropriate to the development of the subject land.

The existing dwelling is located within an area of similar sized dwellings, the majority of which have detached garages.

The property is zoned and designated to permit a single detached dwelling and associated accessory buildings and structures. As evidenced by the air photo attached to this Report, the property line closest to Lake Edge Road is well treed and the impact of the proposed development on the property located at 3802 Highway 28 will be minimised.

Through the pre-consultation, MTO noted that 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 and/or structures and prior to the issuance of any municipal building permits or approvals as per section 8. (2) (a) of the Building Code Act.

The Ministry reviewed the documentation provided in support of the construction of a residential garage at this location and did not identify any concerns with the proposal as described.

The Ministry brought to the attention of the property owner that there does not appear to be an entrance permit from the subject lands, for access onto Highway 28. As a condition of receiving the required MTO building permit for the garage the property owner will be required to obtain a "No fee" entrance permit for their lands. This permit can be obtained from the [Ministry's on-line Highway Corridor Management portal](#). At the same time the applicant can also apply for their MTO Building and Land Use permit.

A copy of MTO's pre-consultation comments dated August 16, 2024 are attached to this Report.

4. Is the variance minor?

The proposed variance is minor in nature.

Due to the small lot area of the existing property, the proposed garage is limited in location options. The existing well, septic and utility wires further limit the location opportunities for the proposed garage. Similarly, if the north lot line did not abut a private road, the minimum required setback would only be 1.5 metres (S. 3.1.2 (c)).

With the exception of a slight increase in lot coverage for accessory uses and a reduced setback from the lot line abutting Lake Edge Road, the proposal complies with the Zoning By-law.

The PJR prepared by One Community Planning Inc., concludes the variance is minor in nature and the property is not considered to be overdeveloped.

Conformity to PPS, 2024:

Effective October 20, 2024, the Growth Plan and the Provincial Policy Statement were consolidated into one document called the Provincial Planning Statement (PPS, 2024).

The PPS, 2024 is considered a policy statement for the purpose of Section 3 of the Planning Act. All municipal decisions, as well as comments, submissions or advice affecting planning matters, are required to be consistent with the PPS, 2024 pursuant to subsections 3(5) and 3(6) of the Planning Act.

Through the pre-consultation, ORCA noted that there are no known hazards present on the property and that the proposal appears to conform to PPS policy 3.1 [now Chapter 5 of PPS, 2024] referencing natural hazards. A copy of ORCA's pre-consultation comments dated August 22, 2024 are attached to this Report.

The PJR prepared by One Community Planning Inc., indicates the existing dwelling and proposed garage on the subject property, along with the surrounding residential [and commercial] development already pose constraints toward future expansion of the aggregate deposit and existing operation (Policy 4.5.2). The location of the subject property within the Hamlet designation is within an area where residential growth, intensification and complete communities are supported (Policies 2.1, 2.5 and 2.6).

The application appears to be consistent with the PPS.

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 use intended 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-05-24;

That the Committee approve Minor Variance Application A-05-24 to reduce the north lot line setback from a private road from 15 metres (49.21 feet) to 3 metres (9.84 feet) and to increase the maximum lot coverage for accessory structures from 5% to 6%, for the life of the structure, to facilitate the issuance of a building permit for the construction of a new detached accessory garage as shown on the site plan prepared by Timberline Custom Homes, dated August 1, 2024 attached to the Decision as Schedule 'A' and to bring the proposed construction into compliance with the Zoning By-law.

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, MTO 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 structures are 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 if any archaeological resources should be discovered during the course of development, all excavation must stop immediately, and an archaeologist must be contacted. Potential significance of the findings will be assessed and mitigative options will be identified. The recommendations of the archaeologist must be followed.

Report Approval Details

Document Title:	A-05-24 (Petraitis).docx
Attachments:	<ul style="list-style-type: none">- A-05-24 Application_Redacted.pdf- A-05-24 2375 Petraitis Plans.pdf- A-05-24 - Meeting Notice.pdf- A-05-24 Air Photo.pdf- A-05-24 MV Planning Report-3796 Hwy 28.pdf- MTO Highway Corridor Management Comments (August 16, 2024).pdf- ORCA Comments 3796 Highway 28 (August 22, 2024).pdf
Final Approval Date:	Jan 17, 2025

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

Martina Chait-Hartwig

Todd Davis