



Corporation of the
Township of Tay

450 PARK ST.
P.O. BOX 100
VICTORIA HARBOUR
ONTARIO L0K 2A0

(705) 534-7248
FAX (705)534-4493

COMMITTEE OF ADJUSTMENT -AGENDA

Wednesday, April 17th, 2019 – 5:30 p.m.

Township of Tay Municipal Building – Council Chamber
450 Park Street, Victoria Harbour

1. CALL TO ORDER

2. ADOPTION OF AGENDA

3. DECLARATION OF PECUNIARY INTEREST

4. ADOPTION OF MINUTES FROM March 20th 2019

5. PUBLIC MEETING

7.1 2019-A-03, 165 Osborne Street

6. DECISIONS

7. OTHER BUSINESS

10. NEXT MEETING – May 15th 2019

11. ADJOURNMENT



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COMMITTEE OF ADJUSTMENT
MINUTES OF MEETING Wednesday, March 20th, 2019 – 5:30 PM
Township of Tay Municipal Office – Council Chambers

Members Present: Member: Andy Ott
 Member: Matthew Heffer
 Member: Stephen Stone
 Member: Heinrich Naumann
 Member: Fred Ruf

Staff Present: L. O'Toole, Planner, Secretary-Treasurer
 S. Farquharson, Planning and Development Director

1.0 CALL TO ORDER

Chair A. Ott called the meeting to order at 5:30 p.m.

2.0 APPOINTMENT OF DEPUTY CHAIR

MOTION: Moved by: Member Naumann
 Seconded by: Member Stone

THAT Committee appoint Matthew Heffer as Vice Chair.

CARRIED.

3.0 ADOPTION OF THE AGENDA

MOTION: Moved by: Member Ruf
 Seconded by: Member Naumann

THAT Committee adopted the agenda as prepared.

CARRIED.

4.0 DECLARATION OF CONFLICT OF INTEREST

None were presented.

5.0 ADOPTION OF MINUTES

MOTION: Moved by: Member Heffer
Seconded by: Member Stone

THAT the minutes of Public Hearing held February 20th, 2019 be adopted as circulated.

CARRIED.

6.0 MEETING

6.1 Minor Variance Application 2019-A-01 - IHD Design Build on behalf of Applicant Susan Molenda

Attending

Applicant/Agent: Jacob Lalonde, IHD Design build

Written Comments Received at the Hearing:

Letter provided by IHD Deisgn Build.

Proponent:

Jacob Lalonde attended the meeting and provided comments on behalf of the applicant.

Public Audience:

None.

Committee Members:

L. O'Toole gave an overview of the application, recommending denial.

J. Lalonde provided additional comments about the application.

Committee Member Naumann asked if the applicant could build the garage at 6 metres, rather than the requested amount.

J. Lalonde stated that 5.39 metres was required, based on the design of the garage, but would rather have 6 metres than have the variance outright denied.

S. Farquharson provided staff recommended conditions including the need for a landscaping plan, and that the driveway zoning deficiency be corrected.

Committee carried the updated decision.

6.2 Minor Variance Application 2019 A 02 – Applicant Rae Reynolds

Attending Agent: None

Written Comments Received at the Hearing: Letter of support received from neighbour to the west.

Proponent: The applicant attended the hearing.

Public Audience: Neighbours from 104 Hoyt, Gordon Macdonald.

Committee Members:

L. O'Toole provided an overview of the application and recommended approval.

Committee Member Stone asked if the garage would have a front or side entry.

R. Reynolds confirmed the proposed garage would have a side entry.

Committee carried the motion.

6.3 Consent Application 2019 B 01– Innovative Planning Solutions on behalf of Applicant Karolina Nabialek

Attending

Applicant/Agent: None.

Written Comments Received at the Hearing: Letter received from neighbour across the street, voicing concerns over the proposal.

Public Audience: None.

Committee Members:

L. O'Toole provided an overview on the proposed severance, recommending approval.

K. Nabialek asked for clarification on the condition pertaining to cash in lieu requirement.

S. Farquharson provided clarification on the condition.

Committee Member Stone asked to add condition to require demolition of the existing dwelling, prior to the consent being granted.

Committee Member Heffer asked to add condition to require a development agreement between the owner and the Township, in order to enforce the findings of the Environmental Impact Assessment.

The updated motion was carried by the Committee.

6.4 Consent Application 2019-B-02 Applicant Alan Fike

Attending Applicant/Agent: Solicitor William Taws.

Written Comments Received at the Hearing: None.

Public Audience: None.

Committee Members:

L. O'Toole provided an overview of the proposed consent, recommending approval.

W. Taws requested that the final condition be changed to require the easement, "if required".

The updated motion was carried by the Committee.

7.0 DECISIONS

7.1 Minor Variance Application 2019-A-01 - IHD Design Build on behalf of Applicant Susan Molenda

THAT,

The Planning and Development Department recommends that Variance Application **2019-A-01** be granted approval, subject to the following conditions:

1. That the Front Yard setback of the attached garage be no less than 6.0 metres.
2. That the applicant obtains the required Zoning Certificate and Building Permit from the Township of Tay for the approved Variance Request.
3. That a landscape plan be prepared and submitted and implemented to the satisfaction of the Township of Tay and to ensure that no parking occurs in the front yard.

4. That all municipal taxes be paid in full.

FOR THE FOLLOWING REASONS,

The proposed variance meets the 4 tests of minor variance.

CARRIED.

7.2 Minor Variance Application 2019 A 02 – Applicant Rae Reynolds

THAT,

Minor Variance Application 2019-A-02 be granted approval subject to the following conditions being imposed on the Committee's decision:

1. That the Front Yard setback of the detached accessory building be no less than 7.5 metres.
2. That the applicant obtains the required Zoning Certificate and Building Permit from the Township of Tay for the approved Variance Request.
3. That all municipal taxes be paid in full.

FOR THE FOLLOWING REASONS,

The proposed minor variance satisfies the four tests of minor variance.

7.3 Consent Application 2019 B 01– Innovative Planning Solutions on behalf of Applicant Karolina Nabialek

THAT,

Consent Application **2019-B-01** be granted provisional approval subject to the following conditions being imposed on the Committee's decision:

1. That the Township receives cash in lieu of parkland dedication of 5% of

the appraised value of the area of the severed lands. The value of the land to be determined as of the day before the granting of provisional consent.

2. That a copy of a registered reference plan for the subject land indicating the severed and retained parcels be prepared by an Ontario Land Surveyor and submitted to the Secretary-Treasurer;

3. That the applicant's solicitor prepare and submit a copy of the proposed conveyances for the severed parcels, for review by the Township;

4. That all municipal taxes be paid in full to the Township of Tay;

5. That lot area of the severed parcel be no greater than approximately 1084.60 square metres, with a minimum lot frontage of approximately 22.24 metres;

6. That the lot area of the retained parcel be no greater than approximately 1085.02 square metres, with a minimum lot frontage of approximately 22.24 metres;

7. That the existing driveway be removed, and two new entrance permits be obtained within one year from the date of the Committee's decision;

8. That a water service with a curb stop and a sewer lateral to the newly created lot be installed within one year of the Committee's decision at the owner's expense, consistent with the Township's design standards;

9. That the applicant apply for an obtain and close a demolition permit for the existing dwelling;

10. That the applicant enter an development agreement with the Township of Tay to ensure the finding and recommendations of the Environmental Impact Study completed by Birks Natural Heritage Consultants dated January 24, 2019 and reviewed the by Severn Sound Environmental Association dated March 14, 2019.

11. That the conditions of consent imposed by the Committee be fulfilled

within one year from the date of giving of the notice.

FOR THE FOLLOWING REASONS,

The proposed severance conforms with all relevant Provincial, Regional, and Local Planning Policy, as well as the Zoning By-law of the Township of Tay.

CARRIED.

7.4 Consent Application 2019-B-02 Applicant Alan Fike

THAT,

Consent Application **2019-B-02** be granted provisional approval subject to the following conditions being imposed on the Committee's decision:

1. That a copy of a registered reference plan for the subject land indicating the severed parcel be prepared by an Ontario Land Surveyor and submitted to the Secretary-Treasurer;
2. That the applicant's solicitor prepare and submit a copy of the proposed conveyance for the parcel severed, for review by the Township;
3. That all municipal taxes be paid in full to the Township of Tay;
4. That Subsection 50 (3) and/or (5), of the Planning Act applies to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent;
5. That if the property is to change ownership prior to the conditions of consent imposed by the Committee are fulfilled, an authorization from the new owner(s) must be received by the Township acknowledging the request to proceed with the applications as approved by the Committee;
6. That the applicant's solicitor prepares a letter of undertaking that the severed lands from 244 First Avenue and the lands to be enhanced municipally known as 254 First Avenue will merge on title.
7. That the lands to be conveyed not exceed 766 m².

8. That an easement be registered on title by the owner of 244 First Avenue for the purpose of accessing the water service line, if required.
9. That the conditions of consent imposed by the Committee be fulfilled within one year from the date of giving of the notice.

CARRIED.

9.0 OTHER BUSINESS

Committee Member Ott asked why e-mails sent to all committee members were only replied to the person who asked the question.

S. Farquharson explained that questions about the application cannot be discussed outside of the meeting, and cannot take place via e-mail chain.

8.0 NEXT MEETING

The next meeting of the Committee of Adjustment on April 17th 2019.

9.0 ADJOURNMENT

The Committee adjourned at 6:53 p.m.

MOTION: Moved by: Member Ruf.
Seconded by: Member Stone.

Respectfully Submitted:

M. Heffer, Vice Chair

L. O'Toole, Secretary Treasurer



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PLANNING & DEVELOPMENT DEPARTMENT

Staff Report

<u>Department/Function:</u>	Committee of Adjustment
<u>Chair:</u>	Matthew Heffer
<u>Meeting Date:</u>	April 17 th 2019
<u>Subject:</u>	Minor Variance Applicant 2019-A-03
<u>Applicant:</u>	Travis Bonneville & Jacqueline Knapp
<u>Location:</u>	165 Osborne Street

RECOMMENDATION:

THAT,

Minor Variance Application 2019-A-03 be denied.

FOR THE FOLLOWING REASONS,

The proposed variance cannot be considered to be minor in nature, does not meet the intent of the Zoning By-law, and is not desirable for the appropriate use of the lot.

INTRODUCTION/BACKGROUND:

The applicants are requesting a variance from Section 4.1.9 (c) "Setbacks" of the Township of Tay Zoning By-law 2000-57 as amended, which limits detached accessory buildings in the "R2" Zone to an interior side yard setback of minimum 1.0 metre.

The applicants require the variance in order to permit an existing detached accessory building, with an interior side yard setback of 0.2 metres.

ANALYSIS:

The subject property is located on the south side of Osborne Street, east of Park Street, in the Victoria Harbour settlement area. The subject land is legally described as PLAN 538 LOT 28, Victoria Harbour, Township of Tay. The detached accessory building was constructed on the subject lands without a building permit, and has not received any approval from the Township.

There are three additional accessory structures that are not in compliance with the Zoning By-law; however the Owner's has proposed to remove the two at the rear from the lot. Regardless of the Committee's decision, the property owners will be required to remove the above structures in order to bring the total number of accessory buildings of two (2) on the property.

Does the proposed Minor Variance meet the intent of the Official Plan?

The property is designated Village Residential within the Township's Official Plan. Section 4.1.1.2.1 state that the predominate use of lands designated "Village Residential" shall be for low density single detached, semi-detached, and duplex dwellings. An accessory building is compatible with a single detached dwelling, and is an appropriate accessory use. Section 4.1.1.1.2 requires development in the "Village Residential" designation to protect the low density residential character of the communities. The proposed detached accessory building will maintain the character of the community, and meets the intent of the Official Plan.

Does the proposed Minor Variance meeting the intent of the Zoning By-law?

The subject lands are zoned Village Residential "R2" within the Township's Zoning By-law 2000-57. The "R2" zone which permits detached accessory buildings, provided all provisions relating to accessory buildings and structures are met. The applicant has indicated in their application that the pro-

posed building would satisfy all other Zoning requirements such as maximum height, ground floor area and lot coverage of the "R2" zone, except for the required 1.0 metre minimum interior side yard setback.

The purpose of the side yard setback is to ensure there is adequate space between buildings and neighbouring property, and to provide space for proper lot grading and maintenance of the building. A detached accessory building with a setback of 0.2 metres would not meet the intent of the By-law and would provide limited access between the building and the property line, without encroaching on the neighbouring property. It is the opinion of the Planning and Development Department that the proposed variance for a 0.2 metre setback does not meet the intent of the Zoning By-law.

Is the proposed Minor Variance desirable for the appropriate use of the lot?

The setback of the proposed detached accessory building is undesirable for the use of the land. The owner of the neighbouring lot has raised concerns over the location of the accessory building. It is not appropriate for buildings in the "R2" Zone to have accessory structures with such limited separation from the property line, and it is not a common occurrence along Osborne Street.

The lot sizes along Osborne Street provide adequate space for both Single Detached Dwellings and multiple accessory buildings on a lot, while conforming to the required setbacks. The applicants have not provided a valid and justified reasoning to Staff as to the hardship for why a 0.2 metre setback is required.

As staff have indicated, there are multiple accessory buildings already existing on the property, two of which at the rear are to be removed. The one adjacent to the dwelling would appear to satisfy the required setbacks of 1.0 metres. It would be the opinion of the Planning and Development Department that the requested variance for a 0.2 metres setback would not be desirable for the appropriate use of the lot.

Is the proposed Variance Minor in Nature?

Based on the above rationale and the cumulative effects that the accessory building would have, a reduced setback of the accessory building cannot be considered to be minor in nature. The building is higher than the existing fence, and creates a 30 foot corridor along the lot line. The size and height of the accessory building, combined with the 0.8 metre encroachment into the required setback push the building past “minor” relief from a by-law provision.

“Minor” in nature is not only reviewed based on the numeric reduction. The impact of granted variance on the neighbouring property cannot be overlooked, and cannot be viewed as minor. It would be the opinion of the Planning and Development Department that the requested variance would not be considered minor.

Outside Agency, Internal Department and Public Comments:

County of Simcoe – No comments received to date.

Bell Canada, Right of Way – No comments received to date.

Chief Administrative Officer – No issues or concerns.

Clerk – No issues or concerns.

Director of Finance – No issues or concerns.

Director of Public Works – No issues or concerns.

Water/Sanitary Wastewater Superintendent – No issues. Owner should be aware of the location of the underground water service line.

Manager of Roads and Fleet – 0.2 metres does not leave much space for lot grading.

Chief Building Official – Building permits will be required, as these buildings were built without permits.

Fire Chief – No issues or concerns.

Letter received from owner of 161 Osborne Street - See Attachment 3.

FINANCIAL BUDGET IMPACT:

There are no budgetary impacts to this report.

CONCLUSION:

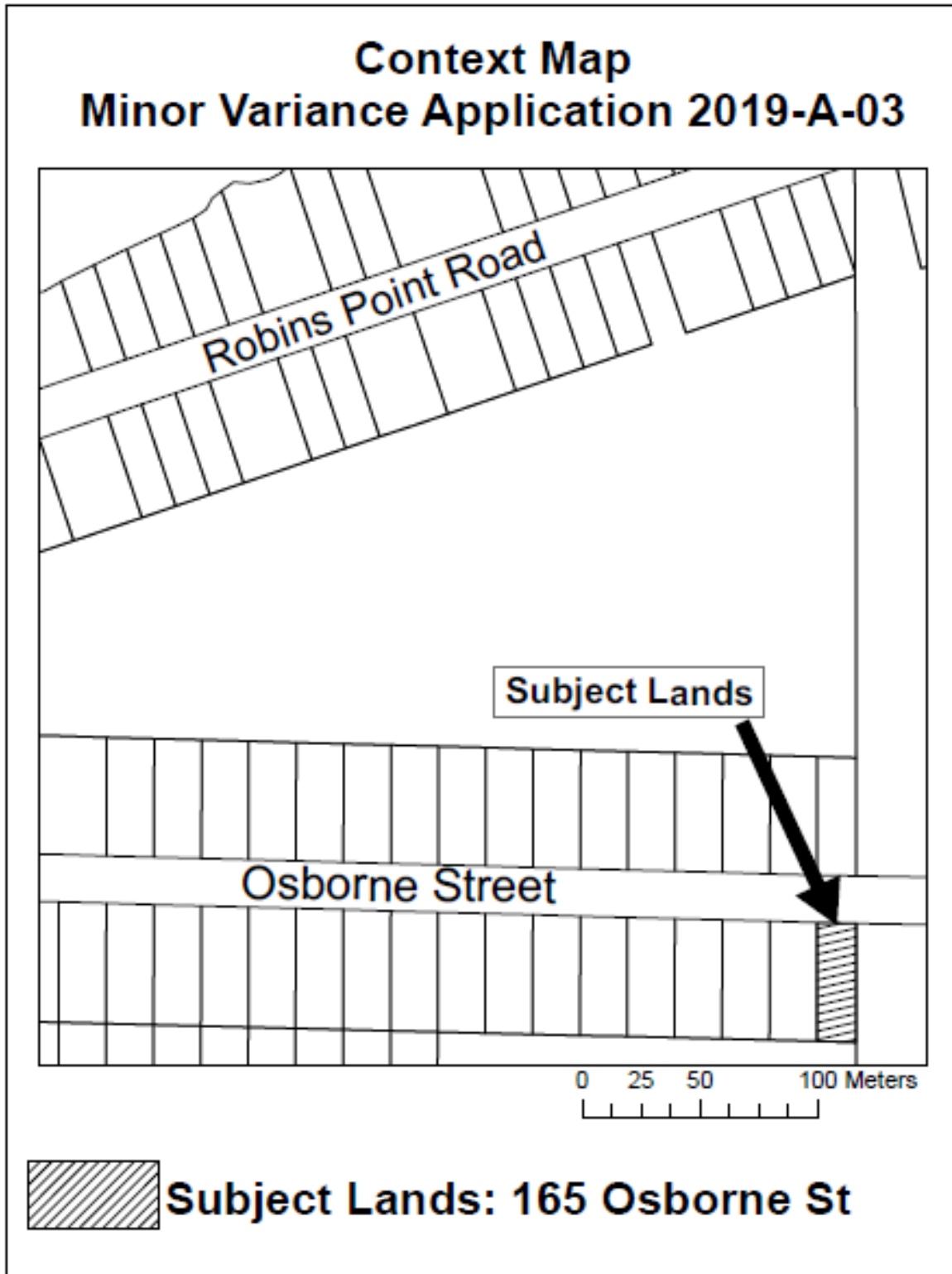
Planning staff recommend that the proposed variance be denied.

Prepared by;

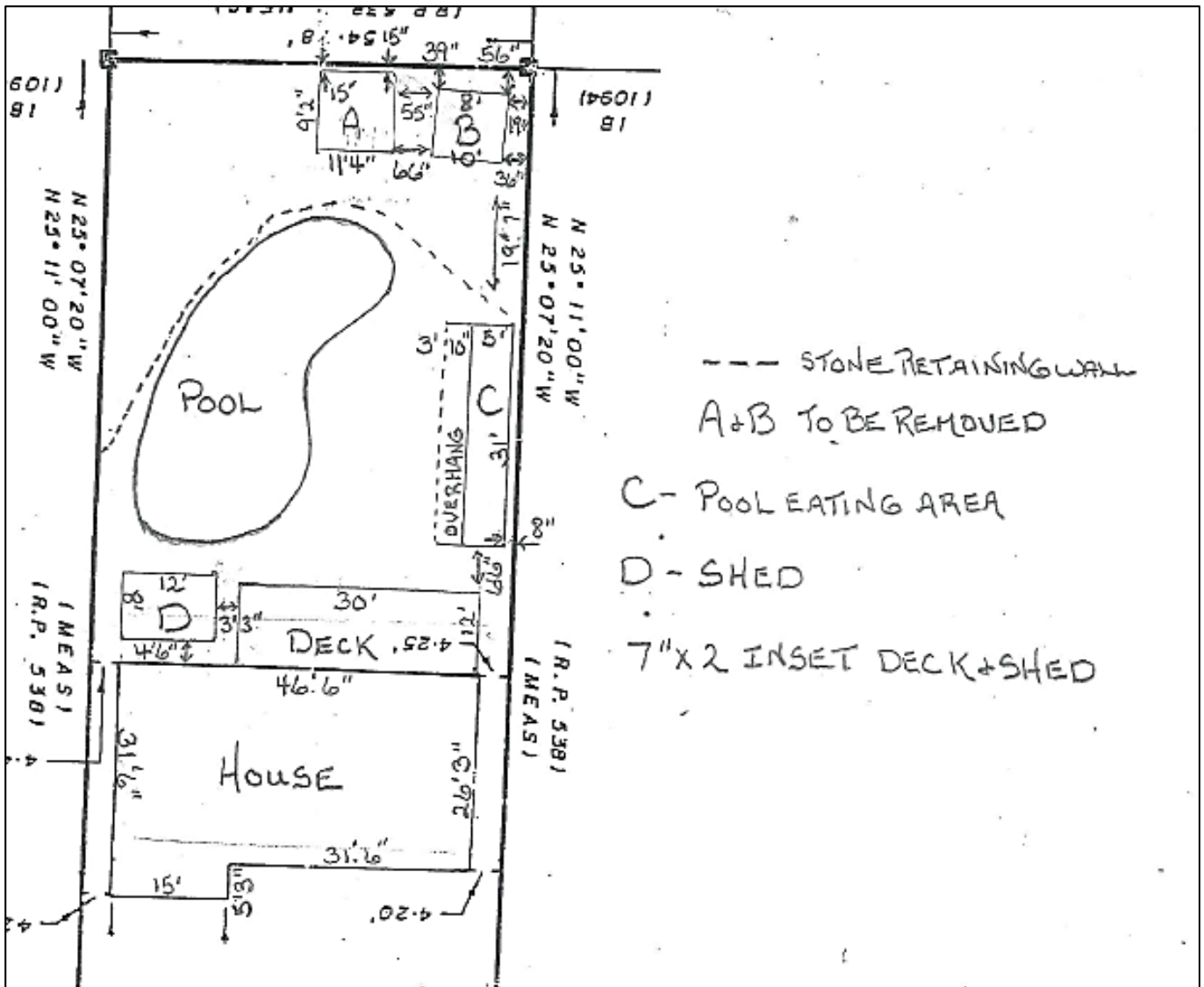
Reviewed by;

Liam O'Toole, B.URPL, B.A
Planner
Date: April 10th, 2019

Steven Farquharson, B.URPL, MCIP, RPP
Director of Planning and Development
Date: April 10th, 2019



Attachment 2: Applicant Site Plan



**The Township of Tay
Received**

Minor Variance Application for (165 Osborne St)

APR 11 2019

Request for a postponement

I have today been advised that an application has been submitted for a minor variance, which directly affects my property located at (161 Osborne St).

My request is based on the following points;

1. I have never been provided with a copy or a notification of the above noted application. If it was sent to my address, I fear it may have been removed from my mailbox
2. It is my understanding that there is to be a notice placed on the property that has requested such a variance. Again, the notice is incomplete and the most important part of the notice is missing
3. This notice, as I understand are for the purpose making public the details for the variance request and to which, after inspection, I ascertained that there is no such information
4. As a result of the above mentioned items, I have not been afforded the time to properly consider or review this application with counsel on the possible affects which may arise as it pertains to my property and its value

Therefore, my requests are as follows;

- a) I require a copy of the proposed application
- b) I need time to review, consider and seek counsel
- c) As I have not been given a copy of the application and the notice is not properly placed on the applicants' property, I am asking for the same amount of time that was afforded to everyone else who may have been affected by this application. As further evidence to my claim, I attach hereto a photo of the sign located on the subject property, clearly showing that the notice, which should be attached is for whatever reason missing
- d) I further believe that the variance application may have to do with a structure that most assuredly encroaches on my property and that this gazebo which I'm sure is in question forms part of this application and falls well within one meter of my property line
- e) I do not know why a building permit was granted for the location of the structure and how this would have passed final inspection
- f) If on the other hand there was no building permit for the building of this structure with electricity and running water, then I would vehemently oppose this request for a variance as it most certainly affects sightlines and more importantly, may have a undesirable affect on my property value and could also affect the decision of future potential purchasers

I make this request for no improper reason but will absolutely defend my property rights, its value and intend on doing such by simply abiding by the by-laws as written.

If I am not granted this request for a postponement, it is my intention to take whatever legal action necessary to preserve my rights and property value and to seek any and all costs for doing so.

In closing, if for whatever reason I am not granted my request, I want to be absolutely clear.

I AM OPPOSING THE APPLICATION SOUGHT BY THE SUBJECT PROPERTY AS I BELIEVE THERE IS AN ENCROACHMENT ON MY PROPERTY.


I will also be attending the meeting currently scheduled for the purpose of seeking an adjournment only. I will not be prepared to address the variance issue unless I am unduly forced to and would then do so only as furtherance to any claim which may arise thereafter.


Sincerely
Greg Pauze



Attachment 4: E-mail from 161 Osborne

165 Osborne (Minor

Greg Pauze <

 You replied to this message on 12/04/2019 12:17 PM.

Sent: Fri 12/04/2019 11:55 AM

To: Liam O'Toole

Hi Liam

As per our conversation in your office, I will want to proceed with my attached letter of requesting a postponement to seek council on this matter, as I did not receive any notice until I visited your

Office on Thursday April 11th 2019. This leaves me with (4) four working days to seek council, and reviewing how this effects my property. You have mentioned that your office did everything on your end

to make sure I received this application, yet it was sent to the wrong address. If this matter is not postponed to give me proper time, I will be going forward with legal actions. Please send me a confirmation

that my letter and this email will be added to the file for the committee's review

Thanks Greg Pauze

Greg Pauze <