

2024-03-01



**MINOR VARIANCE APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 3**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 4408 Tranquility Lane
Legal Description: Lot 17, Registered Plan 690
File No.: D08-02-24/A-00018
Report Date: February 27, 2024
Hearing Date: March 5, 2024
Planner: Stephan Kukkonen
Official Plan Designation: Rural Transect, Rural Countryside
Zoning: RR17 [343r]

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has some concerns with** the application.

DISCUSSION AND RATIONALE

Staff have reviewed the subject minor variance application against the “four tests” as outlined in Section 45 (1) of the *Planning Act*, R.S.O. 1990 c. P.13, as amended. Staff are satisfied that the requested minor variances meet the “four tests”.

The application requests authorization from the Committee for minor variances from the Zoning By-law to permit the following:

- a) To permit a building to be located 25.10 metres from the normal high-water mark of a watercourse or water body, whereas the By-law states in part that no building or structure shall be located closer than 30 metres from the normal high-water mark of any watercourse or water body.
- b) To permit a building to be located 6.8 metres from the top of bank of a watercourse or water body, whereas the By-law states in part, that no building or structure shall be located closer than 15 metres from the top of bank of any watercourse or water body.
- c) To permit an addition within 30 metres of a watercourse measuring 167 square metres in floor area and located closer than the principal building to the water,

whereas the By-law [exception 343r] permits additions with a maximum floor area of 24 square metres within 30 metres of a watercourse, as long as it is no closer than the principal building to the water.

- d) To permit a deck with a walking surface higher than 0.6 metres above adjacent grade to project a maximum of 4.91 metres from a principal building located within the 30-metre watercourse setback, whereas the By-law [exception 343r] permits a deck to project a maximum of 3.0 metres from the principal building located within the 30-metre setback.

The subject property located on Buckham's Bay, is approximately 0.19 hectares and contains an existing dwelling. The existing dwelling is a small single-detached dwelling measuring approximately 60 square metres and is located entirely within the watercourse setback. The existing dwelling also includes an attached deck which is considered to be a projection under the applicable Exception Zone (343r) in the Zoning By-law. The deck currently projects approximately 4.91 metres from the existing building towards the high-water mark; and will remain the closest structure to the high-water mark in spite of the proposed addition.

The proposed addition is approximately 172 square metres and will be situated to maintain the existing foundation line. The addition will also include a cantilevered portion that projects slightly further into the watercourse setback. Although this appears as a significant increase compared to the original size of the dwelling, the result of the development would remain well below the 20 percent maximum lot coverage permitted in the RR17 zone.

When evaluating this proposal, Planning Staff had concerns about the stability of the existing slope and the proposed setback, the proposed distance to the watercourse, and the amount of development occurring within the watercourse setback. Section 4.9.3 of the Official Plan provides policies for development in proximity to surface water features. Section 4.9.3 policy 2) states that the minimum setback should be the greater of the following:

- c) 30 metres from the top of bank, or the maximum point to which water can rise within the channel before spilling across adjacent lands
- d) 15 metres from the existing stable top of slope, where there is a defined valley slope or ravine.

This Section further states in policy 7) that exceptions to the setbacks in Policy 2) shall be considered in situations where the development is proposed on existing lots where, due to the historical development in the area, it is impossible to achieve the minimum setback because of the size or location of the lot, approved or existing use on the lot or other physical constraints. An exception shall be considered if the following conditions can be met:

- a) The ecological function of the site is restored and enhanced, to the greatest extent possible, through naturalization with native, non-invasive vegetation and bioengineering techniques to mitigate erosion and stabilize soils; and
- b) Buildings and structures are located, or relocated, to an area within the existing lot that improves the existing setback to the greatest extent possible, and does not encroach closer to the surface water feature.

To address these concerns highlighted by Staff, the applicant prepared a slope stability report and a planting plan. The slope stability report was reviewed and accepted by Staff, and has alleviated any concerns that the proposed development may cause negative impacts to the existing slope. As per the request of Staff, the prepared planting plan highlights the existing conditions and ecological functions of the site and proposes to enhance it through the implementation of rain gardens with native species and raised garden beds to prevent sheet runoff. These are proposed to be concentrated between the surface water feature and the area of development to alleviate concerns regarding run off and erosion resulting from the increased level of impervious surface. The plan was reviewed and accepted by the City's Environmental Planner.

In consideration of the aforementioned water setback policies in the Official Plan, the applicant has provided a great consideration to ensure the ecological function of the site is maintained and enhanced as a result of the proposed development. However, it should be noted that the proposal does not fully contemplate the policy requirements as the cantilevered portion will project closer to the surface water feature. Based on the supporting information provided, it is unlikely that this will have a great impact on the condition of the site, but it also does not fully meet the intent of the Official Plan policy.

In terms of the other minor variance tests, Staff find that the overall development proposal and the requested variances are in minor in nature, meet the general intent of the Zoning by-law, and can be considered desirable for the appropriate development and use of the land.

ADDITIONAL COMMENTS

Right of Way Management

The Right-of-Way Management Department has **no concerns** with the proposed minor variance application as there are no requested changes to private approaches. However, the Owner shall be made aware that a private approach permit is required to construct any newly created driveway/approach, or, to remove an existing private approach.



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