

COMMITTEE OF ADJUSTMENT REGULAR MEETING MINUTES
Wednesday, October 10, 2018

The Township of Rideau Lakes Committee of Adjustment held a Regular Meeting on Wednesday, October 10, 2018 at the Municipal Office in Chantry, Ontario.

The following Committee members were in attendance: Chair Ron Pollard, Councillors Linda Carr, Arie Hoogenboom, Cathy Livingston and Cathy Monck. Mayor Ron Holman was absent with prior notice. Brittany Mulhern, Manager of Development Services and Meg McCallum, Development and Emergency Management Coordinator were also in attendance.

ADOPTION OF THE AGENDA:

RESOLUTION #1

Moved By: Cathy Livingston
Seconded By: Cathy Monck

That this Committee adopt the Agenda, as submitted.

Carried.

DECLARATION OF PECUNIARY INTEREST & GENERAL NATURE THEREOF:

Chairperson Pollard asked if anyone had a pecuniary interest and the general nature thereof regarding any of the applications and none were heard.

ADOPTION OF MINUTES:

Minutes of the Committee of Adjustment Regular Meeting held September 26, 2018 were distributed to the Committee. Chairperson Pollard asked for any errors or omissions and none were heard.

RESOLUTION #2

Moved By: Arie Hoogenboom
Seconded By: Cathy Monck

That this Committee approve the Committee of Adjustment Regular Meeting Minutes of September 26, 2018, as submitted.

Carried.

NEW BUSINESS:

MINOR VARIANCE APPLICATIONS:

A-27-2018 – KENNETH WAYNE CLARK – WARD OF NEWBORO

Plan 72 Lot 8 Lot 9

Civic Address: 14 Main Street

Wayne Clark was in attendance to discuss the Minor Variance application.

Brittany Mulhern, Manager of Development Services, verbally reviewed the application to construct a 155sqft front covered deck (porch) on to an existing 1800sqft dwelling and noted that this required relief from side yard and front yard setbacks, along with relief from the centreline of a Township Street. Ms. Mulhern noted that the applicant's proposal is to reconstruct the historical porch original to the home, and that the proposal had been reviewed by the Municipal Heritage Advisory Committee (MHAC), who strongly support the proposal. She noted further that Public Works has no concerns with the reduced front yard or centreline setbacks, and that no land use compatibility concerns are anticipated.

Mr. Clark advised the Committee that this home is included on the Heritage Walking Tour of Newboro and that he has received commendations from MHAC on a previous project in Elgin for a similar style building. Committee members commended Mr. Clark on the project, noting that his attention to detail and beautification are a great example for other properties.

No member of the public made any comment on this application.

The following resolution was duly moved and seconded:

RESOLUTION #3

Moved By: Cathy Monck

Seconded By: Cathy Livingston

That Minor Variance **A-27-2018, by Kenneth Wayne Clark, of the Ward of Newboro**, is approved as submitted for the following reasons provided the attached conditions are complied with.

REASONS:

1. The proposed side yard variance goes no closer to the side lot line than the existing structure.
2. The reduced front yard will not impede functionality of the site and no negative local impacts are anticipated.
3. There are no concerns regarding orderly development between land uses and compatibility.

CONDITIONS:

1. That this approval is based on the following specifications and that any deviation from these specifications will require subsequent review and approval by the Township:
 - a. The dimensions and location of the proposed structure(s) shall be consistent with the information noted in the application (and updated information) and/or minor variance and the approved drawing;
 - b. All setbacks and development parameters shall be consistent with the details noted in the approved plan and compliant with Zoning By-law 2005-6 where no variance has been granted;
2. That the applicant implement a buffer of natural vegetation between the proposed addition and the side lot line where the variance is being sought from;
3. That the covered deck (porch) is not to be enclosed;

4. That all outdoor lighting be downward cast, and as minimal as required to meet the required objectives;
5. That all materials used on the exterior of the structure be of a natural material or a colour reflective of the surrounding environment;
6. That the applicant maintain all on site drainage patterns;
7. Future development not included in this application will be subject to review and approval by the Township, Conservation Authority and/or Parks Canada and any other governing agency or regulations where applicable.

Carried.

A-28-2018 – MOHAMED CHEIKH AND SHERI BAILEY - WARD OF NORTH CROSBY

Concession 2 Part Lot 7 Part Lot 8 Registered Plan 28R1043 Part 1

Civic Address: 102 Kanes Lane

The applicant Mohamed Cheikh and his agent Nik Semanyk were in attendance to discuss the Minor Variance Application.

Brittany Mulhern, Manager of Development Services, verbally reviewed the application to develop four additions on to an existing 2510sqft dwelling, totalling 652sqft, being a partial second storey; a basement addition; a partial second storey through a dormer and a rear covered deck. Ms. Mulhern noted that the applicants had also proposed to develop a 330sqft gazebo at the waterfront, but that they have decided to forego the variance and intend to meet the 14m2 requirements for decks, gazebos and other similar structures unattached to a main building within 30m of the water. Instead, they plan to reduce the 100sqft dock on land to 10sqft and build a 140sqft gazebo.

Ms. Mulhern noted that the Rideau Waterway Development Review Team had provided informal comments indicating they have no concerns with the application, and that written comments had been circulated to Committee members from two neighbours in support of the application. She noted that the proposal does not significantly change the form, scope or intensity of the non-complying building and that it meets all of the lot intensity requirements.

The applicant thanked staff for their summary of the project and had nothing to add.

No member of the public made any comment on this application.

After discussion, the following resolution was duly moved and seconded:

RESOLUTION #4

Moved By: Cathy Monck

Seconded By: Arie Hoogenboom

That Minor Variance **A-28-2018, by Mohamed Cheikh and Sheri Bailey**, of the Ward of North Crosby, is approved in part for the following reasons provided the attached conditions are complied with.

The following variance be denied:

- **Section 3.26.2** – Relief of 25.96m² from the maximum 14m² permitted for decks, gazebos and other similar structures which are unattached to a main building and are within 30m of the high water mark, to allow for a 30.66m² (330sqft) gazebo, whereas there is already an existing 9.3m² (100sqft) unattached deck.

The following variances be approved and subject to the subsequent conditions:

- **Section 3.26.2** – Relief of 12.75m from the required 30m water setback to allow for a 17.25m water setback for the proposed 196sqft partial second storey addition
- **Section 3.26.2** – Relief of 7m from the required 30m water setback to allow for a 23m water setback for the proposed 150sqft basement addition
- **Section 3.26.2** – Relief of 6m from the required 30m water setback to allow for a 24m water setback for the proposed 50sqft partial second storey addition
- **Section 3.26.2** – Relief of 11.7m from the required 30m water setback to allow for a 18.3m water setback for the proposed 256sqft rear covered deck addition

REASONS:

1. The proposed development does not significantly change the form, scope or intensity of the existing non-complying dwelling.
2. The potential water setbacks for the development have been maximized given the pattern of development of the lot.
3. With the attached conditions, the proposed development is consistent with the Waterfront Development Policies of the Official Plan.

CONDITIONS:

1. That this approval is based on the following specifications and that any deviation from these specifications will require subsequent review and approval by the Township:
 - a. The dimensions and location of the proposed structure(s) shall be consistent with the information noted in the site plan application (and updated information) and/or minor variance and the approved site plan drawing;
 - b. All setbacks and development parameters shall be consistent with the details noted in the approved site plan and compliant with Zoning By-law 2005-6 where no variance has been granted;
2. That the existing dock on land be reduced in size to 10sqft or smaller prior to the issuance of a building permit for the proposed 140sqft gazebo;
3. That the proposed 87sqft rear covered deck and any other structures proposed to be removed, be removed with the proper approvals prior to or concurrently with the issuance of a building permit for the relevant addition;
4. Existing vegetation within the 30m setback shall be maintained and enhanced, except for that disturbed by the proposed development. The applicant shall encourage the development of a shoreline naturalization buffer (no disturbance area) extending 15m back from the high water mark. A moderate shoreline access path through this area is permitted;
5. That storm water runoff be captured and directed away from the lake to an area of infiltration;

6. That all outdoor lighting be downward cast, and as minimal as required to meet the required objectives;
7. That all materials used on the exterior of the structure be of a natural material or a colour reflective of the surrounding environment;
8. That the applicant maintain all on site drainage patterns;
9. That sediment and erosion control measures be implemented during all stages of construction. This must include some form of silt fencing between the areas of development and the lake. This fencing must remain in place until all areas that were disrupted are fully stabilized (i.e. no bare soils remain);
10. All excavated material is to be disposed of away from the lake, and all construction material shall be stored in a location well away from the lake; and
11. Future development not included in this application will be subject to review and approval by the Township, Conservation Authority and/or Parks Canada and any other governing agency or regulations where applicable.

Carried.

A-31-2018 – WAYNE AND PATRICIA LANCASTER – WARD OF SOUTH ELMSLEY

Concession 3 Part Lot 28 Bass Lake South Side

Civic Address: 2 B5B

Wayne Lancaster was in attendance to discuss the Minor Variance application.

Brittany Mulhern, Manager of Development Services, verbally reviewed the application to develop a 200sqft side addition to an existing 1000sqft dwelling and noted that the applicant required relief from the 30m water setback as well as from the Natural Heritage-A (NHA) setback. She noted that the RWDRT had no objections, and that the proposal meets all lot intensity requirements and it does not significantly change the form, scope or intensity of the existing non-complying dwelling.

Committee members questioned whether it is common for a lake area to be designated as a NHA wetland. Staff responded that this is a fairly common occurrence.

Mr. Lancaster thanked staff for the presentation. He advised that he had canvassed his neighbours for support in the hopes of reducing the 20-day appeal period, and provided a signed letter to the Chair. Chair Pollard noted that the 20-day appeal period is set by the Province under the Planning Act and the Committee of Adjustment has no authority to forego the appeal period.

No member of the public made any comment on this application.

After discussion, the following Resolution was duly moved and seconded.

RESOLUTION #5

Moved By: Arie Hoogenboom

Seconded By: Linda Carr

That Minor Variance **A-31-2018, by Wayne and Patricia Lancaster**, of the Ward of South Elmsley, is approved as submitted for the following reasons provided the attached conditions are complied with.

REASONS:

1. The proposed development does not significantly change the form, scope or intensity of the existing non-complying dwelling.
2. The plan of development is compatible with surrounding land uses.
3. Setbacks for the proposed addition have been maximized given the pattern of development of the lot.

CONDITIONS:

1. That this approval is based on the following specifications and that any deviation from these specifications will require subsequent review and approval by the Township:
 - a. The dimensions and location of the proposed structure(s) shall be consistent with the information noted in the application (and updated information) and/or minor variance and the approved drawing;
 - b. All setbacks and development parameters shall be consistent with the details noted in the approved plan and compliant with Zoning By-law 2005-6 where no variance has been granted;
2. Existing vegetation within the 30m setback shall be maintained and enhanced, except for that disturbed by the proposed development. The applicant shall encourage the development of a shoreline naturalization buffer (no disturbance area) extending 15m back from the high water mark;
3. That storm water runoff be captured and directed away from the lake to an area of infiltration;
4. That all outdoor lighting be downward cast, and as minimal as required to meet the required objectives;
5. That all materials used on the exterior of the structure be of a natural material or a colour reflective of the surrounding environment;
6. That the applicant maintain all on site drainage patterns;
7. That sediment and erosion control measures be implemented during all stages of construction. This must include some form of silt fencing between the areas of development and the lake. This fencing must remain in place until all areas that were disrupted are fully stabilized (i.e. no bare soils remain);
8. All excavated material is to be disposed of away from the lake, and all construction material shall be stored in a location well away from the lake; and
9. Future development not included in this application will be subject to review and approval by the Township, Conservation Authority and/or Parks Canada and any other governing agency or regulations where applicable.

Carried.

BUSINESS ARISING:

A-9-2018 – CLAIRE GREENBERG – WARD OF BASTARD AND SOUTH BURGESS

Bastard Concession 1 Part Lot 23 Registered Plan 28R4355 Parts 1 and 2
Registered Plan 28R9270 Parts 6 to 11
Civic Address: 3928 R39

Claire Greenberg was in attendance to discuss the Minor Variance application along with her agent Greg Mignon and architects Todd Duckworth and Barry Hobin and six interested members of the public.

Brittany Mulhern, Manager of Development Services, noted that this application was deferred at the June 13th meeting to allow for more time for revisions to be made. She noted that the revised proposal keeps the existing dwelling and adds an addition, which requires relief from the 30m water setback. She noted that the RWDRT had submitted comments objecting to the revised proposal due to the potential for a complying dwelling on the subject property. Additionally, Ms. Mulhern noted that 4 letters of objection were received in advance of the meeting, one request was made to make a presentation, and one additional letter was received noting that the writer supports the Committee's decision. Ms. Mulhern noted that the new application includes a complying septic system set well back from the minimum water setback, and that staff believe that the variance meets the four tests for a minor variance and supports the application.

Chair Pollard invited the applicant to speak. Todd Duckworth, the project architect, gave a PowerPoint presentation outlining the site context and challenges and showing the main changes between the previous proposal and the revised proposal, including respecting the side yard setback, keeping the original dwelling and focusing the area of development outside the 30m setback zone. He noted that in order to shift the proposal away from the west side yard, the Bell and Hydro pole and easement to the east will be relocated at his client's expense. He noted further that in response to neighbours concerns with the revised proposal, the height of the addition directly behind the existing dwelling has been reduced. Finally, he provided a letter of support received from the neighbour to the east of the subject property to the Chair for inclusion in the public record.

Agent Greg Mignon spoke next to respond to the concerns raised in the objection letters. He noted his opinion that the RWDRT seems to be holding the property to the standards of a greenfield waterfront development site rather than a redevelopment to an existing property, against the intention of the Official Plan. With regard to comments from neighbours that the nature of the shoreline would be disimproved or that the environmental impact is negative, he rebutted that the plantings required by the Township in the site plan approval process mean that the new development will not be visible; and that the relocation of the septic away from the water is an environmental improvement. He also discussed the concerns about Bell and Hydro disruptions for island neighbours. He reiterated the efforts made to reduce the height of the addition and add plantings to mitigate the concerns of the immediate neighbour. Finally, Mr. Mignon noted that the objection stated by the Big Rideau Lake Association proposes disregarding non-complying rights and notes that, if applied to all non-complying properties on the lake, would deny all of the surrounding neighbours' homes.

Chair Pollard then opened the floor to members of the public in attendance.

Jennifer Trant noted that the subject property has been cleared of a lot of vegetation in the last two years and expressed concern that the visual massing of the proposed development would not blend in character or scale. She noted that although her home on the island looks directly toward the subject property she was not included in the notice area and feels this is a procedural concern that the Township should address. She noted her concern for the health of the lake, since the proposal doubles the size on the lot and removes trees. She noted the critical importance of phone lines for island people. Finally, she noted that for most lake users the view from the lake is the most important, and urged the Committee to consider the impact of this proposal on people on the lake.

Douglas Kirkland spoke on behalf of the Big Rideau Lake Association (BRLA). He noted that the missing vegetation will take years to restore and commented that responsible development does not include that type of action. He noted the importance of phone lines for islanders and commented that he believes the heavy equipment that is being used in the right of way may be disrupting the service.

Doris Albert noted that as a member of BRLA she shares the concerns raised by Mr. Kirkland. She noted that her main reason for wanting to speak against this proposal is that six years ago she was refused for a similar project and was forced to build 100 feet back from the shore. She commented that it would be unfair to be inconsistent.

Mary Ann Calzonetti noted that her parents built their cottage in its current location at the property line fifty years ago. She read from the letter submitted to Committee summarizing her concerns, and requested that if the Committee would not consider deferral then she would like them to deny the application.

Tim Poupore made a PowerPoint presentation. He commented that the reduced roofline shown by Todd Duckworth is an improvement over what was originally contained in the revised application and expressed frustration with the lack of dialogue with the applicant between the last meeting and this. He proposed that the applicant should get rid of the existing dwelling and the attached addition and simply build a new development outside the 30m setback area. He presented on his opinions why the proposal does not meet the four tests of a minor variance. He expressed his appreciation of the flexibility of the agents within the days leading up to the Committee of Adjustment meeting and noted that it would be a shame for the Committee to decide on the application before them if there was an opportunity to get a better proposal.

Committee members questioned whether the Township issues permits for tree and vegetation removal. Staff responded that there is no permit required to remove trees or vegetation in Rideau Lakes Township. The only exception is that Development Services would be involved if it is being done in violation of site plan conditions. Committee members commented that the revised proposal is less appealing than the original and seems excessive, and that while the variance only applies to the portion within 30m of the waterfront, the whole development is significant. They questioned whether the applicant could remove the existing cottage and wondered whether there was an opportunity for the applicant and neighbours to come to a mutual agreement.

Barry Hobin requested the Committee take a recess in order to provide an opportunity for the neighbours and applicant to discuss.

The Committee took a recess at 3:02 pm.

The Committee reconvened at 3:50 pm.

Barry Hobin thanked Chair Pollard and members of the Committee of Adjustment for allowing the opportunity to talk things out. Mr. Hobin walked through a set of agreed upon revisions:

- The existing dwelling shall be removed and the development shall no longer be considered an addition
- The portion of the proposed development within 30m of the water at the south-west area of the development shall remain a single storey at a maximum height of 4.9m. For further clarification, the maximum height from average grade to top of peak shall be 5.8m.

Chair Pollard thanked everyone for working together.

After discussion, the following Resolution was duly moved and seconded.

That Minor Variance **A-9-2018, by Claire Greenberg, of the Ward of Bastard and South Burgess**, is approved as amended for the following reasons provided the attached conditions are complied with.

AMENDMENT:

The existing dwelling shall be removed and the development shall no longer be considered an addition.

REASONS:

1. The proposed development within 30m of the water does not significantly change the form, scope or intensity of the existing non-complying dwelling.
2. The overall intensity of development in relation to the total lot area and within 60m of the water is under the allowable maximums for both lot coverage and FSI.
3. When considering the rights of the existing non-complying structure the proposed development within 30m of the water is related in scale to the existing dwelling.

CONDITIONS:

1. That an updated site plan drawing and elevations be submitted reflecting the amendment to the satisfaction of the Manager of Development Services;
2. That the existing dwelling shall be removed with the appropriate approvals prior to or concurrently with the issuance of a building permit for the proposed development;
3. That this approval is based on the following specifications and that any deviation from these specifications will require subsequent review and approval by the Township:

- a. The dimensions and location of the proposed structure(s) shall be consistent with the information noted in the site plan application (and updated information) and/or minor variance and the approved site plan drawing;
 - b. All setbacks and development parameters shall be consistent with the details noted in the approved site plan and compliant with Zoning By-law 2005-6 where no variance has been granted;
4. That all structures proposed to be removed, be removed with the proper approvals prior to or concurrently with the issuance of a building permit for the development;
5. That the portion of the proposed development within 30m of the water at the southwest area of the development shall remain a single storey at a maximum height of 4.9m. For further clarification the maximum height from average grade to top of peak shall be 5.8m;
6. Regeneration of the waterfront/slope vegetative buffer with native hardy cover shall occur. Nurturing plant cover will help to stabilize the waterfront, protect against nutrient and sediment load to the lake and reduce costly maintenance over the long term. Additionally, the establishment of a 15-metre vegetated buffer along the entire shoreline that may have been disturbed, including areas in front of the existing dwelling shall occur. The western side yard shall also be revegetated. Native planting shall be undertaken over the complete frontage where the new development is to be built. Allowance can be made for a modest pedestrian access path traversing this re-naturalization area to the water's edge. The applicant is recommended to contact the Shoreline Naturalization Program staff at 1-800-267-3504 to assist with additional site plantings and stabilization work in upland areas to off-set the impacts of the new development;
7. Roof runoff shall be collected and directed on-site and away from the services, into natural or constructed leaching pits and rain barrels to provide the greatest infiltration of surface runoff. Runoff should not be directly outlet towards Big Rideau Lake, and as recommended by the consultants in their application;
8. That all outdoor lighting be downward cast, and as minimal as required to meet the required objectives;
9. That all materials used on the exterior of the structure be of a natural material or a colour reflective of the surrounding environment;
10. That the applicant maintain all on site drainage patterns;
11. That sediment and erosion control measures be implemented during all stages of construction. This must include some form of silt fencing between the areas of development and the lake. This fencing must remain in place until all areas that were disrupted are fully stabilized (i.e. no bare soils remain);
12. All excavated material is to be disposed of away from the lake, in excess of 30 metres, and all construction material shall be stored in a location well away from the lake, also in excess of 30 metres; and
13. Future development not included in this application will be subject to review and approval by the Township, Conservation Authority and/or Parks Canada and any other governing agency or regulations where applicable.

Carried.

ADJOURNMENT:

The Chair declared the Committee of Adjustment Meeting adjourned at 4:07 p.m.

Ron Pollard
Chairperson

Brittany Mulhern
Secretary