

---

**Tuesday, December 5<sup>th</sup>, 2023**

**5:30 p.m.**

**Municipal Office – 217 Harper Road, Perth, Ontario**

**Council Chambers**

---

*5:30 p.m. Public Meeting - Zoning By-Law Amendments  
Following Council Meeting*

**Chair, Councillor Andrew Kendrick**

**1. CALL TO ORDER**

**2. INTRODUCTION**

- The purpose of this public meeting is to hear an application for a Zoning By-Law Amendment for the following applications:

**Perth Children's House**

**St. Pierre**

- The Planner will provide a brief overview of the details of the file and details of the amendment. The public will then be given an opportunity to make comments and ask questions.
- If a person or public body would otherwise have an ability to appeal the decision of the Council of the Corporation of Tay Valley Township to the Ontario Land Tribunal but the person or public body does not make oral submissions at a public meeting or make written submissions to Tay Valley Township before the by-law is passed, the person or public body is not entitled to appeal the decision.
- If a person or public body does not make oral submissions at a public meeting or make written submissions to Tay Valley Township before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Land Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

- The Clerk must provide notice of Council's decision to all those who request a copy within 15 days after the day the by-law is passed. Anyone may appeal the decision to the Ontario Land Tribunal by filing with the Clerk within 20 days of the notice of decision.
- An appeal to the Ontario Land Tribunal may be filed with the Clerk of the Township not later than 20 days after the day that the notice of decision was given. The notice of appeal must set out the objection to the by-law and the reasons in support of the objection, accompanied by the required fee.
- If you are interested in receiving a copy of the decision, please contact the Administrative Assistant at [adminassistant@tayvalleytwp.ca](mailto:adminassistant@tayvalleytwp.ca).

### 3. APPLICATION

- i) **FILE #ZA23-09: Perth Children's House – *attached, page 4.***  
**2345 Scotch Line**  
**Concession 10, Part Lot 1,**  
**Geographic Township of North Burgess**
  - a) PLANNER FILE REVIEW & PROPOSED BY-LAW
  - b) APPLICANT COMMENTS
  - c) PUBLIC COMMENTS
  - d) RECOMMENDATION
- ii) **FILE #ZA23-04: Candice St. Pierre – *attached, page 18.***  
**147 Horseshoe Bay**  
**Concession 3, Part Lot 17,**  
**Geographic Township of North Burgess**
  - a) PLANNER FILE REVIEW & PROPOSED BY-LAW
  - b) APPLICANT COMMENTS
  - c) PUBLIC COMMENTS
  - d) RECOMMENDATION

### 4. ADJOURNMENT

# APPLICATIONS

**PUBLIC MEETING CONCERNING PROPOSED ZONING BY-LAW AMENDMENT**

December 5, 2023

**Noelle Reeve, Planner**

**APPLICATION ZA23-09 PERTH CHILDREN'S HOUSE**

**STAFF RECOMMENDATION**

It is recommended:

**“THAT**, Zoning By-Law No. 02-021 be amended by changing the zoning of the land at Part Lot 1, Concession 10, Geographic Township of North Burgess (Roll #0911-911-010-31202) municipally known as 2345 Scotch Line from Commercial (C) and Rural (RU) to Institutional (I).”

**BACKGROUND**

The application applies to a 2-ha (5-acre) lot with 45m (147 ft) frontage on Scotch Line, located just over a kilometre from Perth. The lot currently contains a large house set back 145m (476 ft) from the road. The house is proposed to be converted to a school and will need to meet the requirements of the Ontario Building Code Act for this use.

The purpose of this application is to change the zoning of the lot from Residential (R) to Institutional (I).

The effect of the amendment is to permit a Montessori School, Perth's Children's House, to operate on the property.

**DISCUSSION**

**Provincial Policy Statement (PPS)**

Section 1.1.1 Building Strong Healthy Communities - states that “Healthy, livable and safe communities are sustained by: a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term...and c) avoiding development and land use patterns which may cause environmental or public health and safety concerns.” This section can be met as the use is proposed to occupy an existing building set far back from neighbours on a large lot. No natural or human-made hazards are present on the lot. No uses incompatible with a sensitive use are located in the area. The use is compatible with surrounding residential uses and is just over a kilometre from another Institutional use, St. John Catholic High School.

**Lanark County Sustainable Communities Official Plan**

Section 3 Rural Land designation permits a variety of uses including institutional uses.

## **Official Plan**

The subject property is designated in the Official Plan as Rural. Section 3.6 Rural designation permits institutional uses.

Section 5.4 Site Plan Control is required for an institutional use.

## **Zoning By-Law**

The lot is currently zoned Commercial (C) and Rural (RU), and is proposed to be rezoned to Institutional (I).

Setbacks can be met. Lot coverage requirements are met as the lot coverage is 2.2%, well under the 20% permitted, which would permit expansion of the facilities in the future.

Parking requirements can be met as the property is five times larger than the requirement of 4,050m<sup>2</sup> (1 acre).

No special exception is required as the undersized frontage was recognized by minor variance 17-06 as a condition of the creation of the lot (in order to maintain the existing shared entrance previously approved by Lanark County, for a commercial use on the retained lot, and a house on the severed lot).

## **Planner**

The applicant is proposing to rezone the lot to Institutional (I) to allow a Montessori School, Perth's Children's House to operate on the property. The use is permitted by the Official Plan and the Planner believes the proposed use would be in keeping with other land uses in the area which include residential, commercial, institutional (St. John Catholic High School), and vacant land.

Scotch Line is a County arterial road so the additional traffic for the school will not have an impact on the capacity of the road to handle traffic.

## **Lanark County**

The County Public Works Department confirmed a shared entrance permit for the property had been issued as part of severance B16/034. The entrance has now been approved as Common Commercial/Industrial.

## **Rideau Valley Conservation Authority (RVCA)**

The RVCA was not circulated as there are no watercourses on the property.

## **Mississippi Rideau Septic System Office (MRSSO)**

The applicant has applied for a Part 10/11 Renovation/Change of Use septic permit.

## **Site Plan Control Agreement**

A Site Plan Control Agreement will be required to show the layout of parking, retention of vegetation, any play areas, and any lot grading and drainage changes with corresponding stormwater mitigation.

## **Public Comments**

A neighbouring property owner asked if the change in zoning would affect speed limits on this section of Scotch Line. This question has been passed on to the County.

## **CONCLUSION**

The Planner recommends that the proposed amendment be approved to rezone the land at Concession 10, Part Lot 1, 2345 Scotch Line, Geographic Township of North Burgess (Roll number 091191101031202) from Commercial (C) and Rural (RU) to Institutional (I).

## **ATTACHMENTS**

- i) Site Sketch
- ii) Zoning By-law

**Prepared and Submitted By:**

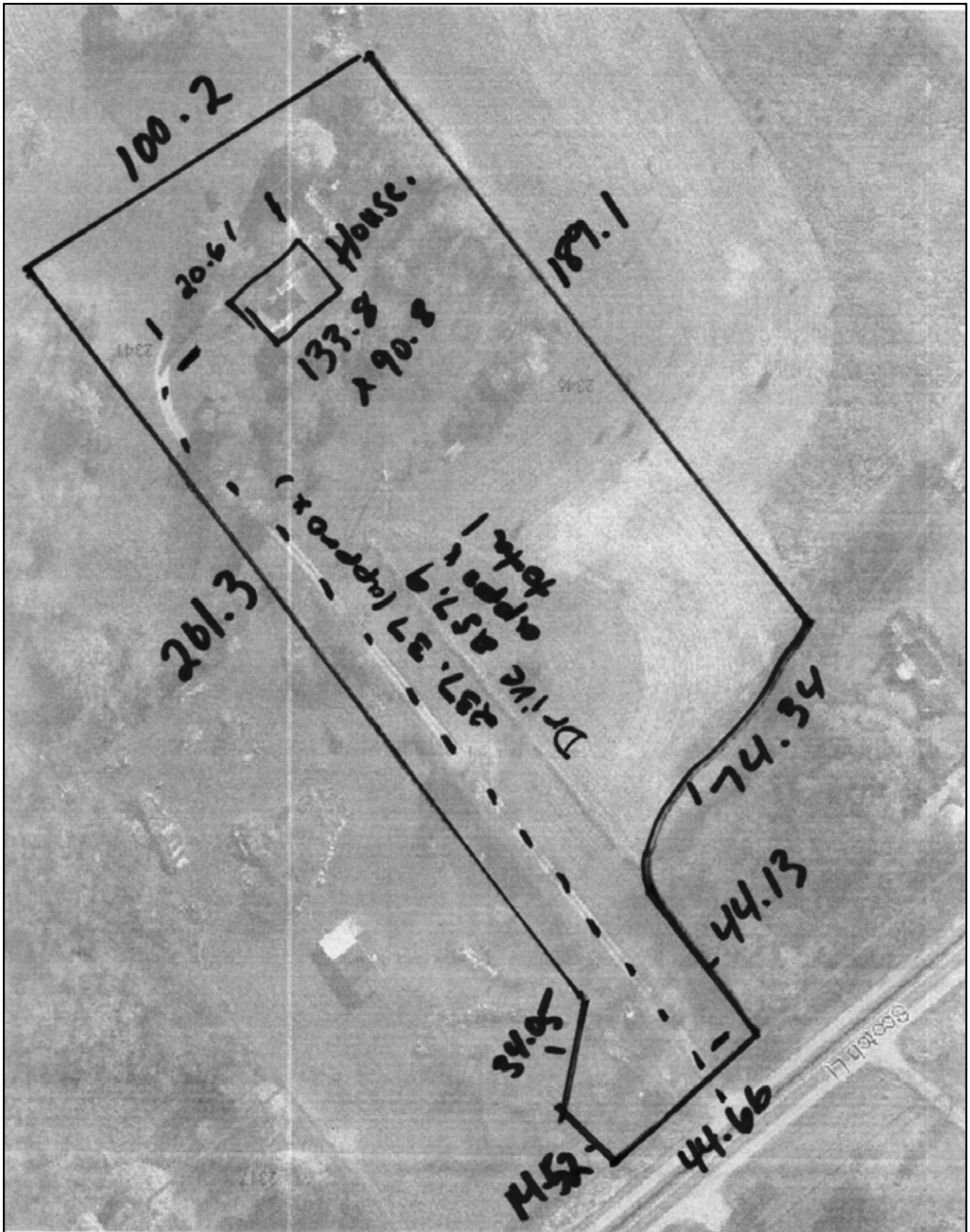
*Original signed*

**Noelle Reeve,  
Planner**

**Approved for Submission By:**

*Original signed*

**Amanda Mabo,  
Chief Administrative Officer/Clerk**



# THE CORPORATION OF TAY VALLEY TOWNSHIP

---

## BY-LAW NO. 2023-0XX

### A BY-LAW TO AMEND ZONING BY-LAW NO. 2002-121, AS AMENDED (PERTH CHILDREN'S HOUSE– 2341 SCOTCH LINE) (PART LOT 1, CONCESSION 10, GEOGRAPHIC TOWNSHIP OF NORTH BURGESS)

---

**WHEREAS**, the *Planning Act, R.S.O. 1990, Chapter P.13 Section 34 as amended*, provides that the Councils of local municipalities may enact by-laws regulating the use of land and the erection, location and use of buildings and structures within the municipality;

**AND WHEREAS**, By-Law No. 2002-121 regulates the use of land and the erection, location and use of buildings and structures within Tay Valley Township;

**AND WHEREAS**, the Council of the Corporation of Tay Valley Township deems it advisable to amend By-Law No. 2002-121, as hereinafter set out;

**AND WHEREAS**, this By-Law implements the policies and intentions of the Official Plan for Tay Valley Township;

**NOW THEREFORE BE IT RESOLVED THAT**, the Council of the Corporation of Tay Valley Township enacts as follows:

#### 1. GENERAL REGULATIONS

- 1.1 **THAT**, By-Law No. 2002-121 is hereby amended by amending the zoning from Commercial (C) and Rural (RU) to Institutional (I) on a 2-ha lot legally described as Part Lot 1, Concession 10, geographic Township of North Burgess, now in Tay Valley Township, County of Lanark (Roll # 091191601031202), in accordance with Schedule "A" attached hereto and forming part of this By-Law.
- 1.2 **THAT**, all other applicable standards and requirements of By-Law No. 2002-121 shall continue to apply to the subject property.
- 1.3 **THAT**, this By-Law shall come into force and effect with the passing thereof, in accordance with *the Planning Act*, as amended.

#### 2. ULTRA VIRES

Should any sections of this by-law, including any section or part of any schedules attached hereto, be declared by a court of competent jurisdiction to be ultra vires, the remaining sections shall nevertheless remain valid and binding.



**THE CORPORATION OF TAY VALLEY TOWNSHIP  
BY-LAW NO. 2023-0xx**

**3. EFFECTIVE DATE**

ENACTED AND PASSED this XX day of XX, 2023.

---

**Rob Rainer, Reeve**

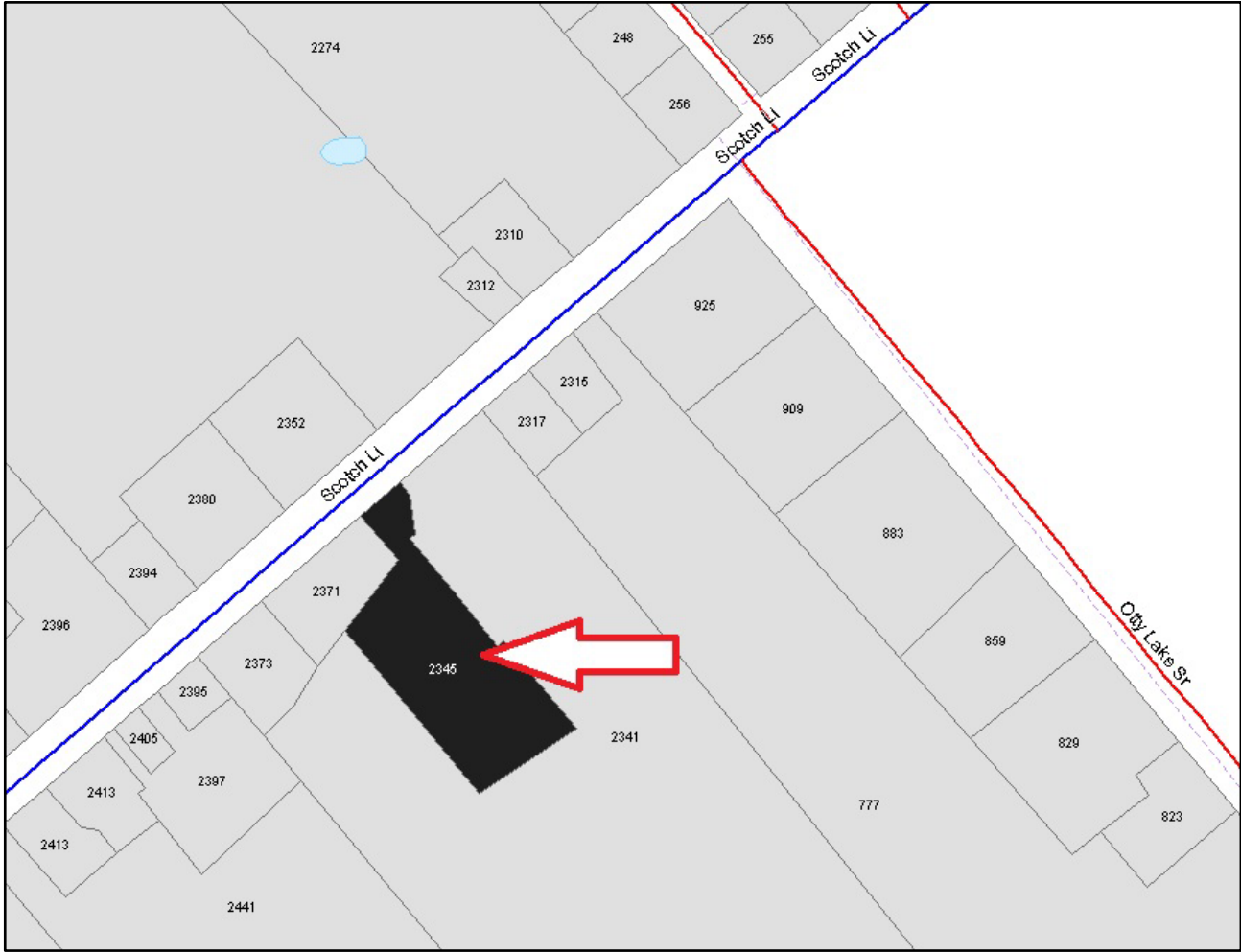
---

**Amanda Mabo, Clerk**

**THE CORPORATION OF TAY VALLEY TOWNSHIP  
BY-LAW NO. 2023-0xx**

**SCHEDULE "A"**

Perth Children's House – 2345 Scotch Line  
Part Lot 1, Concession 10  
Geographic Township of North Burgess  
Tay Valley Township



Area(s) Subject to the By-Law  
To amend the Zoning from  
Commercial (C) and Rural (RU) to Institutional (I)

Certificate of Authentication  
This is Schedule "A" to By-Law 2023-0xx  
passed this xx day of xx 2023.

\_\_\_\_\_  
Reeve

\_\_\_\_\_  
Clerk

## Perth Children's House Zoning By-law Amendment

### Public Notice

Pursuant to the Planning Act, Notice of public meeting is to be provided a minimum of 20 days prior for a Zoning By-law Amendment. Notice was duly given by both the posting of the notice in a visible area for the property and by mailing to adjacent property owners within 120 metres of the location. Notice was also given to other public agencies as required.

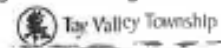
### Ontario Land Tribunal

Please be cautioned that if, at a later date, a person or public body choose to appeal Council's decision on this matter to the Ontario Land Tribunal, the Tribunal may dismiss all or part of an appeal without holding a hearing if the reasons set out in the appeal do not refer to land use planning grounds offended by the decision, the appeal is not made in good faith, or is frivolous or vexatious or made only for the purpose of delay.

The Tribunal may also dismiss the appeal if the appellant did not make oral submission at the public meeting or did not make written submission before the plan or amendment were adopted.

If you choose to appeal, you must submit written reasons, the prescribed fee and any other background material requested. This notice is not intended to discourage your objection in any way. It is intended only to inform you of your rights and obligations and to encourage early participation.

1



1

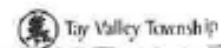
## Perth Children's House

2345 Scotch Line

Part Lot 1, Concession 10, Geographic Township of North Burgess

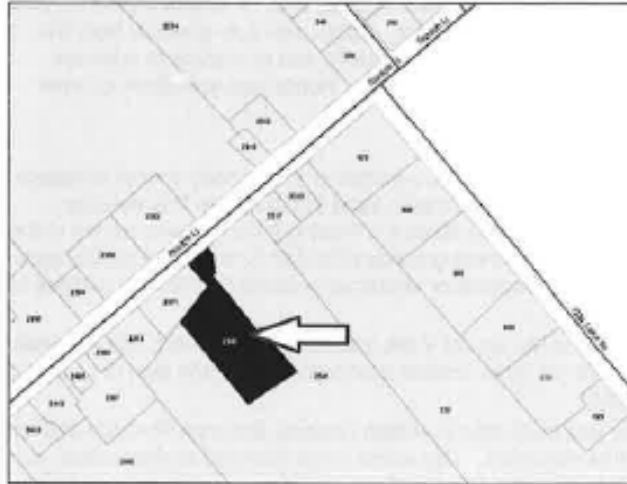
- The application applies to a 2-ha (5-acre) lot with 45m (147 ft) frontage on Scotch Line, located just over a kilometre from Perth. The lot currently contains a large house set back 145m (476 ft) from the road. The house is proposed to be converted to a school and will need to meet the requirements of the Ontario Building Code Act for this use.
- The purpose of this application is to change the zoning of the lot from Commercial (C) and Rural (RU) to Institutional (I).
- The effect of the amendment is to permit a Montessori School, Perth's Children's House, to operate on the property.

2



2

### Perth Children's House Location

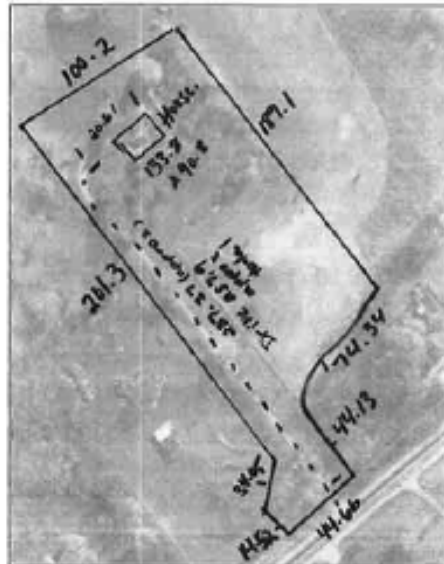


3

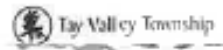


3

### Perth Children's House Site Drawing



4



4

## Perth Children's House Aerial Photo (2019)



5

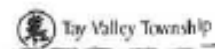


5

## Perth Children's House Planner's Comments Provincial Policy Statement (PPS)

- Section 1.1.1 Building Strong Healthy Communities - states that "Healthy, livable and safe communities are sustained by: a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term...and c) avoiding development and land use patterns which may cause environmental or public health and safety concerns."
- This section can be met as the use is proposed to occupy an existing building set far back from neighbours on a large lot. No natural or human-made hazards are present on the lot. No uses incompatible with a sensitive use are located in the area. The use is compatible with surrounding residential uses and is just over a kilometre from another Institutional use, St. John Catholic High School.

6

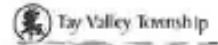


6

## Perth Children's House County Sustainable Communities Official Plan

- Section 3 Rural Land designation permits a variety of uses including institutional uses.

7

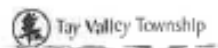


7

## Perth Children's House Planner's Comments Official Plan

- The subject property is designated in the Official Plan as Rural. Section 3.6 Rural designation permits institutional uses.
- Section 5.4 Site Plan Control is required for an institutional use.

8

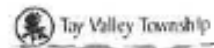


8

## Perth Children's House Planner's Comments Zoning

- The lot is currently zoned Commercial (C) and Rural (RU), and is proposed to be rezoned to Institutional (I).
- Setbacks can be met. Lot coverage requirements are met as the lot coverage is 2.2%, well under the 20% permitted, which would permit expansion of the facilities in the future.
- Parking requirements can be met as the property is five times larger than the requirement of 4,050m<sup>2</sup> (1 acre).
- No special exception is required as the undersized frontage was recognized by minor variance 17-06 as a condition of the creation of the lot (to maintain the existing shared entrance previously approved by Lanark County, for a commercial use on the retained lot, and a house on the severed lot).

9

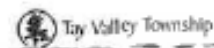


9

## Perth Children's House Planner's Comments

- The applicant is proposing to rezone the lot to Institutional (I) to allow a Montessori School, Perth's Children's House to operate on the property. The use is permitted by the Official Plan and the Planner believes the proposed use would be in keeping with other land uses in the area which include residential, commercial, institutional (St. John Catholic High School), and vacant land.
- Scotch Line is a County arterial road so the additional traffic for the school will not have an impact on the capacity of the road to handle traffic.

10



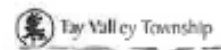
10

## Perth Children's House Comments

### **Lanark County**

- The County Public Works Department confirmed a shared entrance permit for the property had been issued as part of severance B16/034.
- The entrance has now been approved as Common Commercial/Industrial.

11



11

## Perth Children's House Comments Continued

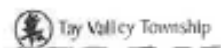
### **Rideau Valley Conservation Authority (RVCA)**

- The RVCA was not circulated as there are no watercourses on the property.

### **Mississippi-Rideau Septic System Office (MRSSO)**

- The applicant has applied for a Part 10/11 Renovation/Change of Use septic permit.

12



12

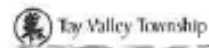


## Perth Children's House Comments Continued

### **Public Comments**

- A neighbouring property owner asked if the change in zoning would affect speed limits on this section of Scotch Line.
- Members of the public are also welcome to speak to the application at this meeting.

13

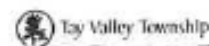


13

## Perth Children's House Recommendation

"THAT, Zoning By-Law No. 2002-121 be amended to rezone the lands at Concession 10, Part Lot 1, 2345 Scotch Line, Geographic Township of North Burgess (Roll #0911-911-010-31202) from Commercial (C) and Rural (RU) to Institutional (I).

14



14

**PUBLIC MEETING CONCERNING PROPOSED ZONING BY-LAW AMENDMENT**

DECEMBER 5<sup>th</sup>, 2023

Noelle Reeve, Planner

**APPLICATION ZA23-04 - St. Pierre**

**STAFF RECOMMENDATION**

It is recommended:

**“THAT**, the request to amend Zoning By-Law No. 02-021 to change the zoning of the lands at Pt Lot 17, Concession 3, Geographic Township of North Burgess, 147 Horseshoe Bay, from Seasonal Residential to Residential Limited Services Exception – 192 (RLS-192) be denied as the intent of the Provincial Policy Statement, Lanark County Sustainable Communities Official Plan, Township Official Plan and Township Zoning By-Law would not be maintained.

**BACKGROUND**

The application applies to approximately 0.6 ha (1.5 acres) of land, at 147 Horseshoe Bay, in Pt Lot 17, Concession 3, Geographic Township of North Burgess.

*The purpose* of the application is to change the zoning of the lot from Seasonal Residential (RS) to Residential Limited Services Special Exception-192 (RLS-192) to permit a cottage to be used as a year-round dwelling.

The application also seeks to retroactively recognize reduced setbacks from the 30m water setback for the following existing structures on the subject land:

- i) an 11.4 m water setback for a 59m<sup>2</sup> (635 sq ft) addition;
- ii) an 11.4 m water setback for the supporting deck for the addition;
- iii) a 16.3 m water setback for the 19m<sup>2</sup> (200 sq ft) sunroom (solarium);
- iv) a 19.2 m water setback for a 10 m<sup>2</sup> (108 sq ft) deck attached to the west side of the addition (between the entryway to the dwelling and the garage);
- v) an 8.6 m and 15.6 m water setback for a 40 m<sup>2</sup> (431 sq ft) cedar deck attached to both the east side of the addition and northeast side of the dwelling;
- vi) a water setback of 22.5 m for the second storey 58m<sup>2</sup> (624 sq ft) of an existing 58m<sup>2</sup> accessory building (garage);
- vii) a 28 m water setback for the septic tank; and
- viii) a south side yard setback for the dwelling of 4.8 m instead of the 6m required.

The property was created by a consent (severance) granted by the Lanark County Land Division in 1987. In 1992, the cottage, two small, attached decks, and a single storey garage were built by the previous owners under Building Permits 102-92 (cottage) and 139-92 (garage). (See Attachment 1.)

An application to amend the Zoning By-law to rezone the lands to Residential Special Exception 176 (RLS-176) was submitted in 2020 to recognize the construction of an addition built on the north side of the cottage. (See Attachments 2 and 3.) The application was submitted in response to a Notice of Building Code Violation issued in October 2019 when construction of the addition was discovered.

Application 2020-01 was refused by the Council at the time. The applicant appealed to the Local Planning Appeal Tribunal (LPAT), now the Ontario Land Tribunal (OLT), and at the video hearing on November 30, 2020, the adjudicator allowed the applicant to withdraw their appeal in order to prepare an application that would seek to regularize additional instances of construction without permit.

For the new application to be considered complete with respect to the requirements of the Official Plan, an environmental impact assessment was required as the property is located in an area known to contain species at risk and Big Rideau Lake is a cold-water trout lake considered sensitive to development. Also, a Part 10/11 septic review was required to assess the impact of the increased living space on the capacity of the septic system.

The applicant hired Kilgour Associates Ltd. to undertake the required Environmental Impact Assessment (EIA) which was completed August 31, 2022. JL Richards Planners prepared a Planning Rationale June 21, 2023.

A Part 10/11 septic review application was submitted October 20, 2023, at which time the Planner declared the application complete.

## **DISCUSSION**

This report reviews the application which seeks eight instances of relief from the Zoning By-law and considers whether the application represents good land use planning.

### **Provincial Policy Statement (PPS)**

**Section 1.1.1 Building Strong Healthy Communities** - states that, "Healthy, livable and safe communities are sustained by: a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term...."

Big Rideau Lake is part of the Rideau Canal Waterway, which is a National Historic Site of Canada, Canadian Heritage River, and the only UNESCO World Heritage Site located in Ontario. The Canal is a significant cultural and tourism asset for the province. The Canal has a 30m buffer where development is discouraged under the UNESCO designation to protect the integrity of the designation.

Healthy, livable and safe communities are also sustained by: “c) avoiding development and land use patterns which may cause environmental or public health and safety concerns”.

The construction of an addition, five decks, sunroom (solarium) and docks have taken place next to Big Rideau Lake, a sensitive cold-water trout lake, (one of only two in the Township). This construction has displaced naturally vegetated, permeable land and replaced it with roofs, manicured lawn, landscaping flagstones, and other impermeable surfaces that exacerbates runoff (adding nutrients into the lake), which leads to reduced water quality.

The plastic piping emptying from under the addition directly to the lake (noted on the first site visit by the Planner and Conservation Agency staff in 2020) remains in place as of November 2023. The downspouts from the eavestroughs for the addition are not funneled into soak away pits. The surface under the large cedar deck is impermeable, as are the decks along the shore and surrounding the shed at the shore.

**Section 1.1.5.2 Rural lands** permits residential development.

**Section 1.8 Energy Conservation, Air Quality and Climate Change** states, “Planning authorities shall support...preparing for the impacts of a changing climate in land use decisions which:” “f) promote design and orientation which maximizes energy efficiency and conservation, and considers the mitigating effects of vegetation and green infrastructure”.

The cumulative construction on the site has had the opposite effect of what the PPS promotes. The continuous development since 2004 (when the owners acquired the property) has replaced vegetation and pervious land with impervious surface which increases runoff and nutrient loading of the lake. Increased runoff is predicted to increase in this area as an effect of climate change.

**Section 1.6.6.4 Sewage Water and Stormwater** permits the use of individual onsite septic systems. The septic system failed the Part 10/11 review for capacity to accommodate the additional living space. New system components will be required.

**Section 2.1.2 Natural Heritage** states that, “The diversity and natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features”.

**Section 2.1.6 Natural Heritage** states that, “Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements”. The Kilgour EIA identified Bridle Shiner (species of Special Concern) in the water adjacent to the shore.

**Section 2.1.7 Natural Heritage** states, “Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements”. The Kilgour EIA identified Snapping Turtle and Eastern Wood-pewee (species of Special Concern) and Gray Ratsnake (Threatened) on the property.

**Section 2.18 Natural Heritage** states that, “Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policy 2.1.6 [fish habitat] unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions”.

The Environmental Impact Assessment undertaken by Kilgour and Associates Ltd. August 31, 2022 provided recommendations specific to the addition to address the impacts of increased runoff from the property. The recommendation for a 2m shoreline buffer is not considered adequate by Parks Canada or the Township.

**Section 2.2 Water** states, “Planning authorities shall protect, improve or restore the quality and quantity of water by: using the watershed as the ecologically meaningful scale for integrated and long-term planning (which can be a foundation for considering cumulative impacts of development), minimizing potential negative impacts, identifying water resource systems consisting of surface water systems which are necessary for the ecological and hydrological integrity of the watershed; maintaining linkages and related functions among identified water features; implementing necessary restrictions on development and site alteration to protect, improve or restore vulnerable surface and ground water, sensitive surface water features and sensitive ground water features and their hydrologic functions”.

Negative impacts are defined in the Provincial Policy Statement as, “degradation to the quality and quantity of water, sensitive surface water features and sensitive ground water features, and their related hydrologic functions, due to single, multiple or successive development or site alteration activities”.

Vulnerability is defined in the PPS as “surface and/or ground water that can be easily changed or impacted”. Big Rideau Lake is classified as a moderately sensitive cold water trout lake by the Ministry of Northern Development, Mines, Natural Resources and Forestry. The Rideau Valley Conservation Authority’s *Big Rideau Lake-Portland Catchment Area Subwatershed Report 2014* classifies this area of Big Rideau Lake with a water quality rating of Fair (below Very Good, Good and above Poor, Very Poor) and has, therefore, been demonstrated to be vulnerable to impacts of development.

According to the PPS, the cumulative effect of development must be considered on water quality. The RVCA *Big Rideau Lake-Portland Catchment Area Subwatershed Report 2014* states that Big Rideau Lake has been under development pressure for centuries and all development and redevelopment should be located no closer than 30 metres to prevent further reduction in water quality.

The 1992 *Rideau Lakes Basin Carrying Capacity Study and Proposed Shoreline Development Policies*, prepared by Michael Michalski Associates and Anthony Usher Planning Consultant, established a water setback of 30m to protect water quality. The study was re-evaluated in 2015 by Neil Hutchinson, Hutchinson Environmental Sciences, who confirmed its findings continued to be valid.

As well as considering the economic and environmental implications of land use, the Provincial Policy Statement also requires planners to address cultural aspects of land use.

**Section 2.6.1 Cultural Heritage and Archaeology** states, “Significant built heritage resources and significant cultural heritage landscapes shall be conserved”. The Provincial Policy Statement describes a cultural heritage landscape as a “defined geographical area that may have been modified by human activity and is identified as having cultural heritage value or interest by a community, including an Indigenous community”.

“Cultural heritage landscapes may be properties that have been determined to have cultural heritage value or interest under the Ontario Heritage Act, or have been included on federal and/or international registers, and/or protected through official plan, zoning by-law, or other land use planning mechanisms.”

**Section 2.6.3 Cultural Heritage and Archaeology** of the Provincial Policy Statement directs that, “Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved”.

The Rideau Canal Waterway comprises both built portions of the canal and slackwater lakes, including Big Rideau Lake and Adam Lake in Tay Valley Township. These lakes are included both in federal and international registers (National Historic Site of Canada, Canadian Heritage River, and UNESCO World Heritage Site). It is important to note that the UNESCO World Heritage Site includes a 30m buffer inland from the edge of the water and that Parks Canada and the Rideau Valley Conservation Authority require permits for work in or along the shoreline area (which is defined by legislation as 15m from the water’s edge).

**Section 2.6.2 Cultural Heritage and Archaeology** states that, “Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved”. Areas of archaeological potential include lands that contain or are located within 300 meters of a primary water source such as a lakeshore, river or large creek.

Because the application is for retroactive approval, there is no opportunity for archeological investigation without demolition of hard surface beneath the sunroom (solarium) and cedar deck and removal of the at least part of the addition, all of the entryway and the deck adjoining the garage.

Finally, **Section 3.1 Protecting Health and Safety** of the Provincial Policy Statement requires the consideration of natural and human made hazards in planning for land use. The Rideau Valley Conservation Authority identified no concerns related to hazards from slope or hazards from flood levels.

The Planner concludes that the application does not conform to the Provincial Policy Statement Section 2.6. Cultural Heritage and Archaeology as the 30m buffer for the protection of the heritage character of the Canal was not met by the development, nor were any archeological studies undertaken prior to the development.

Also, the application does not conform to the Provincial Policy Statement Section 2.2 Water requirement to “protect, improve or restore the quality and quantity of water” by “implementing development restrictions” consistent with the 30m setback identified in both

*the Big Rideau Lake – Portland Catchment Area Subwatershed Report and the Rideau Lakes Basin Carrying Capacity and Proposed Shoreline Development Policies.*

## **Lanark County Sustainable Communities Official Plan**

**Section 3 Rural Land** designation permits a variety of uses including residential uses.

**Section 3.5.5 Special Policies** recognizes the UNESCO World Heritage designation of the Rideau Canal and states, “local Official Plans should consider policies which address the need to protect and preserve the heritage resource. Part of the designation requires the inclusion of strategies that will preserve the heritage and cultural resources”.

The County Official Plan also states, “The Rideau Canal Corridor Landscape Strategy, once completed, will be taken into consideration by the County as it discharges its responsibilities with respect to the approval of local Official Plans and Official Plan Amendments, and in the review and approval of plans of subdivisions and consent applications.”

**Section 5.3 Objectives** states, “It is Lanark County’s overall goal that the County’s natural heritage features be both conserved and protected from negative impacts of development. The County’s natural heritage features, including non-significant features, should be conserved and rehabilitated for the benefit of future generations according to best management practices undertaken today and as they evolve”.

**Section 5.4.4 General Land Use Policies** states, “The County of Lanark and its constituent municipalities have an obligation to consider the impact of development and land use on waterbodies throughout the County in order to ensure the long term viability of this important natural and economic resource. Local Official Plan requirements which provide for a minimum 30 metre setback where development is proposed adjacent to a waterbody shall apply. Any proposed reduction to the minimum setback requirements shall be in accordance with the provisions of local Official Plans”.

**Section 7.0 Public Health and Safety** states, “Constraints to development are primarily related to hazardous conditions such as the existence of floodplains, erosion hazards and the presence of unstable slopes. To a lesser extent, development may be restricted on the basis of existing site contamination or noise and vibration concerns”. No constraints were identified by the Rideau Valley Conservation Authority.

The Planner concludes that the application does not conform to the Lanark County Sustainable Communities Official Plan as the development is located within the 30 m buffer of the Rideau Canal Waterway. Therefore, the application does not comply with the Special Policies section 3.5.5 of the Lanark County Official Plan. And the location of development within 30 m of the water does not comply with the General Policies of the Lanark County Official Plan with respect to protection of water quality.

## **Tay Valley Township Official Plan**

**Section 3.6 Rural** designation permits residential uses. The subject property is designated as Rural in the Official Plan.

**Section 2.19 Cultural Heritage and Archeological Resources** states that built heritage and cultural heritage landscapes are important to the Township for, “the role they play in making the Township a place of historic and cultural interest, both to local residents and visitors to the area”.

**Section 2.19.2 Cultural Heritage and Archeological Resources** notes that in particular, the Rideau Canal Corridor, which includes Big Rideau Lake, has been studied by Parks Canada and they have developed the *Rideau Canal Management Plan* and subsequently the *Rideau Corridor Landscape Strategy* to protect its unique heritage qualities. Public consultation undertaken for the development of that Strategy identified that users of the Canal and local residents of the Big Rideau Lake segment of the Canal valued the visual value of the natural landscape over cottage views.

**Section 2.22.2 Fish Habitat and Adjacent Lands** states that spawning grounds, nursery, rearing, food supply and migration areas on which fish depend are to be protected. No development or site alteration shall be permitted within 120m of the habitat without an Environmental Impact Study (EIS).

**Section 2.22.4 Endangered and Threatened Species Habitat and Adjacent Lands**, and **Section 2.22.6 Significant Valleylands** are both applicable to this property.

**Section 2.24.1 Waterfront Development** states that the Township, “has a direct concern with the issue of water quality impacts related to water-oriented development. Over the years, research has been undertaken with respect to the issue of water quality and lake capacity including the *Rideau Lakes Basin Carrying Capacity and Proposed Shoreline Development Policies Report* and related *Municipal Site Evaluation Guidelines*. Various sections of the Official Plan incorporate policies implementing recommendations of this research in recognition of the importance of providing sustainable recreation, tourism and other water-oriented opportunities.”

“An adequate water setback serves an important function in relation to the protection of natural and cultural heritage characteristics and water quality of the lakes and rivers of the Township. The intent of the water setback is to prevent the disturbance of the shoreline area as a result of the placement of buildings and structures, including sewage systems, or the removal of the soil mantle and natural vegetation. An appropriate water setback can reduce phosphorus and other nutrient loads to the lake and in combination with vegetation, prevent erosion and sedimentation.”

The appropriate water setback to maintain the long term viability of waterbodies has been the subject of numerous studies. By enforcing a 30 m setback identified by these studies, protection of most waterbodies can be achieved. (On some lots with steep slopes and thin soil cover, a greater setback is required.)

The 62% reduction in setback to water sought by the zoning amendment for the addition and the 73% reduction for the cedar deck, results in negative impacts on water quality such as increased runoff, reduction in infiltration, increased nutrient loading, and increased sediment loading.



Erosion on the north slope of the site was noted by the Planner and Conservation Authority on successive site visits due to runoff from the addition. Additional hardened surfaces were noted to have been added to the property within the 30m setback on the Planner's site visit in November 2023.

**Section 2.24.1.2c) Water Setback** is very important in the consideration of any development proposed less than 30 m from a water body. It states that, "Development or site alteration may be permitted less than 30m from a water body in exceptional circumstances where existing Lots of Record or existing developments preclude the reasonable possibility of achieving the setback."

There is no support for the proposition that this is an exceptional site warranting reduction of the setback requirement. The lot can accommodate development at a greater setback from the lake. There are no topographical features, etc. that would preclude placing the addition farther from the lake.

A reduction in water setback is unjustified in this case because there are other possible locations for the addition (e.g., at the rear of the cottage or as a second storey 15m from the lake). The current septic system located at the rear of the cottage will require relocation as the capacity of the system to handle the increased demand from the additional living space was determined to be insufficient.

**Section 2.24.3 Rideau Canal World Heritage Site** "acknowledges the Rideau Canal is a *National Historic Site, a Canadian Heritage River and a UNESCO World Heritage Site*. The Rideau Canal was designated a national historic site in 1926 in recognition of its construction, survival of a high number of original structures and the unique historical environment of the canal system. In 2000, the Canal was designated a Canadian Heritage River for its outstanding human heritage and recreational values.

The Rideau Canal was designated a UNESCO World Heritage Site in 2007, because of its construction technology and role in defending Canada. The Canal is the best preserved slackwater canal in North America and is the only canal from the great North American building era of the early 19th century that remains operational along its original line with most of its structures intact. A slackwater canal includes natural waterways (e.g., lakes) as well as constructed features.

Parks Canada's jurisdiction over the Canal requires that applications for Official Plan Amendment, Zoning Amendment, Minor Variance, Severance, or Subdivision of land (including plans of condominium) will be circulated to Parks Canada for comment, and will be reviewed in the context of the protection of the natural, cultural and scenic values of the Rideau Canal. Parks Canada currently has two management plans: *the Rideau Canal Historic Site Management Plan and the Rideau Canal World Heritage Site Management Plan*."

The 30m buffer zone included in the UNESCO World Heritage Site corresponds to the Township's Official Plan 30m setback for all development and site alterations, including septic systems, adjacent to water bodies. "No development or site alteration will be allowed in the buffer zone other than that prescribed in this [World Heritage Site] Plan. The 30 meter buffer zone adjacent to the World Heritage Site is to protect the integrity of the Canal shoreline.

Existing lots of record will retain, as a minimum, all natural vegetation 15 meters from the shoreline in its natural state and allow only 25% of the shoreline or 15 meters, whichever is less, to be developed for access to and use of the waterfront.”

**Section 2.10.2 Residential Conversion from Secondary to Principle Use** establishes considerations for a change of use from a cottage to a principle dwelling including:

- a. Evidence that the dwelling is capable of being occupied on a year-round basis;
- b. The suitability of the lot for permanent occupancy from an environmental perspective with respect to matters such as size, shape, topography, vegetative characteristics and drainage;
- c. The adequacy of sanitary sewage and water supply services for permanent use;
- d. The existence of potentially hazardous conditions such as flooding, erosion or unstable slopes or subsidence;
- e. The execution and registration of an agreement wherein the dwelling owner acknowledges that the Township will not provide any services such as snow plowing or road maintenance as a consequence of the conversion of the dwelling to principal or permanent use and, further, that the Township shall be held harmless for damages suffered by the dwelling owner as a result of road inadequacy.

**Section 3.6.4.7c Residential Policies** also requires:

- i. Access is available via an existing private road;
- ii. Confirmation is received from emergency service providers that adequate services can be provided to the dwelling, or a Limited Services Agreement has been signed;
- iii. The proposed septic system has been approved.

Currently the sanitary sewage service has been determined to be inadequate.

The Planner concludes that the application does not conform to the Tay Valley Township Official Plan. Section 2.24.1.2c) states that, “Development or site alteration may be permitted less than 30 m from a water body in exceptional circumstances where existing Lots of Record or existing developments preclude the reasonable possibility of achieving the setback”.

In this case, development is not precluded from meeting a greater setback from the lake (by as much as a 22m setback instead of the 11.4m in the application) as there exists the possibility for a vertical addition to have been constructed over the rear of the existing cottage or a horizontal addition behind the cottage.

Also, Section 2.3.4 of the Tay Valley Township Official Plan requires existing lots of record to retain, as a minimum, all natural vegetation 15 meters from the shoreline of the Rideau Canal UNESCO World Heritage Site, which includes Big Rideau Lake and Adam Lake. The application seeks retroactive permission for two structures that do not meet the 15m setback requirement - the 2020 addition which is 11.4m from the shoreline and the previously constructed cedar deck (with impervious surface below) which is 8.6m from the shoreline (at its closest point). These two structures would require an Official Plan Amendment.

## **Zoning By-Law**

The lot is currently zoned Seasonal Residential and is proposed to be rezoned to Residential Limited Services Special Exception-192 (RLS-192) to allow a cottage to be used as a dwelling. Changing the use from seasonal to year-round does not raise issues under the Zoning By-law when the original cottage or proposed dwelling meets the 30m water setback and has adequate septic and water servicing and adequate road access.

However, in this case, the dwelling and other construction do not meet the 30m water setback and eight exceptions to the Zoning By-law have been requested by the applicant.

Seven additional required exceptions were identified by the Township Planner – size of cedar deck, encroachment of the cedar deck, entryway deck size, height of an accessory building (second storey of the garage), permission for the shoreline deck, and permission for the shed, and permission for its surrounding deck beside the water. However, these exceptions were not applied for as part of the current application.

The original cottage that was built under Building Permit 92-101 exceeded the water setback requirements of the North Burgess Zoning Bylaw in effect at the time as the cottage was built at a water setback of 19m. (See Attachment 4).

Section 3.29 Water Setbacks of the current Tay Valley Township Zoning By-law requires a 30 m setback from water, which is not met by the multiple structures identified in the application.

Section 3.12.6, Enlargements of Non-Complying Uses, Buildings or Structures states: “A non-complying use, building or structure may not be enlarged, except in accordance with the following:

- The enlargement or addition is constructed as a vertical enlargement (i.e., additional storey) to the existing non-complying building or structure so that the extent of any existing non-compliance with respect to all yard, street setback and water setback provisions is not increased and, further, so that no portion of the vertical enlargement has a water setback of less than 15m; or
- The enlargement or addition is constructed as a horizontal enlargement to the existing non-complying building or structure in a manner so that the enlargement or addition complies with all yard, street setback and water setback provisions;

Provided that in either case all other applicable provisions of this By-law are complied with for the enlarged building or structure.”

It is important to keep in mind that structures constructed without a building permit do not constitute existing development. Therefore, only the original construction authorized under the 1992 Building Permits would be considered legally non-complying. None of the additional construction without permit since 1992 is considered legally non-complying. (See Attachment 5.)

Regarding deck encroachments, Section 3.30 Yard and Water Setback Encroachments states, “Notwithstanding the yard and setback provisions of this By-law, the following encroachments are permitted: An attached unenclosed porch, open and unroofed porch, deck, balcony, exterior stairs or landing may project from the main building into the existing water setback by a maximum of 2m provided: the water setback of the existing building is equal to or greater than 15m; the combined horizontal surface area is 28m<sup>2</sup> or less; and there is no unattached deck or gazebo on the property”.

The total area of decks built with permit in 1992 was 28.9m<sup>2</sup> and the encroachment toward water was 3m.

Since the purchase of the property from the original owners in 2004, additional decks totalling 101m<sup>2</sup> have been constructed – (almost four times the amount of decking permitted by the Zoning By-law).

Section 3.30 of the Zoning By-law states that *either* an unattached deck/gazebo (up to 14m<sup>2</sup>) or deck/porch projections (up to 28m<sup>2</sup>) are allowed, not both. Since the dwelling has an attached deck, no other structure, other than a removable dock is permitted between the dwelling and the shore.

The following tables have been prepared to summarize areas where the application conforms to the Zoning By-law (Table 1) and the exceptions to the Zoning By-law requested in the application (Table 2). Table 3 identifies additional required exceptions not in the application.

**Table 1 Section 5.2 Seasonal Residential (RS) Zone Provisions Met by the Application**

	<b>Required</b>	<b>Existing</b>	<b>Application</b>
Lot Area (min)	4050m <sup>2</sup>	6234m <sup>2</sup>	No Change
Lot Frontage (min)	60m	60m	No Change
Dwelling Size (min)	21m <sup>2</sup>	194m <sup>2</sup>	333m <sup>2</sup>
Side Yard – East	6m	40+m	No Change
Rear Yard	7.5m	65m	No Change
Lot Coverage (max)	10%	3.2%	5.6%
Floor Space Index	12%	2%	4.7%
Water Setback Dwelling	30	19	No Change (met 1992 ZBL requirement)
Water Setback – Garage	30m	22.5m	No Change (met 1992 ZBL requirement)

**Table 2 Application for Relief from Zone Standards Section 5.2 Seasonal Residential (RS) Zone**

	<b>Required</b>	<b>Existing</b>	<b>Application</b>
Water setback – 2020 addition for a living room	30m		<b>11.4m</b>
Water setback of 2008 deck under living room addition			<b>11.4m</b>
Water setback – garage 2 <sup>nd</sup> storey	30m		<b>22.5m</b>
Water setback – entryway deck	30m		<b>19.2m</b>
Water setback – cedar deck	30m		<b>8.6m,15.6m</b>
Water setback – Sunroom	30m		<b>16.3m</b>
Side Yard – West	6m	<b>4.8m</b>	<b>No change</b>
Water setback Septic (min)	30m	<b>28m</b>	<b>No change</b>

**Table 3 Additional Relief Not in Application Required for Structures on the Property**

	<b>Required</b>	<b>Existing</b>	<b>No Application</b>
Deck size – entryway deck	28m <sup>2</sup> total decks		<b>10m<sup>2</sup></b>
Deck encroachment – entryway	2m		<b>3m</b>
Water setback – deck around shoreline shed	30m		<b>1m</b>
Accessory building - garage	1 storey		<b>2 storeys</b>
Deck encroachment – cedar	2m		<b>8m</b>
Deck size – cedar deck	28m <sup>2</sup> total decks	18.2m <sup>2</sup>	<b>40m<sup>2</sup></b>
Detached deck or gazebo – shoreline deck	14m <sup>2</sup> total if no deck on the dwelling		<b>36m<sup>2</sup></b>
Detached deck or gazebo – deck around shoreline shed	14m <sup>2</sup> total if no deck on the dwelling		<b>4m<sup>2</sup> shed and 7.5m<sup>2</sup> deck</b>
Water setback – driveway shed	30m		<b>24.7m</b>

The additional compliance issues identified in Table 3 are not addressed by the Zoning By-law amendment application before Council.

For reference, three other Zoning By-law Amendments have been approved in the vicinity of the property. Two of the amendments permitted additions at a water setback of 19m (RLS-136 in 2014) and at 18m (RLS-178 in 2009). A third rezoning permitted a dwelling at a water setback of 16.1m (RLS-45 in 2005). (See Attachment 6).

All of these other zoning amendments meet the 15m no disturbance zone of the UNESCO World Heritage Site. None of these rezonings required the exceptional number of exemptions from the Zoning By-law sought by this application.

An additional table, Table 4 Construction Before and After 2004 within 30m of Big Rideau Lake, has been prepared to assist Council in understanding the amount of additional

impervious surface and disturbance within the 30m water setback that has been undertaken on the property.

**Table 4 Construction Before and After 2004 Within 30m of Big Rideau Lake**

	<b>1992 Construction</b>	<b>Post-2004 Construction</b>
Total Footprint	116m <sup>2</sup> dwelling, 58m <sup>2</sup> garage (1992 Building Permits = <b>174m<sup>2</sup></b> );  121m <sup>2</sup> dwelling, no garage (MPAC)	Addition 59m <sup>2</sup> , cedar deck 40m <sup>2</sup> , sunroom 15m <sup>2</sup> , entryway deck 10m <sup>2</sup> , shoreline deck 36m <sup>2</sup> , shed and its deck 11.5m <sup>2</sup> , driveway sheds 10m <sup>2</sup> = <b>181.5m<sup>2</sup></b> <b>a104% increase in development</b>
Total Living Space	232m <sup>2</sup> (1992 Building Permit), 206m <sup>2</sup> (from MPAC)	333m <sup>2</sup> <b>71%</b> increase (2023 Part 10/11 application); 280 m <sup>2</sup> <b>37%</b> increase (Planner's calculation)
North Deck	10.4m <sup>2</sup>	59m <sup>2</sup>
Northeast Deck	18.5m <sup>2</sup>	(Cedar Deck) 40m <sup>2</sup>
Sun Room (solarium)		15m <sup>2</sup>
Second Storey of Garage		27m <sup>2</sup>
Shoreline Deck		36m <sup>2</sup>
Entryway Deck		10m <sup>2</sup>
Shed with Deck		11.5m <sup>2</sup>

The applicant has been asked to demonstrate whether the existing shoreline development exceeds 15m or 25% of the waterfront (whichever is less) that is permitted by the Zoning By-law.

### **Planner**

The Planner cannot support the requests for relief from the Zoning By-law as they do not represent good land use planning. Requests for relief from the Zoning By-law should conform to the Official Plan. The application does not conform to the Official Plan Section 2.24.3 (Rideau Canal World Heritage Site) prohibiting development within 15m of the Rideau Canal Waterway.

There is no reasonable constraint to locating the addition at or beyond the 15m setback required by Section 2.24.3. (The septic tank at the rear of the dwelling will need to be relocated to a 30m setback so the addition could be placed at the rear of the dwelling at a 22m water setback rather than the 11.4m water setback in the application. Or the addition could be built as a second storey beyond the 15m water setback.)

Similarly, there is no planning justification for the sunroom to have been added as living space encroaching toward the water, or the cedar deck to have been constructed at 8m from the Rideau Canal UNESCO World Heritage Site. The applicant's Environmental Impact Assessment recommends removal of the shoreline deck and the shed with surrounding deck

given the assessment of the impact of those structures on the shoreline ecosystem and the health of the lake.

In addition, Provincial Policy Statement conformity is not met as the applicant has not met the 30m setback identified as necessary to protect water quality by both the *Big Rideau Lake Subwatershed Report* and the *Rideau Lakes Basin Carrying Capacity Study*. The proximity of the cumulative development on this property to the lake produces negative impacts on the water quality that will be magnified by climate change.

The application does not comply with the Lanark County Sustainable Communities Official Plan requirements to meet a 30m setback from water to protect water quality and to protect the UNESCO World Heritage Site.

With respect to the requests for relief from the Zoning By-law outlined in the application they are not supported for the following reasons:

- i), ii), v) the addition for a living room, deck the addition sits on, and the cedar deck are not located at the 15m water setback required for additions to legally non-complying buildings (Section 3.12.6),
- iii) the sunroom living space encroaches toward the water (Section 3.29),
- iv) and v) the decks do not conform to the size requirements of the Zoning By-law as they total almost twice the size permitted (Section 3.30),
- vi) the garage second storey also requires height relief (Section 3.1.6.2),
- vii) A new septic system is required at a setback of 30m as the current system failed the Part 10/11 capacity review due the additional living space.

Similar applications have been refused by the Township in the past due to concerns about negative impacts on cultural aspects of the waterfront and negative impacts on the environment.

For example, between 2013-15 the owner of a cottage on Black Lake built a deck without permit, and then built a room on top of that deck, and then built a new deck projecting from the room, all within 30 m of Black Lake.

When the construction came to the Township's attention, Council refused the owner's application for a zoning amendment to permit the construction and required the owner to remove the room and deck. A subsequent zoning amendment application was approved to permit a room at the rear of the cottage, conditional on the applicant obtaining sufficient lot area through a lot addition to meet the lot coverage requirements of the Zoning By-law.

In 2010, when a cottage on Pike Lake was tripled in size without permit at a water setback of 12m, Council did not approve a Zoning By-Law amendment to grant exceptions requested by the owner to legalize the construction. The owner subsequently removed the addition and rebuilt the cottage on its legal footprint.

In 2007, a property owner on Long Lake did not comply with the order of the court to move a building constructed without permit farther back from Long Lake. The Township had it moved at the owner's cost.

## **Rideau Waterway Development Review Team (RWDRT) - Rideau Valley Conservation Authority (RVCA) Comments**

The Rideau Valley Conservation Authority (RVCA) has reviewed the application within the context of:

- Section 3.1 Natural Hazards of the *Provincial Policy Statement* under Section 3 of the Planning Act;
- The Rideau Valley Conservation Authority (“Development, Interference with Wetlands and Alteration to Shorelines and Watercourses” regulation 174/06 under Section 28 of the Conservation Authorities Act); and
- The Mississippi-Rideau Source Protection Plan.

Concerning *Provincial Policy Statement* section 3.1, the RVCA has no concerns as a result of this application.

The RVCA regulates the shoreline of Big Rideau Lake under the O. Reg 174/06, Section 28 of the *Conservation Authorities Act*. Should any development be proposed within this area (including, but not limited to, grading, site alteration, dock installation or erosion protection works) prior written permission is required from our office in accordance with our regulations.

The subject property overlies a highly vulnerable aquifer as indicated in the *Mississippi-Rideau Source Water Protection Plan*. These are aquifers that are vulnerable to surface contaminants due to thin or absent soils overlying bedrock that may be fractured. Where these conditions exist, it may be possible for contaminants to enter drinking groundwater supplies. For this reason, care should be taken to avoid land uses and practices that may inadvertently lead to undesirable effects on groundwater.

Some best practices that could be considered include:

- increased well casing depths;
- increased distance of septic systems from drinking water wells;
- ensuring wells are located upgradient of septic sewage disposal systems;
- ensuring that wells and septic systems are properly maintained; and
- Avoid use of pesticides, herbicides and fertilizers.

## **Rideau Waterway Development Review Team (RWDRT) - Parks Canada Comments**

Parks Canada does not support approval of the application to permit development within the 30m buffer zone of the Rideau Canal.

As background, Parks Canada noted in its comments, “The subject property is located on Big Rideau Lake, part of the Rideau Canal National Historic Site and UNESCO World Heritage site. The Rideau Canal National Historic Site is valued in part for its historic, ecological and visual associations with shore lands and communities along the waterway which contribute to the unique historical environment of the canal [Parks Canada, Rideau Canal Commemorative Integrity Statement, 2000].

In addition, when the Rideau Canal was inscribed on the World Heritage List in 2007, the World Heritage Committee recognized a 30 metre buffer zone surrounding the inscribed



property and recommended that consideration be given to strengthening the canal's visual protection outside the buffer zone, in order to ensure that the visual values of the setting are protected alongside environmental values. In this sector of the Canal the buffer zone extends back from the high water mark of Big Rideau Lake.

*Per the Operational Guidelines for the Implementation of the World Heritage Convention, effective management of a world heritage site goes beyond the property to include any buffer zone(s), as well as the broader setting. Ways this can be achieved are through limiting development within the 30 metre buffer zone, and by designing development to be unobtrusive, visually screened and integrated within the vegetation and topography."*

The RWDRT letter goes on to say, "In accordance with the PPS (2020), planning authorities shall strive to maintain, and where possible, enhance water quality through the review of development proposals. One way to achieve this and to protect natural heritage is through provision of an adequate riparian buffer or "ribbon-of-life". A minimum buffer of 30 metres can provide a buffer of undisturbed soil and vegetation along the shoreline, which will help to filter runoff, prevent soil erosion, and provide wildlife habitat.

Based on the information contained in the application, the RWDRT does not support approval of the application to permit development within the 30m buffer zone of the Rideau Canal. Considering Section 2.2 of the PPS, the requested addition may formalize negative impacts which have occurred over the years and which do not protect, improve or restore the quality and quantity of water.

It is acknowledged that it is common to see redevelopment on waterfront properties that have buildings or structures within 30 metres of the normal highwater mark. However, standard practice in these applications for redevelopment are that the proposed addition be located no closer to the normal highwater mark than the existing non-complying structure or constructed as a vertical enlargement.

The RWDRT generally supports the mitigation measures presented in the EIS. However, in its opinion, the establishment of a shoreline buffer should not be restricted to 2 m but established to the greatest extent possible within the 30 m setback from Big Rideau Lake to maximize benefits such as infiltration of runoff, absorption of nutrients, as well as protection from erosion and sedimentation. The RWDRT would encourage the use of infiltration pits, French drains and/or rain gardens to assist in the attenuation/infiltration of stormwater runoff and reduce the potential for shoreline erosion."

The Rideau Waterway Development Review Team asked to be informed of the decision and that a note regarding Ontario Regulation 174/06 be included in any decision.

### **Mississippi Rideau Septic System Office (MRSSO)**

The MRSSO objects to the application for Zoning By-law amendments as proposed.

MRSSO required the submission of a Part 10/11 (Change of Use / Renovation) application due to the increase in floor area greater than 15%.

After a review of the sewage system components and assumed design flows, the performance of the sewage system was determined to have been reduced due to the increase in floor area and, therefore, compensating construction will be required. There appears to be enough area across the private road to increase the size of the sewage system, if necessary, without impacting the minimum 30 m water setback.

### **Big Rideau Lake Association**

Written comments from the Big Rideau Lakes Association state they oppose the application. They are concerned about the impact on the water quality of the lake. They also want the Township to send the signal that its by-laws are upheld. (See Attachment 7.)

Queen's Distinguished University Professor John Smol, limnologist in the Department of Biology, made a presentation to members of the lake association in May 2023 that described how the impacts of climate change will increase the risk for toxic algal blooms in the lake as temperatures rise. He urged waterfront property owners to reduce nitrogen and phosphorous from entering the lake by maintaining or adding natural vegetation on their properties and inspecting septic systems.

### **Public Comments**

Verbal comments from the public raise concerns about impact on fish habitat; shoreline impact; and setting a precedent for others to ignore the water setbacks of the Zoning By-law.

Residents on Horseshoe Bay object to the application on the grounds that the natural heritage values and beauty of Big Rideau Lake should be protected and that building without permit should not be condoned. (See Attachment 8).

Other written comments express, "the hope the Township will deny the request and order demolition of structures knowingly built in contravention of applicable zoning by-laws".

Additional written objections include, "If this amendment is approved as is, it goes against the Tay Valley Official Plan as well as the Lanark Official Plan". This "opens the door for others to use this same strategy. Build without a permit, ignore the stop work order, ignore deadlines and ask for forgiveness in the fall when less people are around to see notices". "This is not being FAIR AND CONSISTENT to other ratepayers that follow the proper procedures and if not, have been dealt with firmly and with serious ramifications and significant costs attached". "Tay Valley has invested to protect Tay Valley's most precious and valuable and economic resource, our 30 plus lakes and the Big Rideau."

The neighbour to the south sent in an email stating they have "no problem in changing the property from seasonal residential to a year round dwelling providing:

1. There is no additional construction on the dwelling.
2. There is no additional construction on the shoreline, including the floating dock. The St. Pierre shoreline has been significantly built up over the years. In addition, they have a floating dock that does lock us in somewhat as it is both long and wide.
3. The property has passed a recent septic inspection. If the property is to be a year-round residence it only makes sense to inspect the septic to ensure it can handle the increased use.

Our bay is a large mouth bass spawning area and with the increase of algae in the bay our water needs to be protected.”

**CONCLUSION**

The Planner recommends that the application be denied and that Zoning By-Law No. 02-021 not be amended for the site specific rezoning exceptions requested for 147 Horseshoe Bay.

**ATTACHMENTS**

- Attachment 1 – Building Plans for 1992 Building Permit
- Attachment 2 – Current Building Drawings
- Attachment 3 – Photo of Building and Garage November 2023
- Attachment 4 – Location of Addition and Other Construction on Site 2004-2020
- Attachment 5 – MNRF Air photos of Construction 2008 and 2014
- Attachment 6 – Zoning By-law Amendments in the Vicinity of the Subject Property
- Attachment 7 – Letter from Big Rideau Lake Association
- Attachment 8 – Letter from residents on Horseshoe Bay

**Prepared and Submitted By:**

**Approved for Submission By:**

*Original signed*

*Original signed*

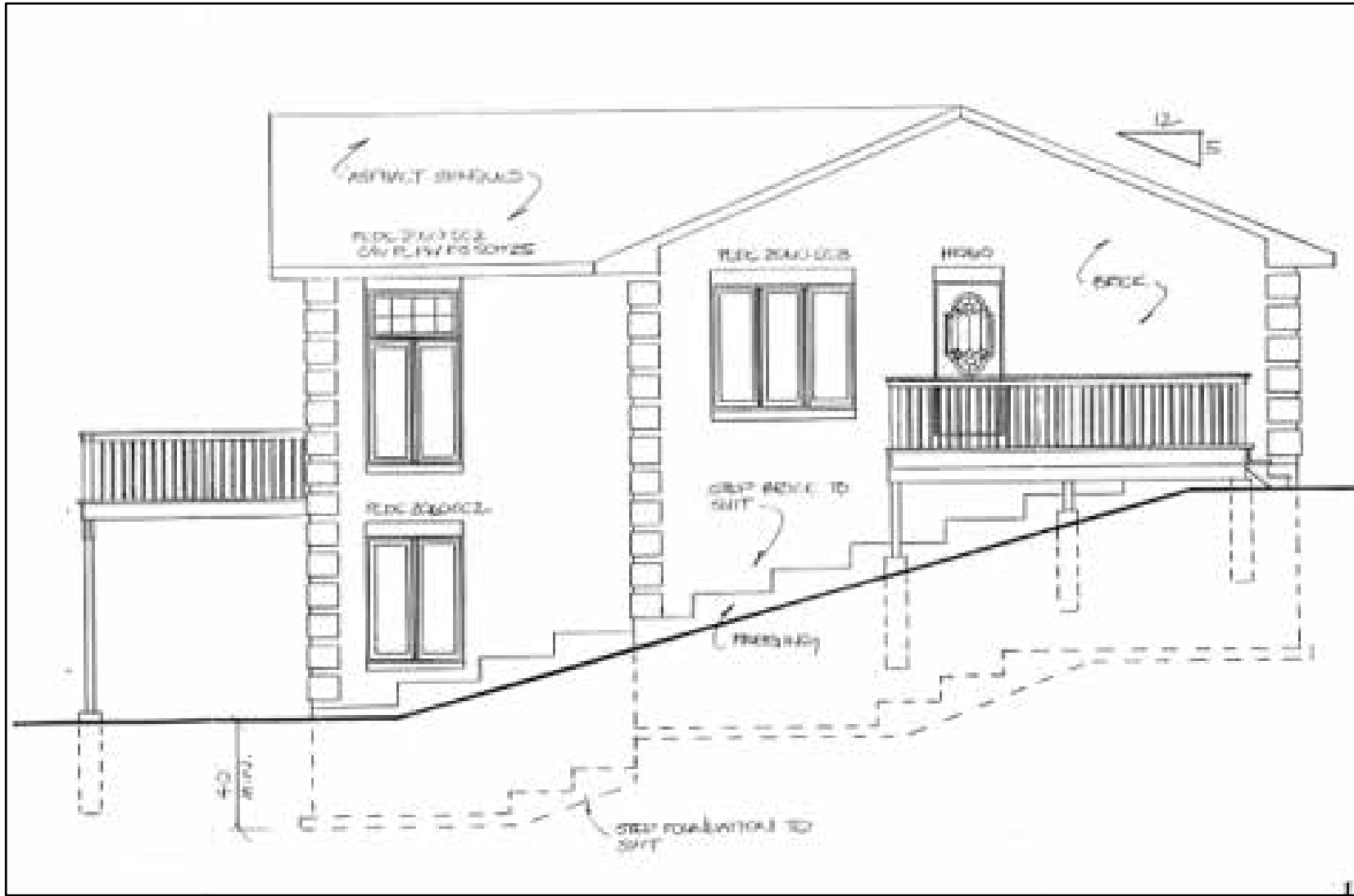
**Noelle Reeve,  
Planner**

**Amanda Mabo,  
Chief Administrative Officer/Clerk**

Attachment 1 - Building Plans for 1992 Building Permit



Attachment 1- Building Plans for 1992 Building Permit



**Attachment 2 – Current Building Drawings with Addition, Cedar Deck, Sun Room**

**ELEVATION NOTES:**

- |  |   |
|--|---|
| (A) 10"x10" SQUARE PINE COLUMN             | (K) PREFINISHED METAL ROOF VENT   |
| (B) STONE STEPS                            | (L) COPPER CAP CHIMNEY  |
| (C) 2"x4"x8" CEDAR PORCH                   | (M) PREFINISHED METAL LOUVER VENT   |
| (D) HAIBEC HOOD SIDING                     | (N) PREFINISHED METAL FASCIA & RAINCAP  |
| (E) CULTURED STONE VENEER                  | (O) 3/4" SQUARE SPINDLE @ 4 1/2" O.C. W/ STEEL HANDRAIL, POSTS & BOTTOM RAIL (PROVIDE SHOP DRAWINGS FOR SECURING OF STEEL RAILING ASSEMBLY) |
| (F) HOOD CORNERS/TRIM BOARDS BY SIDING HFS | (P) 2"x6" CEDAR TRELLIS w/ 2"x6" CEDAR SPACERS  |
| (G) 6"x6"x4" HOOD MULDING BY SIDING HFS    | (Q) 2"x4"x8" CEDAR DECK   |
| (H) PARKING ABOVE FINISH GRADE             | (R) CEDAR STAIRS  |
| (I) CEDAR SHINGLE ROOF                     | (S) ASPHALT SHINGLE ROOF TO MATCH EXISTING  |
| (J) PREFINISHED METAL FLASHING             | (T) CEDAR FASCIA BOARD - SEE DETAIL 2/A6  |



David Egan Associates Inc.  
 2410 Lang Road SE, P.O. Box 886, Kamick, Ontario  
 M6C 1A5  
 Tel: (416) 222-0541, (416) 222-1814

PROJECT  
**ST. PIERRE COTTAGE**  
 141 HORSE SHOE BAY,  
 BIG RIDEAU LAKE  
 STANLEYVILLE, ONTARIO

DRAWING  
**FRONT ELEVATION**

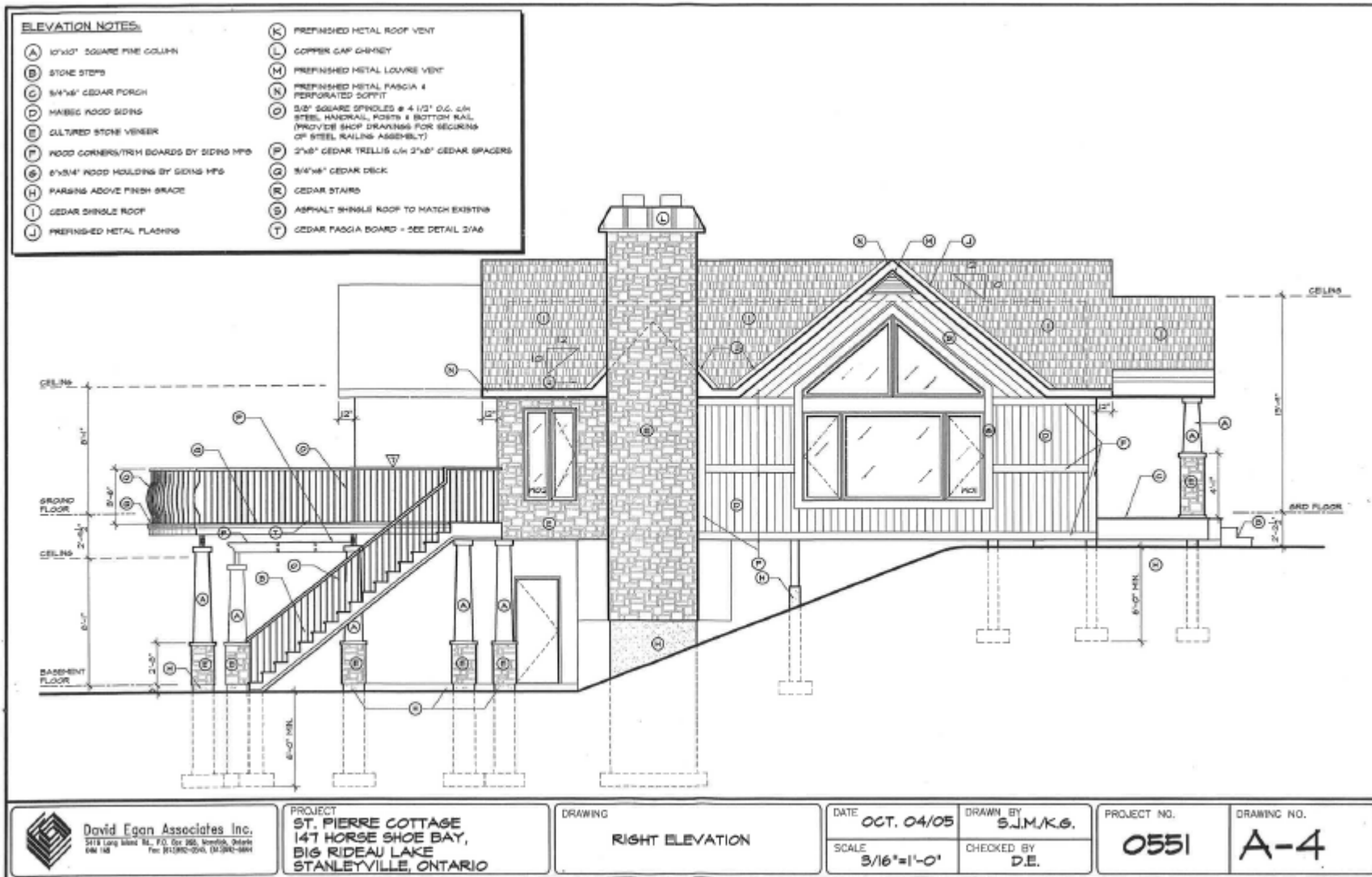
DATE **OCT. 05/05**  
 SCALE **3/16"=1'-0"**

DRAWN BY **S.J.M./K.G.**  
 CHECKED BY **D.E.**

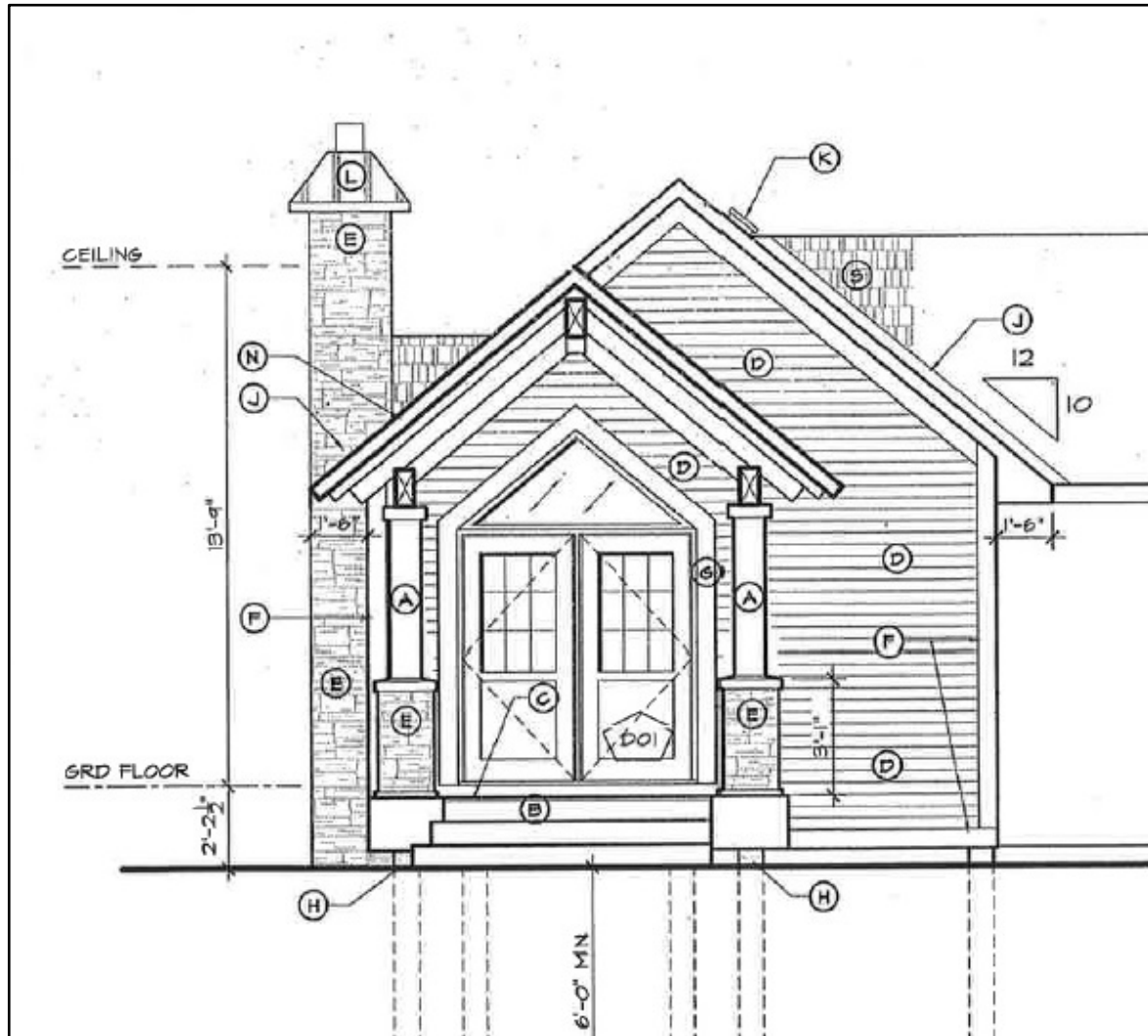
PROJECT NO.  
**0551**

DRAWING NO.  
**A-3**

# Attachment 2 - Current Building Drawings with Addition, Cedar Deck, Sun Room



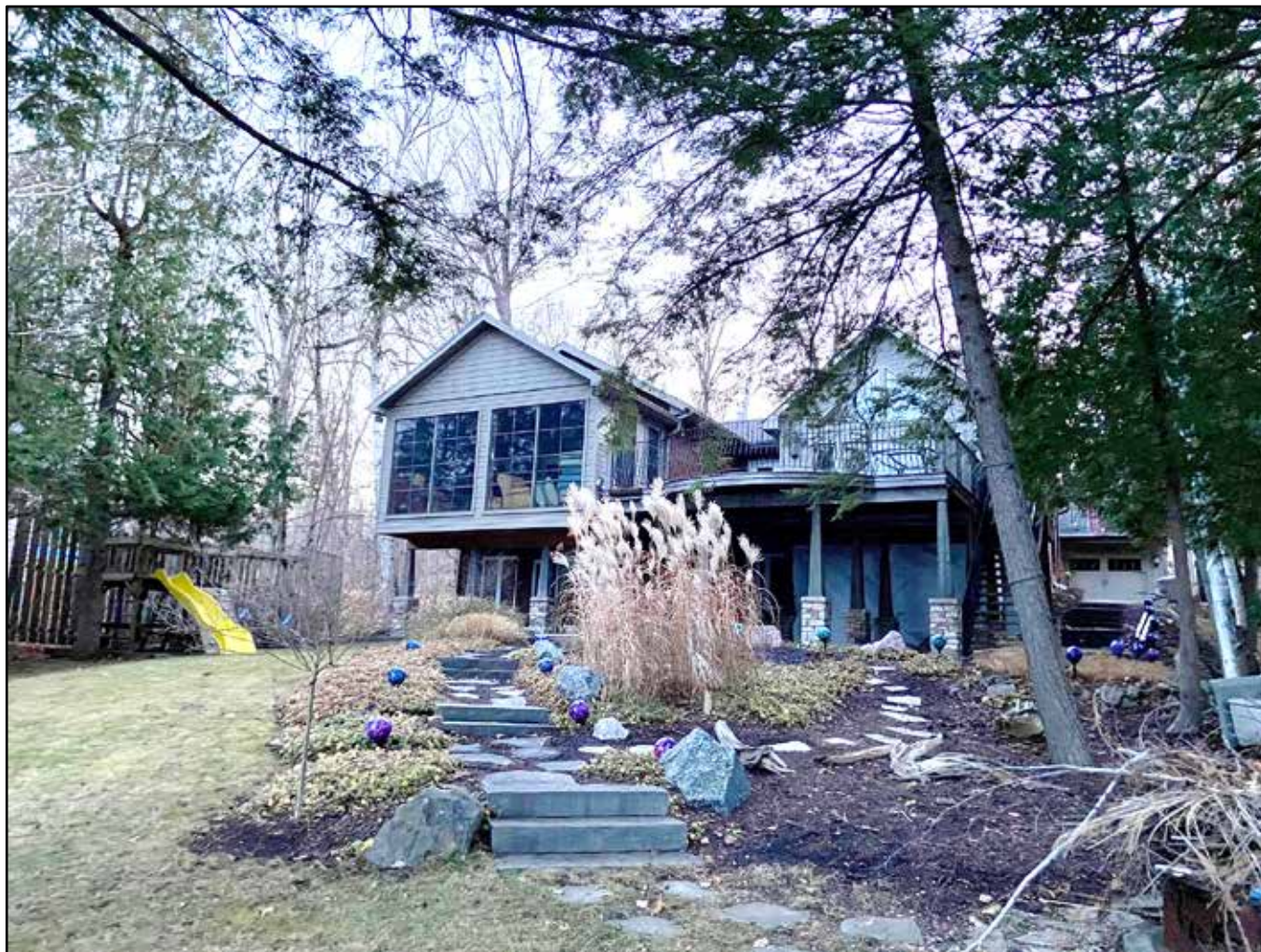
# Attachment 2 – Current Building Drawings with Addition – Entryway



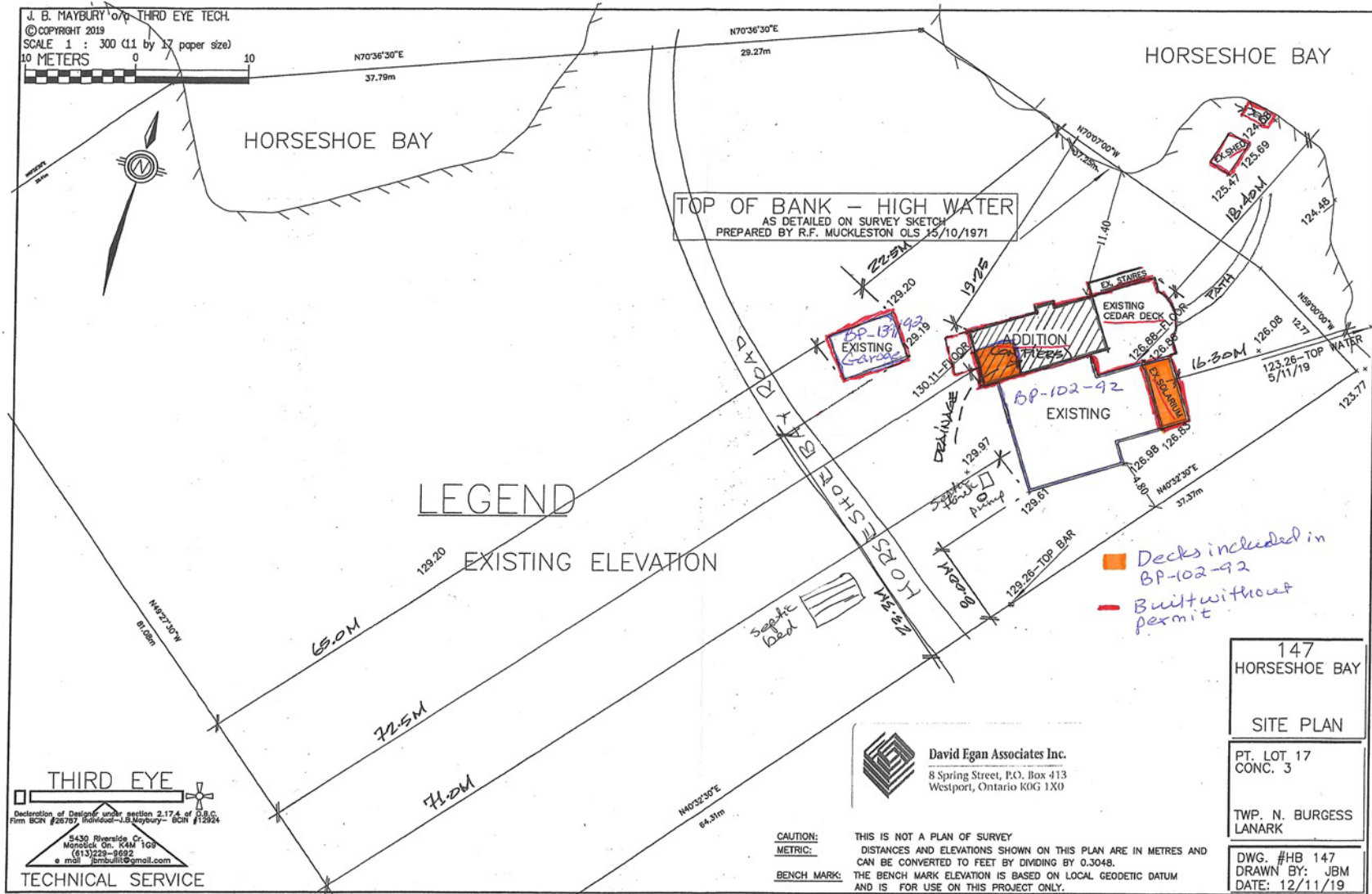




**Attachment 3 – Photo of Building and Garage– November 2023**



# Attachment 4 – Location of Addition and other Construction on Site 2004-2020

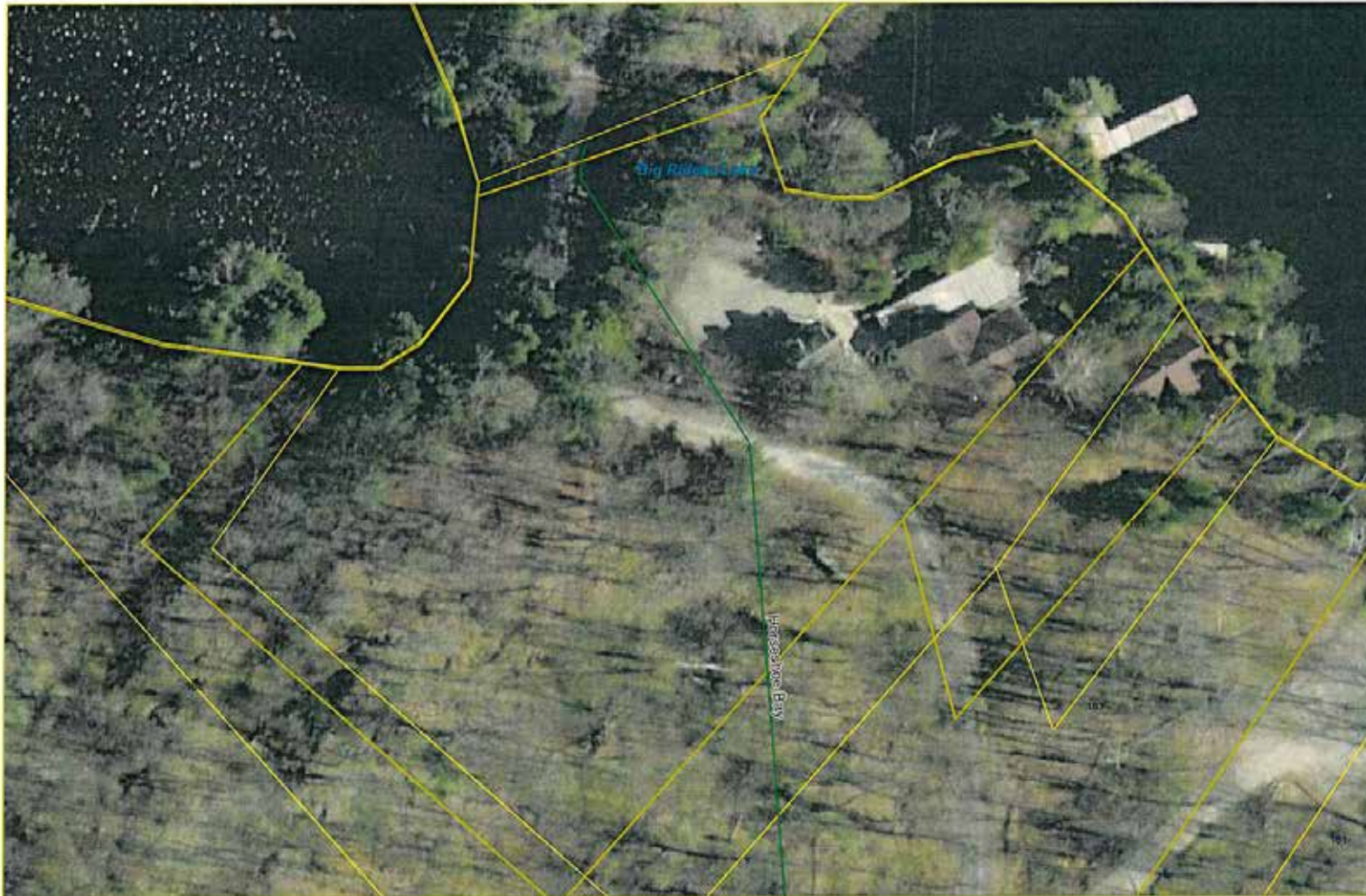


**Attachment 5 – MNRF Air Photo 2008 Construction of Garage Second Storey**



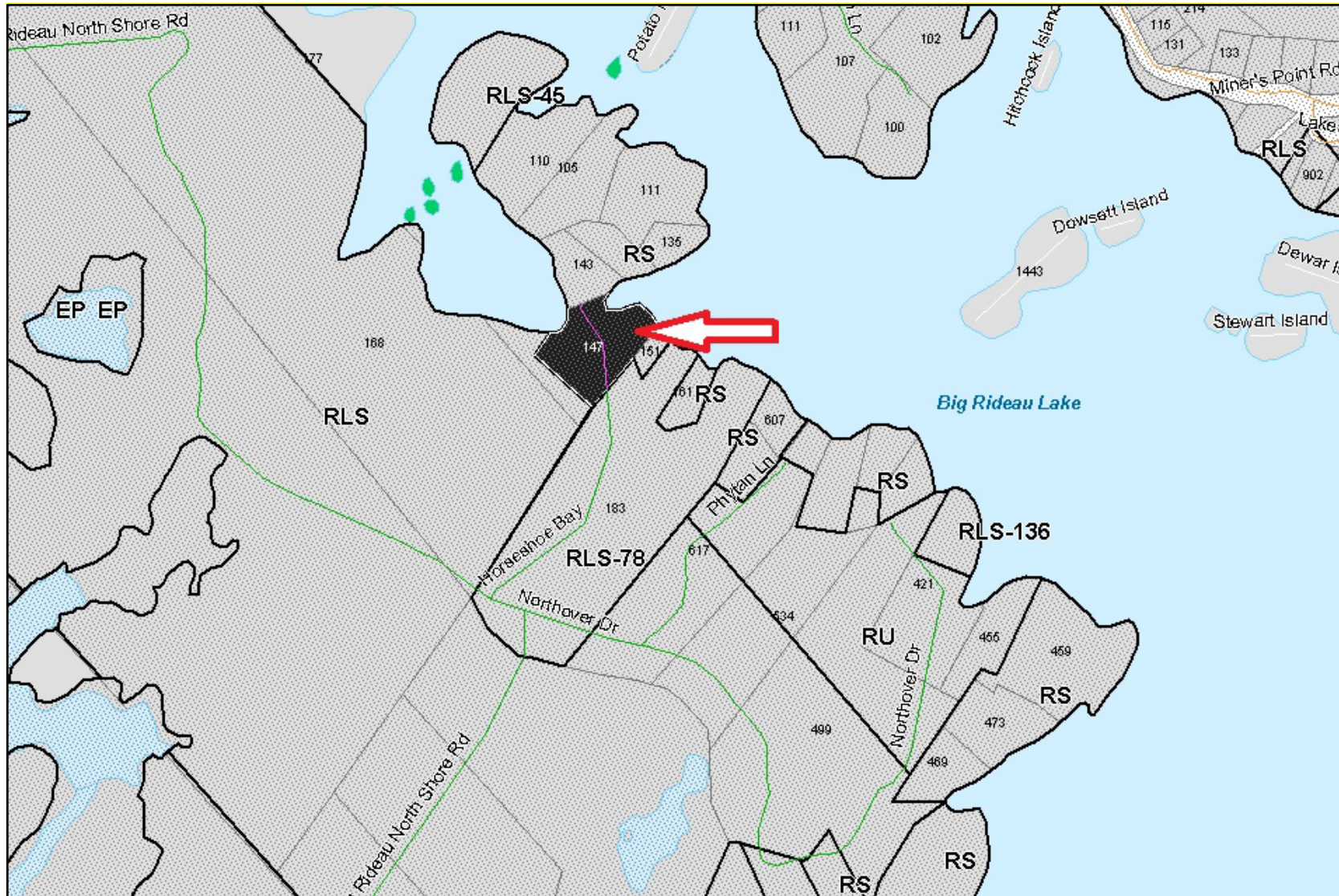
147 Horseshoe Bay - 2008

**Attachment 5 – MNRF Air Photo 2014 Deck the Addition will be Built on and Shoreline Deck**



147 Horseshoe Bay - 2014

## Attachment 6 Zoning Amendments in Vicinity of the Subject Property



## Attachment 7 – Letter from the Big Rideau Lake Association



¶  
November 29, 2023 ¶

Mr. Rob Rainer ¶  
Reeve, Tay Valley Township ¶  
217 Harper Road, ¶  
Perth, ON, K7H 3C6 ¶  
(delivered-by-email) ¶

¶  
Dear Rob: ¶

¶  
As we have discussed several times over the past year, one of the key goals of the Big Rideau Lake Association is the environmental protection of Big Rideau Lake. The health of the lake is a vital component in what we pass along to our children and grandchildren to ensure that they can have the same pleasure on Big Rideau Lake as we have been afforded by the generations before us. ¶

¶  
In that light, it has come to my attention that a zoning bylaw application has been filed by Larry St. Pierre for a lot of approximately 0.71 ha known as 147 Horseshoe Bay Road. The public meeting will be held on Tuesday, December 5, [2023](#) at 5:30 PM. ¶

¶  
I was also informed that this matter first came before council in 2020 and ended up as an appeal to the Local Planning Appeal Tribunal (LPAT), formerly the Ontario Municipal Board (OMB). The applicant chose to withdraw his appeal and make a new application which is now before Council. ¶

I have enclosed a letter from the President of Big Rideau Lake Association at the time, Grant Leslie. The position of the Big Rideau Lake Association has not changed since 2020 and we strongly object to this application. We urge Tay Valley Township to deny the proposed Zoning Bylaw Amendment submitted by Mr. St. Pierre. ¶

Sincerely, ¶

¶  
Hansen Downer ¶  
President Big Rideau Lake Association ¶

¶  
[CC: Noelle](#) Reeve, Planner (delivered-by-email) ¶

¶



PO Box 93  
Portland, ON  
K0G 1V0  
info@bigrideaulakeassociation.com  
www.bigrideaulakeassociation.com

May 5<sup>th</sup> 2020

Tay-Valley-Township

217-Harper-Road,

Tay-Valley,-Ontario

Attention-Councillor-Rob-Rainer

Re: APPLICATION ZA20-01-ST-PIERRE

Dear-Councillor-Rainer,

This letter of objection to the above note Application is addressed to you as the Chair of the Public meeting scheduled to be held on May 12<sup>th</sup> at 5:30 pm.

The Big Rideau Lake Association is increasingly concerned about the quality of water in the Big Rideau Lake. Subsequent to the poor water quality rating reported by the RVCA in its 2014 report the lake has seen excessive algae growth a sign of excess nutrient entering the lake.

Excess nutrient is the result of run-off from shoreline development and inadequate septic systems.

The zoning and construction related bylaws of Tay Valley Township and the other Townships that border the lake are in place to protect and improve the environment of the lake which is a key resource that supports the local economies.

Approval of Application ZA20-01 would be a signal to those who don't care about protecting the Big Rideau Lake and its water and that contravention of existing bylaws can be circumvented by building without a permit and applying after the fact for approval.

The Big Rideau Lake Association strongly objects to Application ZA20-01 and urges Tay Valley Township as recommended by its Planner to deny the request to amend Zoning By-Law No. 02-021 to change the zoning of part of the lands at Pt Lot 17, Concession 3, Geographic Township of North Burgess, 147 Horseshoe Bay Road, from Seasonal Residential to Residential Limited Services Exception (RLS-176).

Yours Truly

Grant Leslie

President Big Rideau Lake Association

cc. → Noelle Reeve, Planner

Phil Albert

*Serving the Rideau since 1915*



## Attachment 8 – Letter from Residents of Horseshoe Bay

November 29, 2023

Tay Valley Township  
217 Harper Road  
Perth, ON K7H 3C6

Attn: Amanda Mabo  
Chief Administrative Officer/Clerk

St. Pierre  
147 Horseshoe Bay Road  
Part Lot 17, Concession 3  
Geographic Township of North Burgess

Dear Ms. Mabo:

We are in receipt of the Tay Valley Township Notice of Application Concerning Proposed Zoning By-law Amendment for the subject property / property on Horseshoe Bay Road. We are in opposition to any Township approval or recognition of setbacks that do not meet existing requirement of Zoning By-Law No. 2002-121, under the Planning Act, R.S.O., 1990, c. P. 13, Section 34.

Section 34 of the Planning Act specifically addresses By-Laws related to structures on natural areas and sensitive or vulnerable areas, which clearly applies to the shores of Big Rideau Lake.

The setbacks for structures have been established in Zoning By-Law No. 2002-121. For example,

- restriction on height apply to accessory buildings. Garages are not listed in Section 3.6
- water setbacks are clearly listed in Section 3.29
- limits to deck size within the water setback are outlined in Section 3.30

Key reasons for opposing Township approval of the reduced setbacks relate to the significance and importance of establishing and maintaining tight restrictions to development and modification of the natural shorelines of Big Rideau Lake. Key elements of the importance this position are as follows:

- a) Big Rideau Lake is designated a UNESCO world heritage site
- b) Big Rideau Lake is regulated by Parks Canada
- c) The Big Rideau Lake Association provides further support for the protection of wildlife habitat, biodiversity, and maintenance of its rocky shorelines and wetlands.

The following observations further support our opposition to Township approval of the reduced setbacks

- The Applicant appears to have blatantly disregarded any restrictions that are in place to preserve the natural shoreline as much as is reasonably possible while allowing human recreation – this balance forming the basis for the Zoning By-Laws.
- The Applicant failed to follow the most basic regulation for construction, i.e., obtaining a building permit prior to commencing construction.
- The Applicant does not provide any rationale for the requests for relief from the Zoning By-Law.

- The violations to the By-law exhibit tangible negative impacts to the shoreline, in terms of intrusion to the natural look, potential contamination from septic run-off, obstruction of neighbours' enjoyment of the shoreline, and potential negative impacts to wildlife, including but not limited to amphibian habitat and fish spawning. Each of these potential negative impacts are specifically the purpose of the Zoning By-Laws.

Any relaxation of the existing Zoning By-laws by the Township, as related to the subject application, would be a direct disregard of the safety, beauty, and value of Big Rideau Lake and a lack of consideration of existing residents.

Sincerely,

Ray Bergstra  
Nancy Porteous  
Owners, 135 Horseshoe Bay Road

## St. Pierre Zoning By-law Amendment

### Public Notice

Pursuant to the Planning Act, Notice of public meeting is to be provided a minimum of 20 days prior for a Zoning By-law Amendment. Notice was duly given by both the posting of the notice in a visible area for the property and by mailing to adjacent property owners within 120 metres of the location. Notice was also given to other public agencies as required.

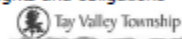
### Ontario Land Tribunal

Please be cautioned that if, at a later date, a person or public body choose to appeal Council's decision on this matter to the Ontario Land Tribunal, the Tribunal may dismiss all or part of an appeal without holding a hearing if the reasons set out in the appeal do not refer to land use planning grounds offended by the decision, the appeal is not made in good faith, or is frivolous or vexatious or made only for the purpose of delay.

The Tribunal may also dismiss the appeal if the appellant did not make oral submission at the public meeting or did not make written submission before the plan or amendment were adopted.

If you choose to appeal, you must submit written reasons, the prescribed fee and any other background material requested. This notice is not intended to discourage your objection in any way. It is intended only to inform you of your rights and obligations and to encourage early participation.

1



1

## St. Pierre

### 147 Horseshoe Bay

Part Lot 17, Concession 3, Geographic Township of North Burgess

- The application applies to approximately 0.6 ha (1.5 acres) of land, at 147 Horseshoe Bay, in Pt Lot 17, Concession 3, Geographic Township of North Burgess.
- The purpose of the proposed amendment is to change the zoning of the lot from Seasonal Residential (RS) to Residential Limited Services Special Exception-192 (RLS-192) to permit a cottage to be used as a year-round dwelling, and to recognize the reduced setbacks from the 30m water setback, regarding the following existing structures on the subject land:

2



2

## St. Pierre

### 147 Horseshoe Bay

Part Lot 17, Concession 3, Geographic Township of North Burgess

- i. an 11.4 m water setback for a 59m<sup>2</sup> (635 sq ft) addition
- ii. an 11.4 m water setback for the supporting deck for the addition;
- iii. a 16.3 m water setback for the 19m<sup>2</sup> (200 sq ft) sun room;
- iv. a 19.2 m water setback for a 10 m<sup>2</sup> (108 sq ft) deck attached to the west side of the addition (entrance to dwelling);
- v. an 8.6 m and 15.6 m water setback for a 40 m<sup>2</sup> (430 sq ft) deck attached to both the east side of the addition and northeast side of the dwelling;
- vi. a water setback of 22.5 m for the second storey of an existing 58m<sup>2</sup> (624 sq ft) accessory building (garage); and
- vii. a 28 m water setback for the septic tank
- viii. a south side yard setback for the dwelling of 4.8 m instead of the 6m required;

3



3

## St. Pierre Location



4



4

## St. Pierre Background

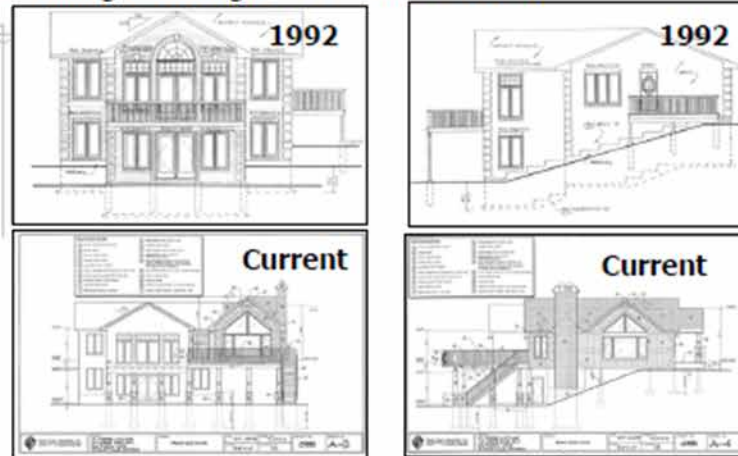
- The property was created by a consent (severance) granted by the Lanark County Land Division in 1987. In 1992, the cottage, two small attached decks, and a single storey garage were built by the previous owners under Building Permits 102-92 and 139-92.
- An application to rezone the lands to Residential Special Exception 176 (RLS-176) was submitted in 2020 to recognize the construction of an addition built without permit on a deck that had also been built without permit. The application was submitted in response to a Notice of Building Code Violation issued in October 2019 when construction of the addition without a permit was discovered.

5

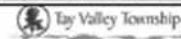


5

## St. Pierre Building Drawings – 1992 and Current

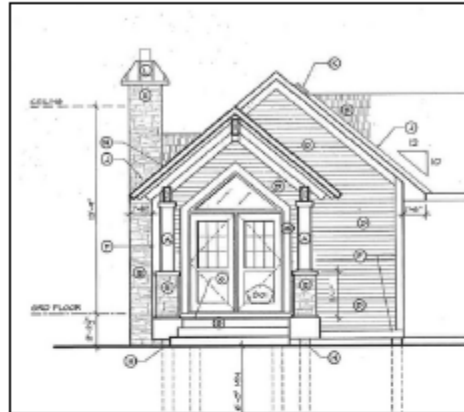


6



6

**St. Pierre**  
Current Building Drawing – Entryway Vestibule

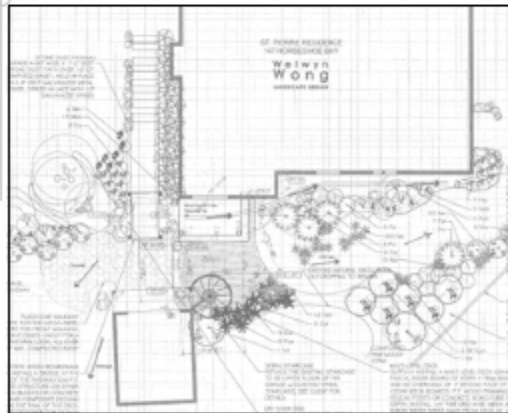


7



7

**St. Pierre**  
Current Entryway deck with proposed landscaping



8



8

St. Pierre  
Photos – November 2023



9



9

St. Pierre  
Photos – November 2023



10



10

St. Pierre  
Photos – November 2023



11

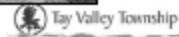


11

St. Pierre  
Photos – November 2023



12



12



St. Pierre  
Photos – November 2023



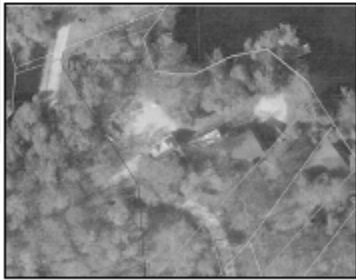
13



13

St. Pierre  
Aerial Photos

2008



2014



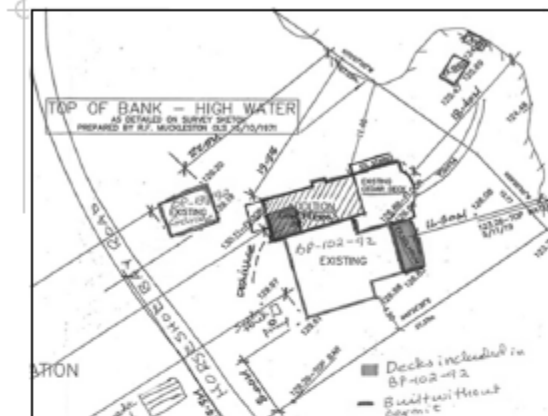
14



14

## St. Pierre

### Building Drawings as of 1992 Building Permit



15



15

## St. Pierre

### Background

- Application 2020-01 was refused by the Council at the time. The applicant appealed to the Local Planning Appeal Tribunal (LPAT), now the Ontario Land Tribunal (OLT), and at the hearing on November 30, 2020, the adjudicator allowed the applicant to withdraw their appeal to prepare an application that would seek to regularize additional instances of construction without permit.
- The applicant hired Kilgour Associates Ltd. to undertake the required Environmental Impact Assessment which was completed August 31, 2022. JL Richards Planners prepared a Planning Rationale June 21, 2023.
- A Part 10/11 septic review application was submitted October 20, 2023 at which time the Planner declared the application complete.

16



16

## St. Pierre

### Provincial Policy Statement (PPS)

- **Section 1.1.1 Building Strong Healthy Communities** - Big Rideau Lake is part of the Rideau Canal Waterway, which is a National Historic Site of Canada, Canadian Heritage River, and the only UNESCO World Heritage Site located in Ontario.
- **Section 1.1.5.2 Rural lands** permits residential development.
- **Section 1.8 Energy Conservation, Air Quality and Climate Change** states, "Planning authorities shall support...preparing for the impacts of a changing climate in land use decisions which:" "f) promote design and orientation which maximizes energy efficiency and conservation, and considers the mitigating effects of vegetation and green infrastructure".
- **Section 1.6.6.4 Sewage Water and Stormwater** permits the use of individual onsite septic systems.

17



17

## St. Pierre

### Provincial Policy Statement (PPS)

- **Section 2.1.2 Natural Heritage** states that, "The diversity and natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or where possible, improved."
- **Section 2.1.6 Natural Heritage** states that, "Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements".
- **Section 2.1.7 Natural Heritage** states, "Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements".
- **Section 2.18 Natural Heritage** - Development and site alteration on adjacent lands to the natural heritage features and areas identified in policy 2.1.6 [fish habitat]

18



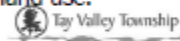
18

## St. Pierre

### Provincial Policy Statement (PPS)

- **Section 2.2 Water** states, "Planning authorities shall protect, improve or restore the quality and quantity of water by: using the watershed as the ecologically meaningful scale for integrated and long-term planning..."
- **Section 2.6.1 Cultural Heritage and Archaeology** states, "Significant built heritage resources and significant cultural heritage landscapes shall be conserved".
- **Section 2.6.2 Cultural Heritage and Archaeology** - "Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved".
- **Section 3.1 Protecting Health and Safety** – Consideration of natural and human made hazards in planning for land use.

19



19

## St. Pierre

### Provincial Policy Statement (PPS)

- The Planner concludes that the application does not conform to PPS Section 2.6. Cultural Heritage and Archaeology as the 30m buffer for the protection of the heritage character of the Canal was not met by the development, nor were any archeological studies undertaken prior to the development.
- Also, the application does not conform to the Provincial Policy Statement Section 2.2 Water requirement to "protect, improve or restore the quality and quantity of water" by "implementing development restrictions" consistent with the 30m setback identified in both the *Big Rideau Lake – Portland Catchment Area Subwatershed Report* and the *Rideau Lakes Basin Carrying Capacity and Proposed Shoreline Development Policies*.

20



20

## St. Pierre

### County Sustainable Communities Official Plan

- **Section 3 Rural Land** designation permits a variety of uses including residential uses.
- **Section 3.5.5 Special Policies** recognizes the UNESCO World Heritage designation of the Rideau Canal and states, "local Official Plans should consider policies which address the need to protect and preserve the heritage.
- **Section 5.3 Objectives** states, "It is Lanark County's overall goal that the County's natural heritage features be both conserved and protected from negative impacts of development."

21



21

## St. Pierre

### County Sustainable Communities Official Plan

- **Section 5.4.4 General Land Use Policies** states, "The County of Lanark and its constituent municipalities have an obligation to consider the impact of development and land use on waterbodies throughout the County in order to ensure the long term viability of this important natural and economic resource."
- **Section 7.0 Public Health and Safety** states, "Constraints to development are primarily related to hazardous conditions such as the existence of floodplains, erosion hazards and the presence of unstable slopes.

22



22

## St. Pierre

### County Sustainable Communities Official Plan

- The Planner concludes that the application does not conform to the Lanark County Sustainable Communities Official Plan as the development is located within the 30m buffer of the Rideau Canal Waterway. Therefore, the application does not comply with the Special Policies section of the Lanark County Official Plan.
- The location of development within 30m of the water does not comply with the General Policies of the Lanark County Official Plan with respect to protection of water quality.

23



23

## St. Pierre

### Tay Valley Township Official Plan

- **Section 3.6 Rural** designation permits residential uses.
- **Section 2.19 Cultural Heritage and Archeological Resources** "the role they play in making the Township a place of historic and cultural interest, both to local residents and visitors to the area."
- **Section 2.19.2 Cultural Heritage and Archeological Resources** - Parks Canada has developed the *Rideau Canal Management Plan* and subsequently the *Rideau Corridor Landscape Strategy* to protect its unique heritage qualities.
- **Section 2.22.2 Fish Habitat and Adjacent Lands** - No development or site alteration shall be permitted within 120m of the habitat without an Environmental Impact Study (EIS).
- **Section 2.22.4 Endangered and Threatened Species Habitat and Adjacent Lands, and Section 2.22.6 Significant Valleylands** are both applicable to this property.

24



24

## St. Pierre Tay Valley Township Official Plan

- **Section 2.24.1 Waterfront Development** states that the Township, "has a direct concern with the issue of water quality impacts related to water-oriented development"
- **Section 2.24.1.2c) Water Setback** states that, "Development or site alteration may be permitted less than 30m from a water body in exceptional circumstances where existing Lots of Record or existing developments preclude the reasonable possibility of achieving the setback."

25



25

## St. Pierre Tay Valley Township Official Plan

- The Planner concludes that the application does not conform to the Tay Valley Township Official Plan. Section 2.24.1.2c) states that, "Development or site alteration may be permitted less than 30 m from a water body in exceptional circumstances where existing Lots of Record or existing developments preclude the reasonable possibility of achieving the setback".
- In this case, development is not precluded from meeting a greater setback from the lake (by as much as a 22m setback instead of the 11.4m in the application) as there exists the possibility for a vertical addition to have been constructed over the rear of the existing cottage or a horizontal addition behind the cottage.

26



26

## St. Pierre Tay Valley Township Official Plan

- The Planner concludes that the application does not conform to the Tay Valley Township Official Plan. Section 2.24.1.2c) states that, "Development or site alteration may be permitted less than 30 m from a water body in exceptional circumstances where existing Lots of Record or existing developments preclude the reasonable possibility of achieving the setback".
- In this case, development is not precluded from meeting a greater setback from the lake (by as much as a 22m setback instead of the 11.4m in the application) as there exists the possibility for a vertical addition to have been constructed over the rear of the existing cottage or a horizontal addition behind the cottage.

27

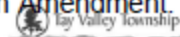


27

## St. Pierre Tay Valley Township Official Plan

- Also, Section 2.3.4 of the Tay Valley Township Official Plan requires existing lots of record to retain, as a minimum, all natural vegetation 15 meters from the shoreline of the Rideau Canal UNESCO World Heritage Site, which includes Big Rideau Lake.
- The application seeks retroactive permission for two structures that do not meet the 15m setback requirement - the 2020 addition which is 11.4m from the shoreline and the previously constructed cedar deck (with impervious surface below) which is 8.6m from the shoreline (at its closest point). These two structures would require an Official Plan Amendment.

28



28



## St. Pierre Zoning By-law

- The lot is currently zoned Seasonal Residential and is proposed to be rezoned to Residential Limited Services Special Exception-192 (RLS-192) to allow a cottage to be used as a dwelling.
- However, in this case, the dwelling and other construction do not meet the 30m water setback and eight exceptions to the Zoning By-law have been requested by the applicant.
- The Planner also identified seven additional required exceptions which require relief from **Section 3.29, Water Setback** and **Section 3.12.6, Enlargements of Non-Complying Uses**.
- The total area of decks built with permit in 1992 was 28.9m<sup>2</sup> and the encroachment toward water was 3m. Since the purchase of the property from the original owners in 2004, additional decks totalling 101m<sup>2</sup> have been constructed – (almost four times the amount of decking permitted by the Zoning By-law)

29



29

## St. Pierre Zone Standards in Compliance

	Required	Existing	Application
Lot Area (min)	4,050m <sup>2</sup>	6,234m <sup>2</sup>	No Change
Lot Frontage (min)	60m	60m	No Change
Dwelling Size (min)	21m <sup>2</sup>	194m <sup>2</sup>	333m <sup>2</sup>
Side Yard – East	6m	40+m	No Change
Rear Yard	7.5m	65m	No Change
Lot Coverage (max)	10%	3.2%	5.6%
Floor Space Index	12%	2%	4.7% (without bunkie)
Water Setback Dwelling	30	19	No Change
Water Setback – Garage	30m	22.5m	No Change (met 1992 Zoning By-Law)

30



30

## St. Pierre Zone Standards - Application for Relief

	Required	Existing	Application
Water setback – 2020 addition for a living room	30m		11.4m
Water setback of 2008 deck under living room addition			11.4m
Water setback – garage 2 <sup>nd</sup> storey	30m		22.5m
Water setback – entryway deck	30m		19.2m
Water setback – cedar deck	30m		8.6m, 15.6m
Water setback – Sunroom	30m		16.3m
Side Yard – West	6m	4.8m	No change
Water setback Septic (min)	30m	28m	No change

31



31

## St. Pierre Comparison of Construction Beyond 1992

	1992 Construction	Post-2004 Construction
Total Footprint	116m <sup>2</sup> dwelling, 58m <sup>2</sup> garage from 1992 Building Permit = 174m <sup>2</sup> .  (121m <sup>2</sup> dwelling, no garage from MPAC)	Addition 59m <sup>2</sup> , cedar deck 40m <sup>2</sup> , sunroom 15m <sup>2</sup> , entryway deck 10m <sup>2</sup> , shoreline deck 36m <sup>2</sup> , shed and its deck 11.5m <sup>2</sup> , driveway sheds 10m <sup>2</sup> = 181.5m <sup>2</sup> plus existing dwelling and garage = 325m <sup>2</sup> , <b>a 180% increase in construction</b>
Total Living Space	232m <sup>2</sup> from 1992 Building Permit, (206m <sup>2</sup> from MPAC)	333m <sup>2</sup> <b>71%</b> per 2023 zoning application (garage/ bunkie not included)
North Deck	10.4m <sup>2</sup>	59m <sup>2</sup>
Northeast Deck	18.5m <sup>2</sup>	(Cedar Deck) 40m <sup>2</sup>
Sun Room (solarium)	none	15m <sup>2</sup>
Second Storey of Garage	none	27m <sup>2</sup>
Shoreline Deck	none	36m <sup>2</sup>
Entryway Deck	none	10m <sup>2</sup>
Shed with Deck	none	11.5m <sup>2</sup>

32



32

## St. Pierre Zoning By-law



- Other Zoning By-law Amendments in the area meet the 15m no disturbance zone of the UNESCO World Heritage Site. None of these rezonings required the exceptional number of exemptions from the Zoning By-law sought by this application.

33



33

## St. Pierre Zoning Bylaw

- The Planner concludes that the relief sought from the Zoning By-law by the application cannot be supported.
- Requests for relief from the Zoning By-law should conform to the Official Plan. The application does not conform to the Official Plan Section 2.24.3 (Rideau Canal World Heritage Site) prohibiting development within 15m of the Rideau Canal Waterway.

34



34

## St. Pierre Zoning By-law

- Further, the application does not conform to Section 3.12.6, Enlargements of Non-Complying Uses, Buildings or Structures.
- It is important to keep in mind that structures constructed without a building permit do not constitute existing development. Therefore, only the original construction authorized under the 1992 Building Permits would be considered legally non-complying. None of the additional construction without permit since 1992 is considered legally non-complying.

35



35

## St. Pierre Planner's Comments

- The Planner cannot support the requests for relief as they do not represent good land use planning and are not in the public interest.
- Requests for relief from the Zoning By-law should conform to the Official Plan. The application does not conform to the Official Plan Section 2.24.3 (Rideau Canal World Heritage Site) prohibiting development within 15m of the Rideau Canal Waterway.
- The addition and cedar deck would require an Official Plan Amendment because they do not meet the requirements of the Official Plan Section 2.24.3 Rideau Canal World Heritage Site prohibiting development within 15m of the Rideau Canal Waterway.

36



36

## St. Pierre Planner's Comments

- With respect to the requests for relief from the Zoning By-law outlined in the application:
  - i), ii), iv) the addition is not located the 15m from water required for additions to legally non-complying buildings (3.12.6),
  - iii) the sunroom has added living space encroaching toward the water (3.29);
  - iv) the decks do not conform to the size requirements at almost 2 times the permitted size (3.30),
  - vi) the garage requires height relief for second storey (3.1.6.2),
  - vii) a new septic system is required at a setback of 30m as the current system failed the Part 10/11 capacity review due the additional living space.

37



37

## St. Pierre Comments

### **Rideau Waterway Development Review Team - Rideau Valley Conservation Authority (RVCA)**

- Concerning Provincial Policy Statement section 3.1 Natural Hazards, the RVCA has no concerns as a result of this application.
- Under the Conservation Authorities Act. Should any development be proposed within this area (including, but not limited to, grading, site alteration, dock installation or erosion protection works) prior written permission is required from RVCA
- The subject property overlies a highly vulnerable aquifer as indicated in the Mississippi-Rideau Source Water Protection Plan. Care should be taken to avoid land uses and practices that may inadvertently lead to undesirable effects on groundwater.

38



38

## St. Pierre Comments

### Rideau Waterway Development Review Team (RWDRT) – Parks Canada Comments

- Parks Canada does not support approval of the application to permit development within the 30m Rideau Canal buffer zone. In this sector of the Canal the buffer zone extends back from the high water mark of Big Rideau Lake.
- The RWDRT does not support approval of the application to permit development within the 30m buffer zone of the Rideau Canal because the requested addition may formalize negative impacts which have occurred over the years and which do not protect, improve or restore the quality and quantity of water.
- Standard practice in these applications for redevelopment are that the proposed addition be located no closer to the normal highwater mark than the existing non-complying structure or constructed as a vertical enlargement.

39



39

## St. Pierre Comments Continued

### Mississippi-Rideau Septic System Office (MRSSO)

- The MRSSO objects to the application for Zoning By-law amendments as proposed.
- MRSSO required the submission of a Part 10/11 (Change of Use / Renovation) application due to the increase in floor area greater than 15%.
- After a preliminary review of the sewage system components and assumed design flows, the performance of the sewage system was determined to have been reduced due to the increase in floor area and, therefore, compensating construction will be required. There appears to be enough area across the private road to increase the size of the sewage system, if necessary, without impacting the minimum 30 m water setback.

40



40

## St. Pierre Comments Continued

### Big Rideau Lake Association

- The Big Rideau Lake Association does not support the rezoning because of the concerns of worsening water quality. They also want the Township to send the signal that its by-laws are upheld.
- Queen's Distinguished University Professor John Smol, limnologist in the Department of Biology, made a presentation to members of the lake association in May 2023 that described how the impacts of climate change will increase the risk for toxic algal blooms in the lake as temperatures rise. He urged waterfront property owners to reduce nitrogen and phosphorous from entering the lake by maintaining or adding natural vegetation on their properties and inspecting septic systems.

41



41

## St. Pierre Comments Continued

### Public Comments

- Verbal comments from the public raised concerns about impact on fish habitat; shoreline impact; and setting a precedent for others to ignore the water setbacks of the Zoning By-law.
- Written comments expressed the "hope the Township will deny the request and order demolition of structures knowingly built in contravention of applicable zoning by-laws".
- Residents on Horseshoe Bay object to the application on the grounds that the natural heritage values and beauty of Big Rideau Lake should be protected and that building without permit should not be condoned.

42



42

## St. Pierre Comments Continued

### Public Comments

- Additional written objections include, "If this amendment is approved as is, it goes against the Tay Valley Official Plan as well as the Lanark Official Plan". This "opens the door for others to use this same strategy. Build without a permit, ignore the stop work order, ignore deadlines and ask for forgiveness in the fall when less people are around to see notices". "This is not being FAIR AND CONSISTENT to other ratepayers that follow the proper procedures and if not, have been dealt with firmly and with serious ramifications and significant costs attached". "Tay Valley has invested to protect Tay Valley's most precious and valuable and economic resource, our 30 plus lakes and the Big Rideau.

43



43

## St. Pierre Comments Continued

### Public Comments

- The neighbour to the south sent an email stating "no problem in changing the property from seasonal residential to a year round dwelling providing:
  1. There is no additional construction on the dwelling.
  2. There is no additional construction on the shoreline, including the floating dock. The St. Pierre shoreline has been significantly built up over the years. In addition they have a floating dock that does lock us in somewhat as it is both long and wide.
  3. The property has passed a recent septic inspection. If the property is to be a year round residence it only makes sense to inspect the septic to ensure it can handle the increased use. Our bay is a large mouth bass spawning area and with the increase of algae in the bay our water needs to be protected."

44



44



## St. Pierre Recommendation

"THAT, Zoning By-Law No. 2002-121 to rezone the lands at Concession 3, Part Lot 17, 147 Horseshoe Bay, Geographic Township of North Burgess (Roll #0911-911-020-1620) from Seasonal Residential (RS) to Limited Services Residential Exception-192 (RLS-192) be denied as the intent of the Provincial Policy Statement, Lanark County Sustainable Communities Official Plan, Tay Valley Township Official Plan, and Tay Valley Township Zoning By-Law would not be maintained."