



COMMITTEE OF ADJUSTMENT AGENDA

Monday, March 18th, 2024 – 5:00 p.m.
Municipal Office – Council Chambers – 217 Harper Road

Chair, Larry Sparks

1. CALL TO ORDER

2. AMENDMENTS/APPROVAL OF AGENDA

Suggested Motion by Richard Schooley/Peter Siemons:

“THAT, the agenda be adopted as presented.”

3. DISCLOSURE OF PECUNIARY INTEREST AND/OR CONFLICT OF INTEREST AND GENERAL NATURE THEREOF

4. APPROVAL OF MINUTES

i) **Committee of Adjustment Meeting – February 26th, 2024 - attached, page 6.**

Suggested Motion by Peter Siemons/Richard Schooley:

“THAT, the minutes of the Committee of Adjustment meeting held February 26th, 2024 be approved as circulated.”

5. INTRODUCTION

- The purpose of this meeting is to hear applications for Minor Variance:
 - **Scobie**
 - **March**
 - **Kell**
- The Committee is charged with making a decision on the applications on the agenda. The decision will be based on both oral and written input received and understandings gained.
- The Planner will provide a brief overview of the details of the file. The applicant will then be given an opportunity to explain the need for the variance. Then, any person or public body, in opposition and then in favour, to the application will be heard.

- If you wish to be notified of the decision of the Committee of Adjustment in respect to the below listed application(s), you must submit a written request to the Secretary-Treasurer of the Committee of Adjustment at adminassistant@tayvalleytwp.ca.
- The Secretary/Treasurer must provide notice of the Committee's decision to all those who request a copy.

6. APPLICATIONS

i) **FILE #: MV23-10 - SCOBIE** – *attached, page 10.*

- (a) PLANNER FILE REVIEW
- (b) APPLICANT COMMENTS
- (c) ORAL & WRITTEN SUBMISSIONS
- (d) DECISION OF COMMITTEE

*Recommended Decision by Richard Schooley/Peter Siemons:
 “THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance MV23-10 is approved, to allow a variance from the requirements of Section 3.29 (Water Setback) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121, for the lands legally described as 317 West Bay Drive, Concession 6, Part Lot 23, in the geographic Township of North Burgess, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-911-020-78800;*

- *To permit a 44.2 m² (476 sq ft) addition to a cottage, at a setback of 19m from Black Lake, rather than the 30m required.*
- *To permit lot coverage of 11% rather than the 10% permitted.*

AND THAT, the owners enter into a Site Plan Control Agreement prepared by the Township.”

ii) **FILE #: MV24-02 - MARCH** – *attached, page 26.*

- (a) PLANNER FILE REVIEW
- (b) APPLICANT COMMENTS
- (c) ORAL & WRITTEN SUBMISSIONS

(d) DECISION OF COMMITTEE

Recommended Decision by Peter Siemons/Richard Schooley:

“THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-02 is approved, to allow a variance from the requirements of Section 3.29 (Water Setbacks) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121, for the lands legally described as 913 Shady Lane, Concession 3, Part Lot 12, in the geographic Township of North Burgess, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-911-020-09300;

- To permit a 6.1 m² (65.7 sq ft) addition to a cottage, at a setback of 22m (72 ft) from Big Rideau Lake, rather than the 30m required, and
- To permit lot coverage of 11% rather than the 10% permitted;

THAT, the existing Site Plan Control Agreement be updated.

AND THAT, minor variance approval is subject to confirmation of legal access and/or road frontage.”

iii) **FILE #: MV24-04 - KELL – attached, page 40.**

(a) PLANNER FILE REVIEW

(b) APPLICANT COMMENTS

(c) ORAL & WRITTEN SUBMISSIONS

(d) DECISION OF COMMITTEE

Recommended Decision by Richard Schooley/Peter Siemons:

“THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-04 is approved, to allow a variance from the requirements of Section 3.5 (Group Homes) of Zoning By-Law 2002-121, for the lands legally described as 261 Maberly Elphin Road, Concession 8, Part Lot 13 and 14, in the geographic Township of South Sherbrooke, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-914-010-20500;

- To permit a Group Home to be setback 18m from a dwelling on another lot rather than the 30m required.”

7. NEW/OTHER BUSINESS

None.

8. ADJOURNMENT

MINUTES

COMMITTEE OF ADJUSTMENT MINUTES

Monday, February 26th, 2024

5:00 p.m.

Tay Valley Municipal Office – 217 Harper Road, Perth, Ontario
Council Chambers

ATTENDANCE:

Members Present:	Chair, Larry Sparks Peter Siemons Richard Schooley
Members Absent:	None
Staff Present:	Garry Welsh, Secretary/Treasurer
Staff Absent:	Noelle Reeve, Planner
Applicants/Agents Present:	Cameron Neale, Owner
Public Present:	None

1. CALL TO ORDER

The Chair called the meeting to order at 5:00 p.m.
A quorum was present.

2. AMENDMENTS/APPROVAL OF AGENDA

The Agenda was adopted as presented.

3. DISCLOSURE OF PECUNIARY INTEREST AND/OR CONFLICT OF INTEREST AND GENERAL NATURE THEREOF

None at this time.

4. APPROVAL OF MINUTES

i) **Committee of Adjustment Meeting – January 22nd, 2024.**

The minutes of the Committee of Adjustment meeting held on January 22nd, 2024, were approved as circulated.

5. INTRODUCTION

The Chair welcomed the attendees and introduced the Committee Members, and the Secretary/Treasurer and identified the applicants. The Secretary/Treasurer then provided an overview of the Minor Variance application review process to be followed, including:

- the mandate and responsibilities of the Committee
- a review of available documentation
- the rules of natural justice, the rights of persons to be heard and to receive related documentation on request and the preservation of persons' rights.
- the flow and timing of documentation and the process that follows this meeting
- any person wanting a copy of the decision regarding this/these application(s) should leave their name and mailing address with the Secretary/Treasurer.

The Chair advised that this Committee of Adjustment is charged with making a decision on the applications tonight during this public meeting. The decision will be based on both the oral and written input received and understandings gained.

Based on the above, the Committee has four decision options:

- Approve – with or without conditions
- Deny – with reasons
- Defer – pending further input
- Return to Township Staff – application deemed not to be minor

The agenda for this meeting included the following application(s) for Minor Variance:

MV23-15 - Neale, Concession 6, Part Lot 20, geographic Township of North Burgess

6. APPLICATIONS

i) **FILE #: MV23-15 - Neale**

a) **PLANNER FILE REVIEW**

On behalf of the Planner, the Secretary/Treasurer reviewed the file and PowerPoint in the agenda package. The Secretary/Treasurer confirmed for the Committee that the Site Plan Control Agreement would include the items recommended by the Rideau Valley Conservation Authority in their submitted comments.

b) APPLICANT COMMENTS

None.

c) ORAL & WRITTEN SUBMISSIONS

None.

d) DECISION OF COMMITTEE

RESOLUTION #COA-2024-02

MOVED BY: Peter Siemons

SECONDED BY: Richard Schooley

“THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV23-15 is approved, to allow a variance from the requirements of Sections 3.29 (Water Setbacks) of Zoning By-Law 2002-121, for the lands legally described as 689 Black Lake Road, Concession 6, Part Lot 20, in the geographic Township of North Burgess, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-911-020-56600;

- To a septic system to be setback 15m from a creek, rather than the 30m required.

AND THAT, the owners enter into a Site Plan Control Agreement prepared by the Township.”

ADOPTED

7. NEW/OTHER BUSINESS

None.

8. ADJOURNMENT

The meeting adjourned at 5:12 p.m.

APPLICATIONS

Committee of Adjustment

March 18, 2024

Noelle Reeve, Planner

APPLICATION MV24-10

Scobie

317 West Bay Drive, Concession 6, Part Lot 23
Geographic Township of North Burgess

SUMMARY OF PROPOSAL

Purpose and Effect: To seek relief from Section 3.29 (Water Setback) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121, as amended, as follows:

- To permit a 44.2 m² (476 sq ft) addition to a cottage, at a setback of 19m from Black Lake, rather than the 30m required.
- To permit lot coverage of 11% rather than the 10% permitted.

The effect of the variance is to permit an addition no closer than the existing cottage, with a small net reduction in lot coverage and an environmental net gain as there are structures proposed to be removed within 3m of the shoreline.

REVIEW COMMENTS

The property is situated at 317 West Bay Drive on Black Lake. The lot currently contains a dwelling, bunkie, storage shed and multiple sets of stairs and sets of detached decking.

Provincial Policy Statement

No concerns. Sections 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Section 2.1 Natural Heritage, and Section 3.1 Protecting Public Health and Safety – Part of an existing deck is proposed to be converted to living space and 18m² (194 sq ft) of new living space is proposed on the east side of the existing cottage, without encroachment toward the water.

Natural Heritage is satisfied as the bulk of the development will occur on an existing deck and removal of some hard surfaces will occur along the shore. A permit will be required from the Rideau Valley Conservation Authority for work within the 120m buffer of a Provincially Significant Wetland. No natural hazards are present.

A Site Plan Control Agreement will be required which will provide protection of the vegetation on the property.

County Sustainable Community Official Plan

Section 3.3.3.1 Rural Area Land Use Policies Objectives are to: ensure development is consistent with rural service levels; to maintain the distinct character of rural, waterfront and settlement areas; and to ensure that development is compatible with natural heritage. No concerns.

Official Plan

The subject land is designated Rural, Provincially Significant Wetland Buffer, and Deer Yard in the Official Plan, and residential uses are permitted.

Section 2.24.1(a) requires a minimum setback of 30m from the high-water mark of any water body for new development. However, Section 2.24.1(c) permits development at a less than 30m setback when existing development or topography precludes the reasonable possibility of achieving the setback.

Black Lake water quality is rated as Fair according to the Rideau Valley Conservation Authority sub-watershed report. A Site Plan Control Agreement to protect the shoreline will help maintain the water quality and possibly improve it.

Zoning By-Law

The property is zoned Seasonal Residential and a cottage is a permitted use. There is a discrepancy of almost 25% in the size of the cottage compared to the MPAC records. MPAC also indicates one detached deck, not two

Current lot coverage is 11.44% and will be reduced slightly to 11.26% because an existing shed and portion of a deck, both along the shoreline will be removed. However, as lot coverage will still be over the 10% permitted, the application seeks relief.. Additional decking could be removed at the shore. The existing Floor Space Index (FSI) is 4.3% and will increase to 6.7%. This FSI is well under the 12% permitted.

The applicant's agent worked with the Planner and Rideau Valley Conservation Authority on a number of options to respect the Official Plan requirements to minimize impacts to water quality. See attachments for: Option 1 where the proposed living space encroached toward the lake; Option 2 where the proposed living space maintained the existing water setback, and the Final Option where some existing impervious surface is proposed to be removed and the existing water setback is maintained.

The revised application before the Committee can be considered minor in impact. The proposed new living space maintains the existing water setback. The existing lot coverage is proposed to be slightly reduced with removal of footprint in the critical area of the shoreline. Additional deck at the shore could be considered for removal.

The proposal is also desirable for the appropriate development of the lands in question as a cottage with a deck is a permitted use. Some detached decking and stairs allow access to the water over a rocky slope while reducing the potential for erosion into the lake.

CIRCULATION COMMENTS

Rideau Valley Conservation Authority (RVCA) – Comments were not available at the time of the report although verbally the RVCA supports the final application submitted with consideration suggested for additional deck/stair/dock removal.

Mississippi-Rideau Septic System Office (MRSSO) – Comments were not available at the time of the report.

Public – A neighbouring property owner requested details of the application as their cottage is located close to the applicant's cottage.

SITE PLAN CONTROL

A Site Plan Control Agreement with RVCA comments for shoreline and Provincially Significant Wetland protection is recommended.

RECOMMENDATION

That the Minor Variance be granted for relief from the requirements of Section 3.29 (Yard and Water Setback Encroachment) and Section 5.2.2 (Zone Provisions) to permit:

- A 44.2 m² (476 sq ft) addition to a cottage, at a setback of 19m from Black Lake, rather than the 30m required.
- Lot coverage of 11% rather than the 10% permitted.

because the general intent and purpose of the *Official Plan* and *Zoning By-law* are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the *Planning Act*.

ATTACHMENTS

- i) Original Proposal for Addition
- ii) Addition Modified to Maintain Existing Setback
- iii) Final Proposal Highlighting What is to be Removed

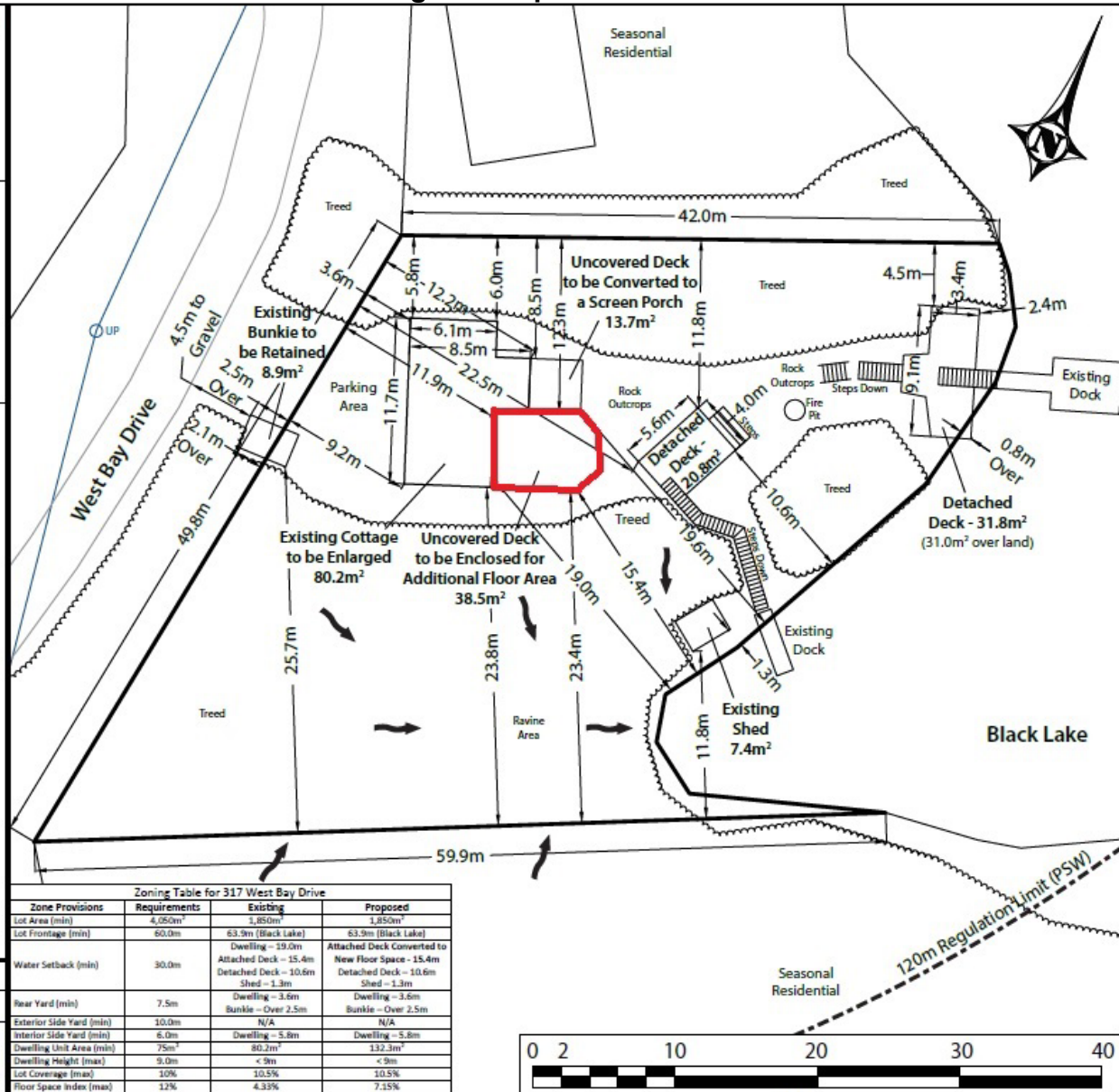
Attachment 1 - Original Proposal for Addition

Scobie Minor Variance Sketch
 317 West Bay Drive
 Part Lot 23, Concession 6
 Geographic Township of Burgess
 Township of Tay Valley
 COUNTY OF LANARK

Original Proposal for Addition

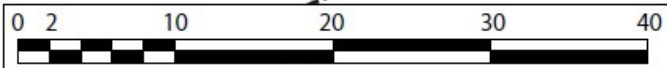
Legend

- Direction of Overland Flow
- Overhead Wires
- Utility Pole

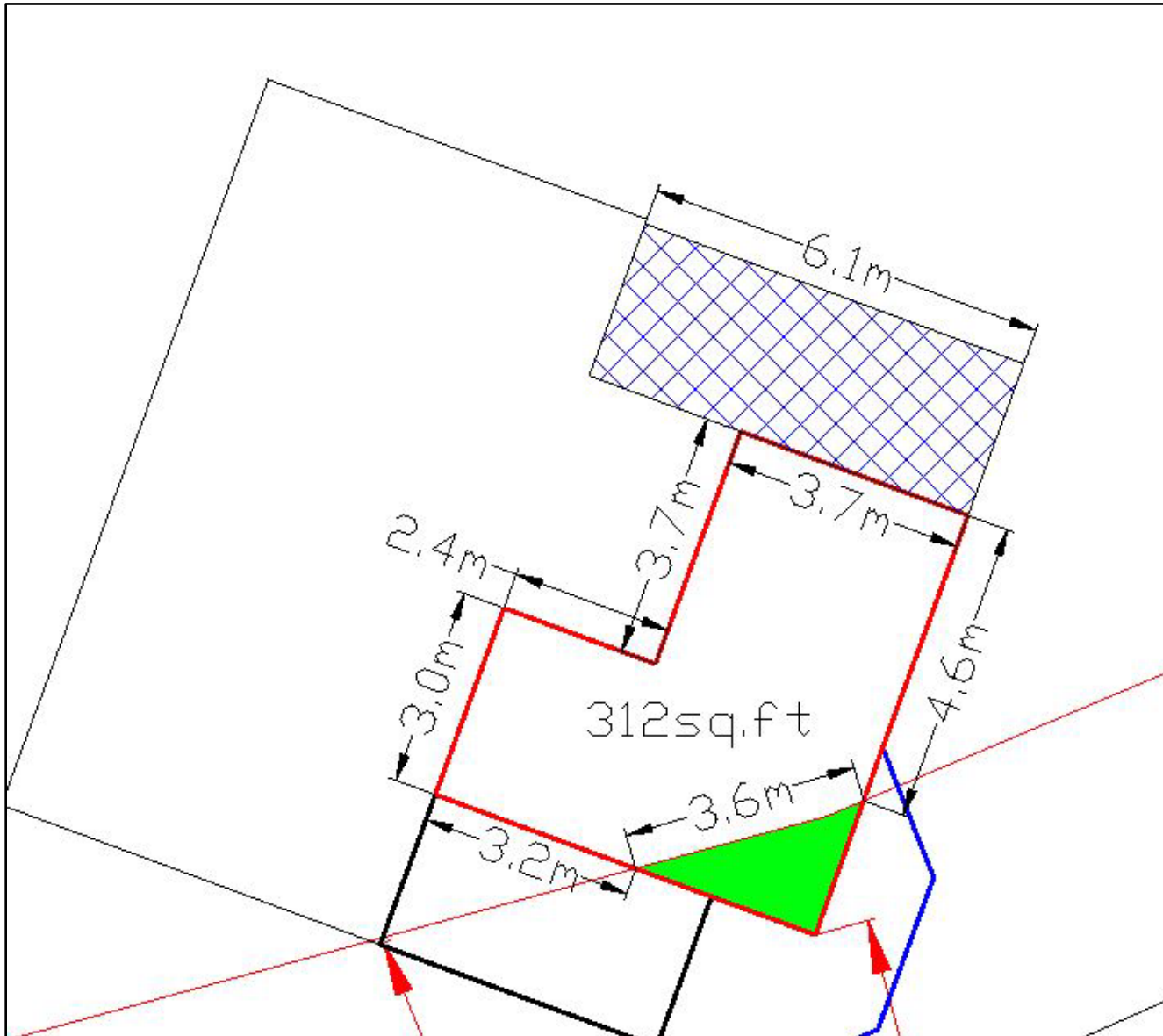


Zone Provisions	Requirements	Existing	Proposed
Lot Area (min)	4,050m ²	1,850m ²	1,850m ²
Lot Frontage (min)	60.0m	63.9m (Black Lake)	63.9m (Black Lake)
Water Setback (min)	30.0m	Dwelling - 19.0m Attached Deck - 15.4m Detached Deck - 10.6m Shed - 1.3m	Attached Deck Converted to New Floor Space - 15.4m Detached Deck - 10.6m Shed - 1.3m
Rear Yard (min)	7.5m	Dwelling - 3.6m Bunkie - Over 2.5m	Dwelling - 3.6m Bunkie - Over 2.5m
Exterior Side Yard (min)	10.0m	N/A	N/A
Interior Side Yard (min)	6.0m	Dwelling - 5.8m	Dwelling - 5.8m
Dwelling Unit Area (min)	75m ²	80.2m ²	132.3m ²
Dwelling Height (max)	9.0m	< 9m	< 9m
Lot Coverage (max)	10%	10.5%	10.5%
Floor Space Index (max)	12%	4.33%	7.15%

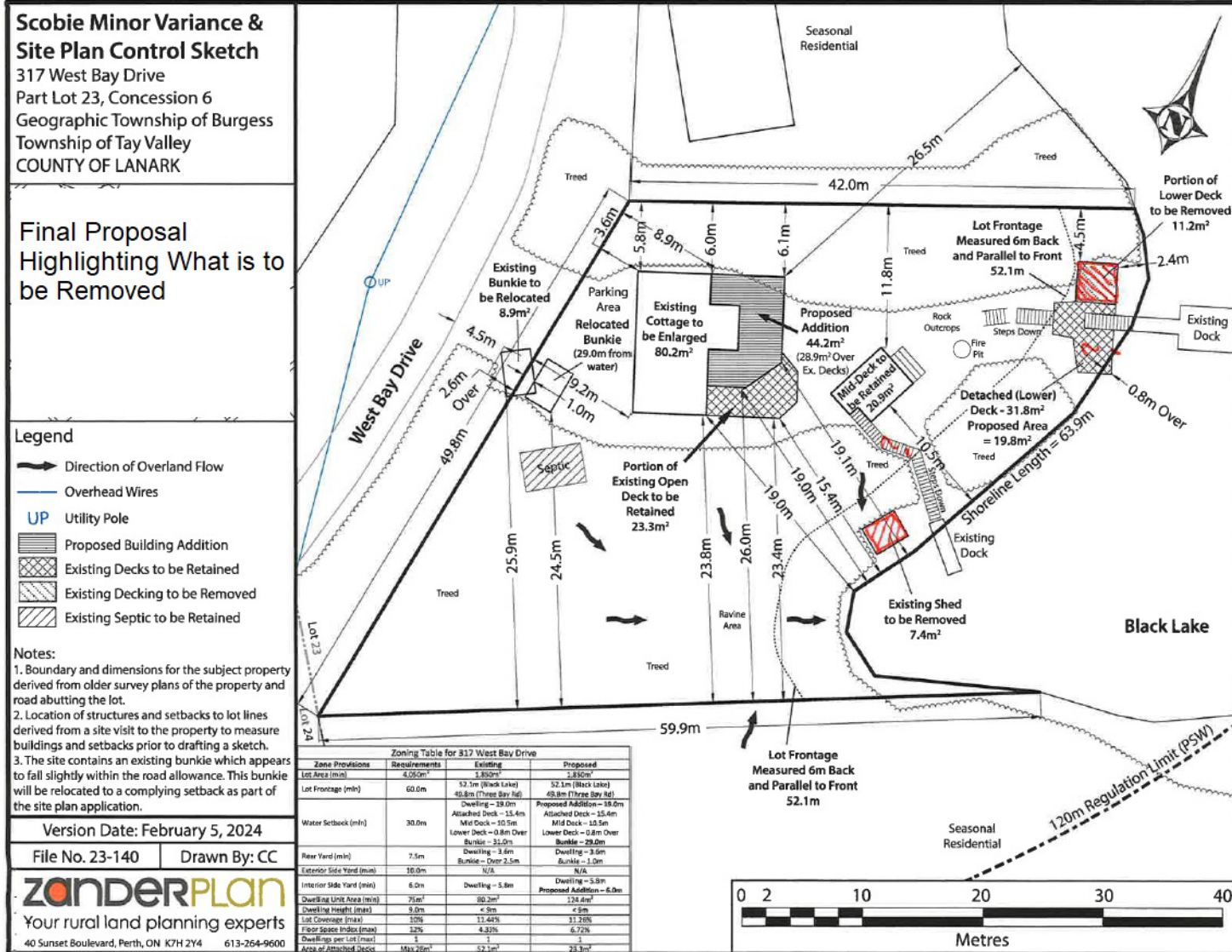
Version Date: August 11, 2023
 File No. 23-140 | Drawn By: CC
ZanderPlan
 Your rural land planning experts



Attachment 2 - Addition Modified to Maintain Existing Setback



Attachment 3 - Final Proposal Highlighting What is to be Removed



Scobie Minor Variance

Public Notice

Pursuant to the Planning Act, Notice of Public Hearing is to be provided a minimum of 10 days for a Minor Variance to the Zoning By-law. Notice was duly given by posting at the nearest public road and delivering to adjacent property owners within 60 metres of the location. Notice was also given to public agencies as required.

Ontario Land Tribunal

Please be cautioned that if, at a later date, the owner chooses to appeal the Committee'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, or if the appeal is not made in good faith, or if it 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 variance was 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



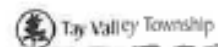
1

Scobie Minor Variance

Decision Process

- based on both the oral and written input received and understanding gained
- four key factors:
 - ✓ Is the application generally in keeping with the intent of the Township's Official Plan?
 - ✓ Is the application generally in keeping with the intent of the Township's Zoning By-laws?
 - ✓ Is it desirable and appropriate development and use of the site?
 - ✓ Is it minor in nature and scope?
- four decision options:
 - ? Approve – with or without conditions
 - ? Deny – with reasons
 - ? Defer – pending further input
 - ? Return to Township Staff – application deemed not to be minor

2



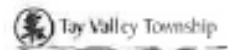
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Scobie Minor Variance

Hearing Process

- The Planner will review the application and present her comments plus those of the Conservation Authority, Septic System Office, and any public comments received
- The Applicant may provide additional details or clarification
- Any members of the public may contribute comments or questions
- The Committee members will discuss and decide
- The Notice of Decision will be signed

3



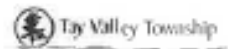
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Scobie

*317 West Bay Drive, Part Lot 23, Concession 6,
Geographic Township of North Burgess*



4



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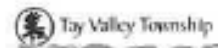
Scobie - Proposal

The Minor Variance application seeks relief from Section 3.29 (Water Setback) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121, as amended, as follows:

- To permit a 44.2 m² (476 sq ft) addition to a cottage, at a setback of 19m from Black Lake, rather than the 30m required.
- To permit lot coverage of 11% rather than the 10% permitted.

The effect of the variance is to permit an addition no closer than the existing cottage, with a small net reduction in lot coverage and an environmental net gain as there are structures proposed to be removed within 3m of the shoreline.

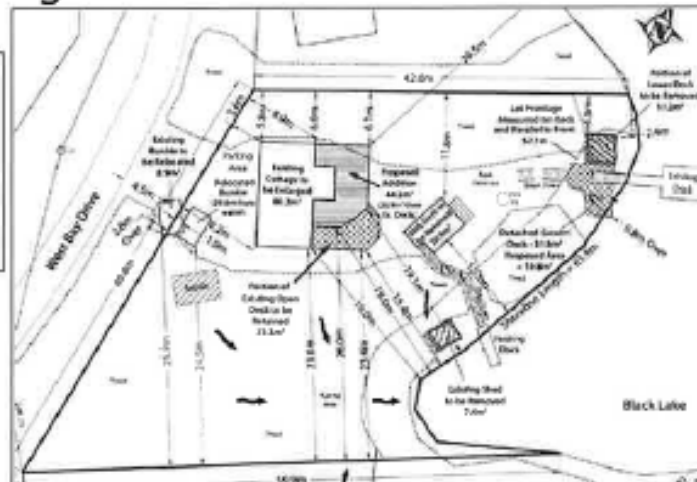
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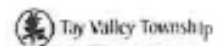
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Scobie Site Drawing

Legend	
	Direction of Overland Flow
	Overhead Wires
	Utility Pole
	Proposed Building Addition
	Existing Decks to be Retained
	Existing Decking to be Removed
	Existing Septic to be Retained



6

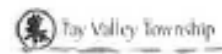


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Scobie Photos



7



7

Scobie Photos



8



8

Scobie Comments

Rideau Valley Conservation Authority (RVCA)

- Comments were not available at the time of the report although verbally the RVCA supports the final application submitted with consideration for additional deck/stair/dock removal.

Mississippi Rideau Septic System Office (MRSSO)

- Comments were not available at the time of the report.

9

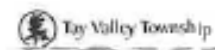


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Scobie Provincial Policy Statement

- No concerns.
- Sections 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Section 2.1 Natural Heritage, and Section 3.1 Protecting Public Health and Safety – Part of an existing deck 26m² (282 sq ft) is proposed to be converted to living space and 18m² (194 sq ft) of new living space is proposed on the east side of the existing cottage, without encroachment toward the water.

10

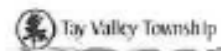


10

Scobie Provincial Policy Statement

- Natural Heritage is satisfied as the bulk of the development will occur on an existing deck and removal of some hard surfaces will occur along the shore. A permit will be required from the Rideau Valley Conservation Authority for work within the 120m buffer of a Provincially Significant Wetland. No natural hazards are present.
- A Site Plan Control Agreement will be required which will provide protection of the vegetation on the property.

11



11

Scobie County Sustainable Community Official Plan

- No concerns.
- Section 3.3.3.1 Rural Area Land Use Policies
Objectives are to: ensure development is consistent with rural service levels; to maintain the distinct character of rural, waterfront and settlement areas; and to ensure that development is compatible with natural heritage.

12

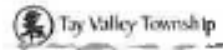


12

Scobie Official Plan

- The subject land is designated Rural, Provincially Significant Wetland Buffer, and Deer Yard in the Official Plan, and residential uses are permitted.
- Section 2.24.1(a) requires a minimum setback of 30m from the high-water mark of any water body for new development. However, Section 2.24.1(c) permits development at a less than 30m setback when existing development or topography precludes the reasonable possibility of achieving the setback.
- Black Lake water quality is rated as Fair according to the Rideau Valley Conservation Authority sub-watershed report. A Site Plan Control Agreement to protect the shoreline will help maintain the water quality and possibly improve it.

13

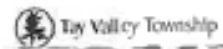


13

Scobie Zoning By-law

- The property is zoned Seasonal Residential and a cottage is a permitted use.
- There is a discrepancy of almost 25% in the size of the cottage compared to the MPAC records. MPAC also only has recorded one detached deck, not two.
- Additional decking could be removed at the shore.

14



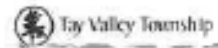
14

Scobie Official Plan & Zoning Test

Is the application generally in keeping with the intent of the Township's Official Plan & Zoning By-Law?

- Yes. Current lot coverage is 11.44% and will be reduced slightly to 11.26% because an existing shed and portion of a deck, both along the shoreline, will be removed. However, as lot coverage will still be over the 10% permitted, the application seeks relief.
- The existing Floor Space Index (FSI) is 4.3% and will increase to 6.7%. This FSI is well under the 12% permitted.

15



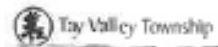
15

Scobie Development & Use Test

Is it desirable and appropriate development for the use of the site?

- The proposal is also desirable for the appropriate development of the lands in question as a cottage with a deck is a permitted use.
- Some detached decking and stairs allow access to the water over a rocky slope while reducing the potential for erosion into the lake.

16



16

Scobie "Minor" Test

Is it minor in nature and scope?

- The applicant's agent worked with the Planner and Rideau Valley Conservation Authority on a number of options to respect the Official Plan requirements to minimize impacts to water quality.
- The revised application can be considered minor in impact. The proposed new living space maintains the existing water setback. The existing lot coverage is proposed to be slightly reduced with removal of footprint in the critical area of the shoreline.

17

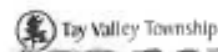


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Scobie Public Comments

- A neighbouring property owner requested details of the application as their cottage is located close to the applicant's cottage.
- Members of the public are welcome to speak to the application at this meeting.

18



18

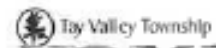
Scobie Recommendation

That the Minor Variance be granted for relief from the requirements of Section 3.29 (Water Setback) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121, as amended, as follows:

- To permit a 44.2 m² (476 sq ft) addition to a cottage, at a setback of 19m from Black Lake, rather than the 30m required.
- To permit lot coverage of 11% rather than the 10% permitted.

The effect of the variance is to permit an addition no closer than the existing cottage, with a small net reduction in lot coverage and an environmental net gain as there are structures proposed to be removed within 3m of the shoreline.

19



19

Scobie Resolution

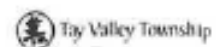
Recommended Decision:

"THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV23-10 is approved, to allow a variance from the requirements of Section 3.29 (Water Setback) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121, for the lands legally described as 317 West Bay Drive, Concession 6, Part Lot 23, in the geographic Township of North Burgess, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-911-020-78800;

- *To permit a 44.2 m² (476 sq ft) addition to a cottage, at a setback of 19m from Black Lake, rather than the 30m required.*
- *To permit lot coverage of 11% rather than the 10% permitted.*

AND THAT, the owners enter into a Site Plan Control Agreement prepared by the Township."

20



20

Committee of Adjustment

March 18, 2024

Noelle Reeve, Planner

APPLICATION MV24-02

March

913 Shady Lane, Concession 3, Part Lot 12
Geographic Township of North Burgess

SUMMARY OF PROPOSAL

Purpose and Effect: To seek relief from Section 3.29 (Water Setbacks) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121 as amended, as follows:

- To permit a 6.1 m² (65.7 sq ft) addition to a cottage, at a setback of 22m (72 ft) from Big Rideau Lake, rather than the 30m required, and
- To permit lot coverage of 11% rather than the 10% permitted.

The effect of the variance is to permit a 6.1m² (66sq ft) addition to the east side of the cottage for a bathroom, to be built at a 22m water setback instead of the 30m required and to allow the lot coverage to increase from 10.7% to 11% rather than the 10% permitted.

REVIEW COMMENTS

The property is located at 913 Shady Lane on Big Rideau Lake. The lot is 0.23 ha (0.57 acres) with 38m water frontage and contains a cottage and a shed.

Provincial Policy Statement

No concerns. Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Section 2.1 Natural Heritage, and Section 3.1 Protecting Public Health and Safety – Natural Hazards are satisfied as the proposed addition is to be located at the side of the existing cottage and no heritage or hazard features are present. An amended Site Plan Control Agreement will provide protection of the shoreline and can be used to obtain some naturalization of the property.

County Sustainable Community Official Plan

No Concerns. Section 3.3.3.1 Rural Area Land Use Policies Objectives are to: ensure development is consistent with rural service levels; to maintain the distinct character of rural, waterfront and settlement areas; and to ensure that development is compatible with natural heritage.

Official Plan

The subject land is designated Rural in the *Official Plan*, and residential uses are permitted.

Section 2.24.1(a) requires a minimum setback of 30m from the high-water mark of any water body for new development. However, Section 2.24.1(c) permits development at a less than 30m setback when existing development or topography precludes the reasonable possibility of achieving the setback.

Big Rideau Lake water quality is rated as Fair according to the Rideau Valley Conservation Authority sub-watershed report. An amended Site Plan Control Agreement to protect the shoreline will help maintain the water quality and possibly improve it.

Zoning By-Law

The property is zoned Seasonal Residential (RS) and a cottage is a permitted use. Current lot coverage is 10.7% and with the proposed addition is 11% which is over the 10% permitted in the zone. The Floor Space Index at 5.5% is well under the 12% permitted.

The proposed small addition is in line with the existing cottage setback of 22m from the lake.

The application can be considered minor in impact as a modest increase (0.3%) in the existing non-complying lot coverage is proposed and no encroachment toward the lake is proposed.

The proposal is also desirable and appropriate development of the lands in question as it is a permitted use. In addition, an environmental net gain will be achieved through the installation of a new septic system over 40m from the lake and a Site Plan Control Agreement updated from the original registered on the subject property.

CIRCULATION COMMENTS

Rideau Valley Conservation Authority (RVCA) – Comments were not available at the time of the report but RVCA verbally expressed support for the proposal.

Mississippi Rideau Septic System Office – A new septic system has been approved.

Public – None at the time of the report.

SITE PLAN CONTROL AGREEMENT

The existing Site Plan Control Agreement would be updated.

RECOMMENDATION

That the Minor Variance be granted for relief from the requirements of Section 3.29 (Water Setbacks) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121 as amended, as follows:

- To permit a 6.1 m² (65.7 sq ft) addition to a cottage, at a setback of 22m (72 ft) from Big Rideau Lake, rather than the 30m required, and
- To permit lot coverage to increase from 10.7% to 11% rather than the 10% permitted

because the general intent and purpose of the *Official Plan* and *Zoning By-Law* are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the *Planning Act*.

that the existing Site Plan Control Agreement be updated

and That, the minor variance is subject to confirmation of legal access and/or road frontage.”

March Minor Variance

Public Notice

Pursuant to the Planning Act, Notice of Public Hearing is to be provided a minimum of 10 days for a Minor Variance to the Zoning By-law. Notice was duly given by posting at the nearest public road and delivering to adjacent property owners within 60 metres of the location. Notice was also given to public agencies as required.

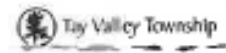
Ontario Land Tribunal

Please be cautioned that if, at a later date, the owner chooses to appeal the Committee'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, or if the appeal is not made in good faith, or if it 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 variance was 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.

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March Minor Variance

Decision Process

- based on both the oral and written input received and understanding gained
- four key factors:
 - ✓ Is the application generally in keeping with the intent of the Township's Official Plan?
 - ✓ Is the application generally in keeping with the intent of the Township's Zoning By-laws?
 - ✓ Is it desirable and appropriate development and use of the site?
 - ✓ Is it minor in nature and scope?
- four decision options:
 - ? Approve – with or without conditions
 - ? Deny – with reasons
 - ? Defer – pending further input
 - ? Return to Township Staff – application deemed not to be minor

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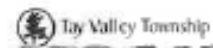
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March Minor Variance

Hearing Process

- The Planner will review the application and present her comments plus those of the Conservation Authority, Septic System Office, and any public comments received
- The Applicant may provide additional details or clarification
- Any members of the public may contribute comments or questions
- The Committee members will discuss and decide
- The Notice of Decision will be signed

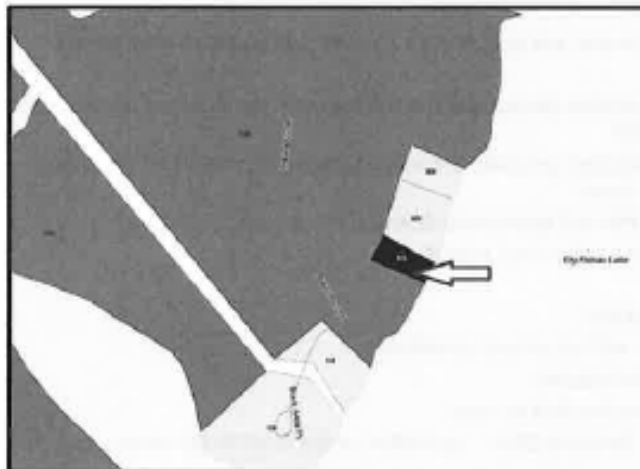
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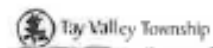
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March

*913 Shady Lane, Part Lot 12, Concession 3,
Geographic Township of North Burgess*



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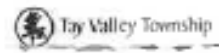
March - Proposal

The Minor Variance application seeks relief from Section 3.29 (Water Setbacks) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121 as amended, as follows:

- To permit a 6.1 m² (65.7 sq ft) addition to a cottage, at a setback of 22m (72 ft) from Big Rideau Lake, rather than the 30m required, and
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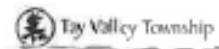
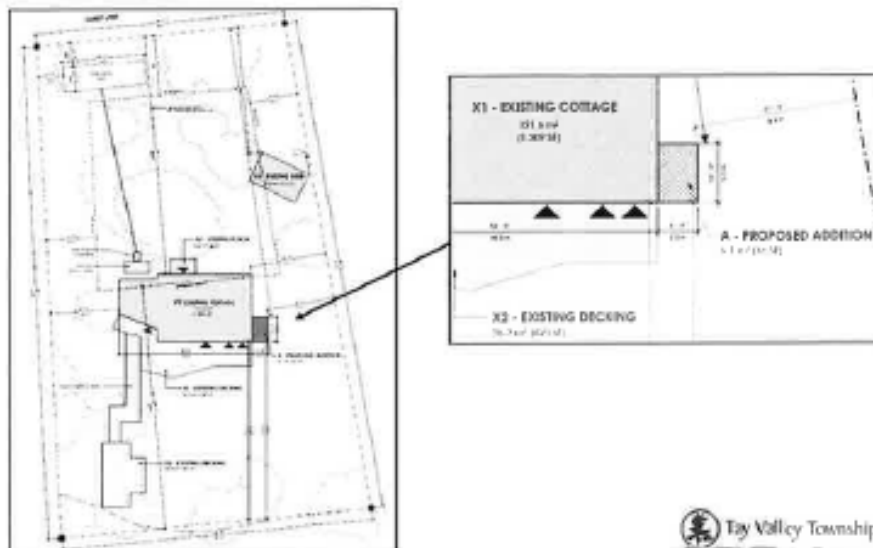
The effect of the variance is to permit a 6.1m² (66sq ft) addition to the east side of the cottage for a bathroom, to be built at a 22m water setback instead of the 30m required and to allow the lot coverage to increase from 10.7% to 11% rather than the 10% permitted.

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March Site Drawing



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March Photos



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March Photos



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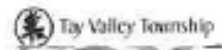
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March Comments

Rideau Valley Conservation Authority (RVCA)

- Comments were not available at the time of the report although verbally the RVCA supports the application.

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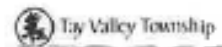
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March Comments

Mississippi Rideau Septic System Office (MRSSO)

- A new septic system has been approved.

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March Provincial Policy Statement

- No concerns.
- Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Section 2.1 Natural Heritage, and Section 3.1 Protecting Public Health and Safety – Natural Hazards are satisfied as the proposed addition is to be located at the side of the existing cottage and no heritage or hazard features are present.
- An amended Site Plan Control Agreement will provide protection of the shoreline and can be used to obtain some naturalization of the property.

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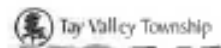


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March County Sustainable Communities Official Plan

- No concerns.
- Section 3.3.3.1 Rural Area Land Use Policies
Objectives are to: ensure development is consistent with rural service levels; to maintain the distinct character of rural, waterfront and settlement areas; and to ensure that development is compatible with natural heritage.

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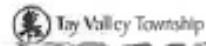


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March Official Plan

- The subject land is designated Rural in the Official Plan, and residential uses are permitted.
- Section 2.24.1(a) requires a minimum setback of 30m from the high-water mark of any water body for new development. However, Section 2.24.1(c) permits development at a less than 30m setback when existing development or topography precludes the reasonable possibility of achieving the setback.
- Big Rideau Lake water quality is rated as Fair according to the Rideau Valley Conservation Authority sub-watershed report. An amended Site Plan Control Agreement to protect the shoreline will help maintain the water quality and possibly improve it.

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March Zoning By-law

- The property is zoned Seasonal Residential (RS) and a cottage is a permitted use.

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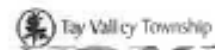
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March Official Plan & Zoning Test

Is the application generally in keeping with the intent of the Township's Official Plan & Zoning By-Law?

- Yes. Current lot coverage is 10.7% and with the proposed addition is 11% which is over the 10% permitted in the Rural zone.
- The Floor Space Index at 5.5% is well under the 12% permitted.
- The proposed small addition is in line with the existing cottage setback of 22m from the lake.

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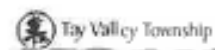
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March Development & Use Test

Is it desirable and appropriate development for the use of the site?

- The proposal is also desirable for the appropriate development of the lands in question as a cottage with a deck is a permitted use.
- In addition, an environmental net gain will be achieved through the installation of a new septic system over 40m from the lake and a Site Plan Control Agreement updated from the original registered on the subject property.

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March "Minor" Test

Is it minor in nature and scope?

- The application can be considered minor in impact as a modest increase (0.3%) in the existing non-complying lot coverage is proposed and no encroachment toward the lake is proposed.

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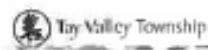


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March Site Plan Control Agreement

- The existing Site Plan Control Agreement would be updated.

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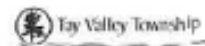


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March Public Comments

- No comments were received at the time of the report.
- Members of the public are welcome to speak to the application at this meeting.

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March Recommendation

That the Minor Variance be granted for relief from the requirements of Section 3.29 (Water Setbacks) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121 as amended, as follows:

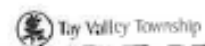
- To permit a 6.1 m² (65.7 sq ft) addition to a cottage, at a setback of 22m (72 ft) from Big Rideau Lake, rather than the 30m required, and
- To permit lot coverage to increase from 10.7% to 11% rather than the 10% permitted

because the general intent and purpose of the *Official Plan* and *Zoning By-law* are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the Planning Act.

that the existing Site Plan Control Agreement be updated.

And that the minor variance approval is subject to confirmation of legal access and/or road frontage.

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March Resolution

Recommended Decision:

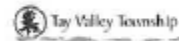
"THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-02 is approved, to allow a variance from the requirements of Section 3.29 (Water Setbacks) and Section 5.2.2 (Zone Provisions) of Zoning By-Law 2002-121, for the lands legally described as 913 Shady Lane, Concession 3, Part Lot 12, in the geographic Township of North Burgess, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-911-020-09300;

- To permit a 6.1 m² (65.7 sq ft) addition to a cottage, at a setback of 22m (72 ft) from Big Rideau Lake, rather than the 30m required, and*
- To permit lot coverage of 11% rather than the 10% permitted.*

THAT, the existing Site Plan Control Agreement be updated,

AND THAT, minor variance approval is subject to confirmation of legal access and/or road frontage."

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COMMITTEE OF ADJUSTMENT

March 18th, 2024

Noelle Reeve, Planner

APPLICATION MV24-04

Kell

261 Maberly Elphin Road, Concession 8 Part Lot 13 and 14
Geographic Township of South Sherbrooke

SUMMARY OF PROPOSAL

Purpose and Effect: To seek relief from Section 3.5 (Group Homes) of Zoning By-Law 2002-121 as amended, as follows:

- To permit a Group Home to be set back 18m from a dwelling on another lot rather than the 30m required.

The effect of the variance is to permit a setback of 18m for a Group Home in an existing dwelling from a dwelling to the east, which is separated from the Group Home by Maberly Main Street.

REVIEW COMMENTS

The property is located at 261 Maberly Elphin Road. The lot is 0.42 ha with 20 m of road frontage on Maberly Elphin Road, 53 m on Maberly Main Street and 45m on the Fall River.

The applicant intends to use the existing single-family dwelling as a group home which will accommodate between 3 and 10 unrelated residents who require a supervised family living arrangement for their wellbeing due to disability and specifically to support recovery from addictions.

Provincial Policy Statement

No concerns. Section 1.1.3 of the Provincial Policy Statement (PPS) concerns settlement areas. Policies within this section of the PPS promote efficient land and resource uses, density, ranges of uses and redevelopment of existing properties. The Group Home would use the land efficiently by increasing the available housing potential of the existing building on the site.

Section 1.4 of the PPS addresses housing. Section 1.4 requires non-discrimination in planning, as does s. 35 of the *Planning Act*, s. 15(1) of the *Canadian Charter of Rights and Freedoms* and the *Ontario Human Rights Code*, meaning permission for a use cannot be denied, "on the basis of occupant characteristics and lack of familial relationship instead of upon valid planning grounds".

Section 1.4.3 requires municipalities to provide for a range of housing including for those with

Lanark County Sustainable Communities Official Plan

No concerns. The subject property is located within a designated settlement area. Policies contained within Section 2.3.1 Settlement Area Policies of the Plan promote efficient development patterns, intensification, and a mix of development. The proposal would intensify an residential use.

Official Plan

No concerns. The property is designated as Hamlet in the Tay Valley Official Plan. Section 3.7 of the plan describes uses permitted in a Hamlet. As a small-scale residential Group Home, the proposal is in conformity with the residential policies for a Hamlet.

Zoning By-Law

The lot at 261 Maberly Elphin Road is currently zoned Residential (R). Section 3.5 of the Zoning By-Law states that, "Group homes shall be permitted in the General Residential, Rural and Institutional zones..." therefore, a Group Home is permitted.

Section 3.5 identifies performance standards for Group Homes including: a limit on the number of Group Homes in the Township to 1 Group Home per 1,000 residents, a 500m separation distance between Group Homes, and a 30m separation from a dwelling.

In addition, Section 3.15, Parking Requirements, requires a Group Home to have one parking space in addition to the applicable dwelling requirement of two (2) parking spaces (which may occur in tandem). Adequate parking exists on the lot.

Two of the three performance standards for a Group Home at 261 Maberly Elphin Road are met. The performance standard of a 30m separation from a dwelling is not met and is the issue before the Committee.

The Committee must solely consider the four tests of a minor variance application with respect to the application for an 18m setback, rather than a 30m setback from a dwelling.

Is the application in keeping with the intent of the Official Plan? Yes. A residential dwelling is permitted in a Hamlet. The dwelling will provide additional housing than previously which is a goal of the Official Plan.

Is the application in keeping with the intent of the Zoning By-Law? Yes. A Group Home is a permitted use in Residential zone.

Is the application considered minor? Yes. Single residential dwellings require a 6m internal setback or 10m external side yard setback (i.e. from a road). The current building is less than 1m from the external side yard setback and is considered legally non-conforming due to the age of the dwelling.

No additional construction is proposed to worsen the current setback.

The Group Home operates within a single dwelling. The Group home is separated from the closest dwelling by 18m. In addition, the closest dwelling is not on property adjacent to the Group Home. It is separated by Maberly Main Street. The impact of the location of the dwelling can, therefore, be considered minor.

Is the application desirable for the appropriate development of the lands? Yes. It is a permitted use in a residential zone. The existing built form is not changing. Intensification of residential use is desirable in a Hamlet.

Site Plan Control Agreement

A Site Plan Control Agreement would be required if external construction takes place within 300m (1,000 ft) of a waterbody. No construction beyond the building footprint is currently proposed.

CIRCULATION COMMENTS

As part of the review of a planning proposal, various agencies are asked to provide comments to the municipality.

Mississippi Valley Conservation Authority (MVCA)

The MVCA had no concerns as construction outside the building footprint is not proposed and there is sufficient parking currently on site so no new areas of disturbance near the Fall River are required. The MVCA would like the owner to be aware that if any disturbance is proposed within 15m of the Fall River, a permit from the MVCA would be required.

Mississippi Rideau Septic System Office (MRSSO)

A Part 10/11 Renovation/Change of Use septic permit was submitted to the MRSSO and the septic system operation and capacity were determined to be sufficient.

Public Comments

As of the writing of this report, the Planner had received many questions and some concerns about the Group Home that are not applicable considerations under the Planning Act. The Planner also received many comments of support for the Group Home, including an email of support from the owner of the property that abuts the south property line of 261 Maberly-Elphin Road.

It is a well-established principle in case law that, “good planning precludes planning around the personal or protected characteristics of people who may occupy the buildings or land”.

The Ontario Land Tribunal has previously ruled that, “Speculation alone regarding fire safety, septic capacity, building permit requirements and risks to public safety are not a sufficient basis for a finding of incompatibility of use of the Subject Lands in relation to the residential use of neighbouring lands”.

The *Planning Act* expressly prohibits consideration of personal attributes in a decision regarding use or performance standards.

RECOMMENDATION

That the Minor Variance be granted for relief from the requirements of Section 3.5 (Group Homes) of Zoning By-Law 2002-121, as amended, as follows:

- To permit a Group Home to be set back a minimum of 18m from a dwelling to the east rather than the 30m required

because the general intent and purpose of the *Official Plan* and *Zoning By-law* are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the *Planning Act*.

Kell Minor Variance

Public Notice

Pursuant to the Planning Act, Notice of Public Hearing is to be provided a minimum of 10 days for a Minor Variance to the Zoning By-law. Notice was duly given by posting at the nearest public road and delivering to adjacent property owners within 60 metres of the location. Notice was also given to public agencies as required.

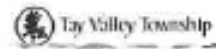
Ontario Land Tribunal

Please be cautioned that if, at a later date, the owner chooses to appeal the Committee'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, or if the appeal is not made in good faith, or if it 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 variance was 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.

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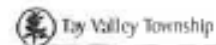
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Kell Minor Variance

Decision Process

- based on both the oral and written input received and understanding gained
- four key factors:
 - ✓ Is the application generally in keeping with the intent of the Township's Official Plan?
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 - ✓ Is it desirable and appropriate development and use of the site?
 - ✓ Is it minor in nature and scope?
- four decision options:
 - ? Approve – with or without conditions
 - ? Deny – with reasons
 - ? Defer – pending further input
 - ? Return to Township Staff – application deemed not to be minor

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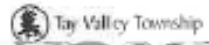
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Kell Minor Variance

Hearing Process

- The Committee is a quasi-judicial body
- The Planner will review the application and present her comments plus those of the Conservation Authority, Septic System Office, and any public comments received
- The Applicant may provide additional details or clarification
- Any members of the public may contribute comments or questions
- The Committee members will discuss and decide
- The Notice of Decision will be signed

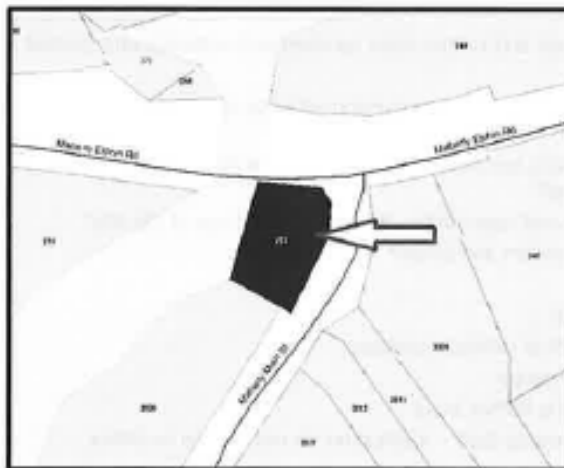
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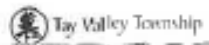
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Kell

*261 Maberly Elphin Road, Part Lot 13 and 14, Concession 8,
Geographic Township of South Sherbrooke*



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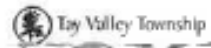
Kell - Proposal

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- To permit a Group Home to be set back 18m from a dwelling on another lot rather than the 30m required.

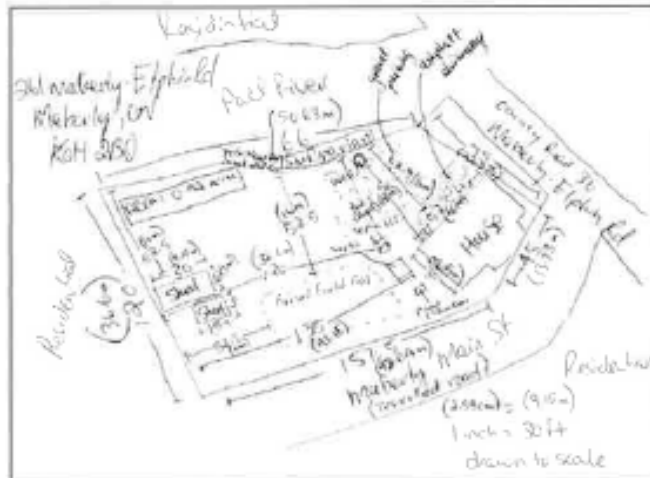
The effect of the variance is to permit a setback of 18m for a Group Home in an existing dwelling from a dwelling to the east, which is separated from the Group Home by Maberly Main Street.

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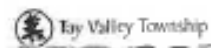


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Kell Site Drawing



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Kell Photos



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Kell Photos – Neighbouring Property



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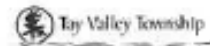
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Kell Comments

Mississippi Valley Conservation Authority (MVCA)

- The MVCA had no concerns as construction outside the building footprint is not proposed and there is sufficient parking currently on site so no new areas of disturbance near the Fall River are required. The MVCA would like the owner to be aware that if any disturbance is proposed within 15m of the Fall River, a permit from the MVCA would be required.

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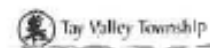
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Kell Comments

Mississippi Rideau Septic System Office (MRSSO)

- A Part 10/11 Renovation/Change of Use septic permit was submitted to the MRSSO and the septic system operation and capacity were determined to be sufficient.

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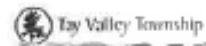


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Kell Provincial Policy Statement

- Section 1.1.3 of the Provincial Policy Statement (PPS) concerns settlement areas. Policies within this section of the PPS promote efficient land and resource uses, density, ranges of uses and redevelopment of existing properties. The Group Home would use the land efficiently by increasing the available housing potential of the existing building on the site.

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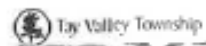


11

Kell Provincial Policy Statement

- Section 1.4 of the PPS addresses housing. Section 1.4 requires non-discrimination in planning, as does s. 35 of the Planning Act, s. 15(1) of the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code, meaning permission for a use cannot be denied, "on the basis of occupant characteristics and lack of familial relationship instead of upon valid planning grounds".
- Section 1.4.3 requires municipalities to provide for a range of housing including for those with special needs, such as the recognized mental health disability of addiction.

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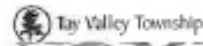


12

Kell County Sustainable Communities Official Plan

- Section 3 Rural Land designation permits a variety of uses including residential uses.
- The subject property is located within a designated settlement area on Schedule A of the Lanark County Sustainable Community Official Plan. Policies contained within Section 2.3.1 Settlement Area Policies of the plan promote efficient development patterns, intensification, and a mix of development. The proposal would intensify use an existing property for residential use which is permitted within a settlement area.

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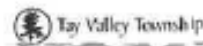


13

Kell Official Plan

- The property is designated as Hamlet on Schedule A of the Tay Valley Official Plan. Section 3.7 of the plan describes uses permitted in a Hamlet. As a small-scale residential Group Home, the proposal is in conformity with the residential policies for a Hamlet.

14



14

Kell Zoning By-law

- Section 3.5 of the Zoning By-Law states that, "Group homes shall be permitted in the General Residential, Rural and Institutional zones...". The lot at 261 Maberly Elphin Road is currently zoned Residential (R) and therefore, a Group Home is permitted.
- Section 3.5 identifies performance standards for Group Homes including: a limit on the number of Group Homes in the Township to 1 Group Home per 1,000 residents, a 500m separation distance between Group Homes, and a 30m separation from a dwelling on another lot. Two of the three performance standards are met.
- Section 3.15 Parking Requirements is also met (one parking space in addition to the two required for the dwelling).

15



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Kell Official Plan & Zoning Test

Is the application generally in keeping with the intent of the Township's Official Plan & Zoning By-Law?

- Yes. A residential dwelling is permitted in a Hamlet. The dwelling will provide additional housing than previously which is a goal of the Official Plan.
- Yes. A Group Home is a residential use.

16



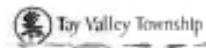
16

Kell Development & Use Test

Is it desirable and appropriate development for the use of the site?

- Yes. It is a permitted use in a residential zone. The existing built form is not changing.

17



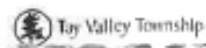
17

Kell "Minor" Test

Is it minor in nature and scope?

- Yes. The Group Home operates within a single dwelling. The usual setback from another dwelling is 6m from an internal side yard (10m from an external side yard). The Group home is separated from the closest dwelling by 18m. No additional construction is proposed to worsen the setback.
- In addition, the closest dwelling is not on property adjacent to the Group Home. It is separated by Maberly Main Street. The impact of the reduced setback of the dwelling can, therefore, be considered minor.

18

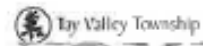


18

Kell Site Plan Control Agreement

- A Site Plan Control Agreement would be required if external construction takes place within 300m (1,000 ft) of a waterbody.
- No construction beyond the building footprint is currently proposed.

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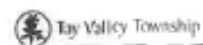


19

Kell Public Comments

- As of the writing of the report, the Planner had received many questions and some concerns about the Group Home that are not applicable considerations under the Planning Act. The Planner also received many comments of the support for the Group Home, including an email from the owner of the property that abuts the south property line of 261 Maberly.
- The Planning Act expressly prohibits consideration of personal attributes in a decision regarding use or performance standards.
- The Committee must solely consider the four tests of a minor variance application.

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Kell Recommendation

That the Minor Variance be granted for relief from the requirements of Section 3.5 (Group Homes) of Zoning By-Law 2002-121, as amended, as follows:

- To permit a Group Home to be setback a minimum of 18m from a dwelling to the east rather than the 30m required

because the general intent and purpose of the Official Plan and Zoning By-law are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the Planning Act.

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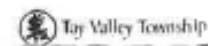
Kell Resolution

Recommended Decision:

"THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-04 is approved, to allow a variance from the requirements of Section 3.5 (Group Homes) of Zoning By-Law 2002-121, for the lands legally described as 261 Maberly Elphin Road, Concession 8, Part Lot 13 and 14, in the geographic Township of South Sherbrooke, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-914-010-20500;

- *To permit a Group Home to be set back 18m from a dwelling rather than the 30m required."*

22



22