



Planning Report

To: Municipality of Kincardine Committee of Adjustment

From: Jake Bousfield-Bastedo, Intermediate Planner

Date: October 9, 2024

Re: Minor Variance Application A-2024-012 (Bieman)

Recommendation:

Subject to a review of submissions arising from the public meeting:

That Committee approve Minor Variance A-2024-012 as attached subject to the conditions on the decision sheet.

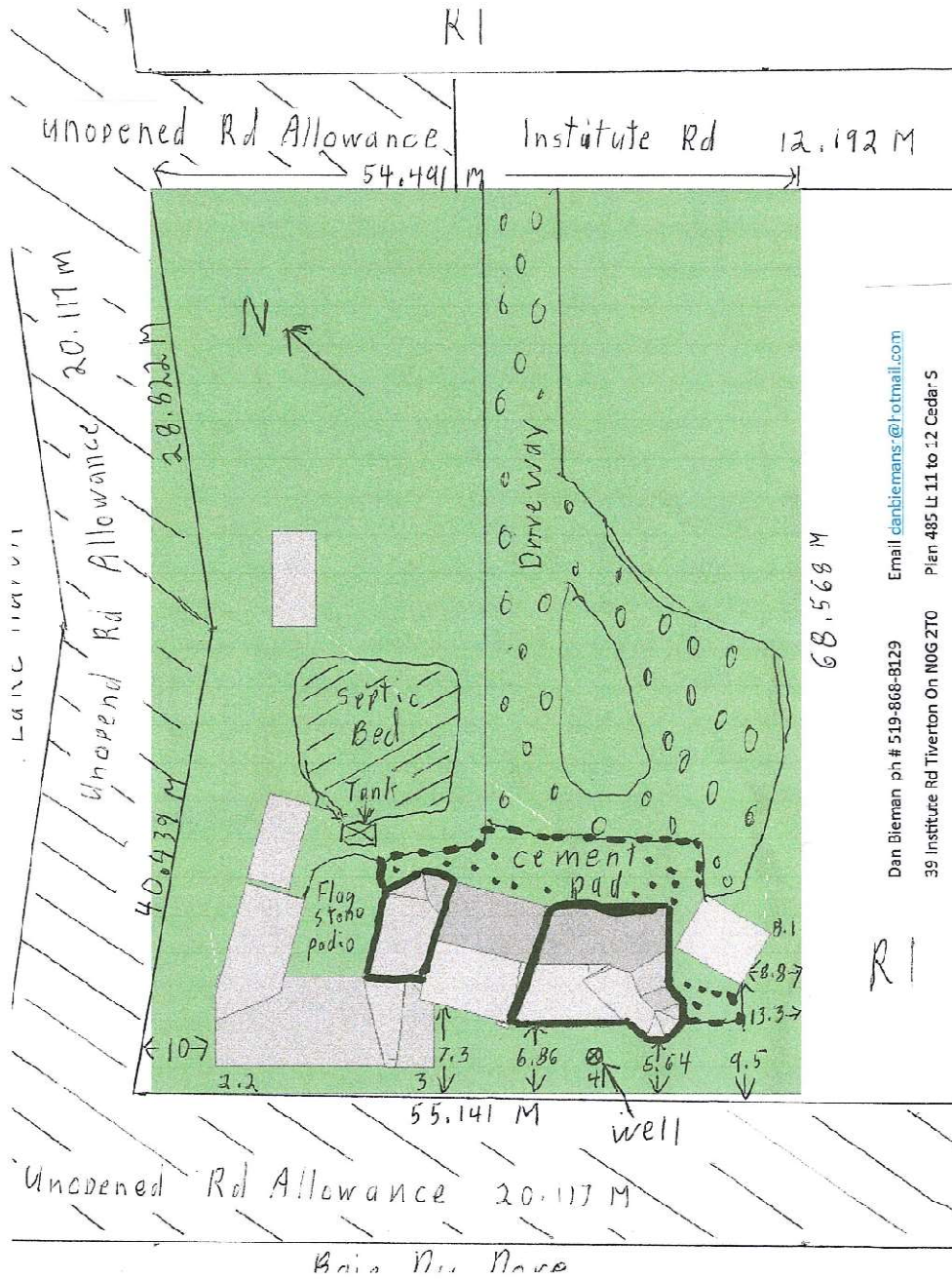
Summary:

The purpose of this application is a Minor Variance to permit a reduced rear yard setback of 5.5 m, where 7.5 m is required. If approved, this will permit the construction of an addition in line with the existing dwelling which is between 2.2 m and 6.8 m from the rear lot line. The property is at 39 Institute Lane. The addition would consist of a two-car garage on the main floor with dwelling space above.

Airphoto



Site Plan



* Note, new additions shown in black. Larger portion to the SW requires minor variance, smaller portion toward north adheres to setbacks.

Image of Subject Property



Planning Analysis:

The following section provides an overview of the planning considerations that were factored into the staff recommendation for this application, including relevant agency comments (attached) and planning policy sections.

Four Tests of a Minor Variance

Section 45(1) of the Planning Act provides for the granting of minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Relief may only be granted if the Variance passes four tests (“Four Tests of a Minor Variance”). The Committee must be satisfied that the application has satisfied all four tests to approve the Minor Variance.

Does the variance maintain the intent and purpose of the Official Plan?

The subject property is designated Rural Recreational and Hazard Land Areas in the Bruce County Official Plan. The Rural Recreational designation permits a range of land uses, including residential and accessory uses. The Saugeen Valley Conservation Authority have reviewed the proposal in light of the hazards on site and are generally supportive of the requested variance (full comments available below). The proposal is outside of any mapped hazards.

The lands are also within an area of Archaeological Potential. The County Official Plan requires an evaluation of the significance of cultural heritage resources. A Stage 1 & 2 Archaeology Assessment was completed in the summer of 2024. The report concluded that the site was free of archaeological concern and no additional archaeological assessments were recommended. The report has not yet been reviewed by the appropriate Ministry; confirmation of entry into the Ministry's register is proposed as a condition of this minor variance should it be approved. The report has been reviewed and approved by the Saugeen Ojibway Nation.

For these reasons, the minor variance maintains the intent and purpose of the Bruce County Official Plan.

Does the variance maintain the intent and purpose of the Zoning By-law?

The subject property is zoned Residential One (R1) and Environmental Protection (EP). The R1 Zone permits a variety of lower density residential uses, including single detached dwellings and accessory structures.

The purpose of the rear yard setback of 7.5m is to maintain orderly development and uniformity of residential properties and maintain adequate open amenity space on lots.

The proposal would situate the bulk of the addition within 6.8m from the rear lot line, except for a turret feature which would be 5.5m from the lot line. The applicant has indicated that the proposed siting of the addition is within a disturbed area used for parking; adhering the setback in the zoning by-law would require greater tree clearing. Further, this would position the addition in line with the existing dwelling allowing for practical space usage and structural stability.

Given that portions of the existing dwelling are setback as close as 2.2m from the rear lot line, the proposal to create an addition further from the lot line does not introduce a new form of development for the area. The large lot contains ample open and vegetated amenity space. A condition is proposed to ensure a survey is completed to confirm the existing setbacks and ensure that the dwelling is not on the municipally owned road allowance along the waterfront.

The SVCA has reviewed the proposal and confirmed that their hazard mapping has been updated and that the proposal is outside of any mapped hazards. The EP zone as shown in

the below mapping will be adjusted to meet the SVCA's updated hazard mapping. Following this update, the proposal will be entirely outside of the EP zone.

Given the configuration described above, the proposal maintains the intent and purpose of the Zoning By-law.

Is the application desirable for the appropriate development of the land, building or structure?

The proposed addition is appropriate for the property and is compatible with the residential intent of the lands and the surrounding rural recreational area. The proposal is not introducing a new use or built form to the area. The variance represents an appropriate form of development for the use of the land.

Is the application minor in nature?

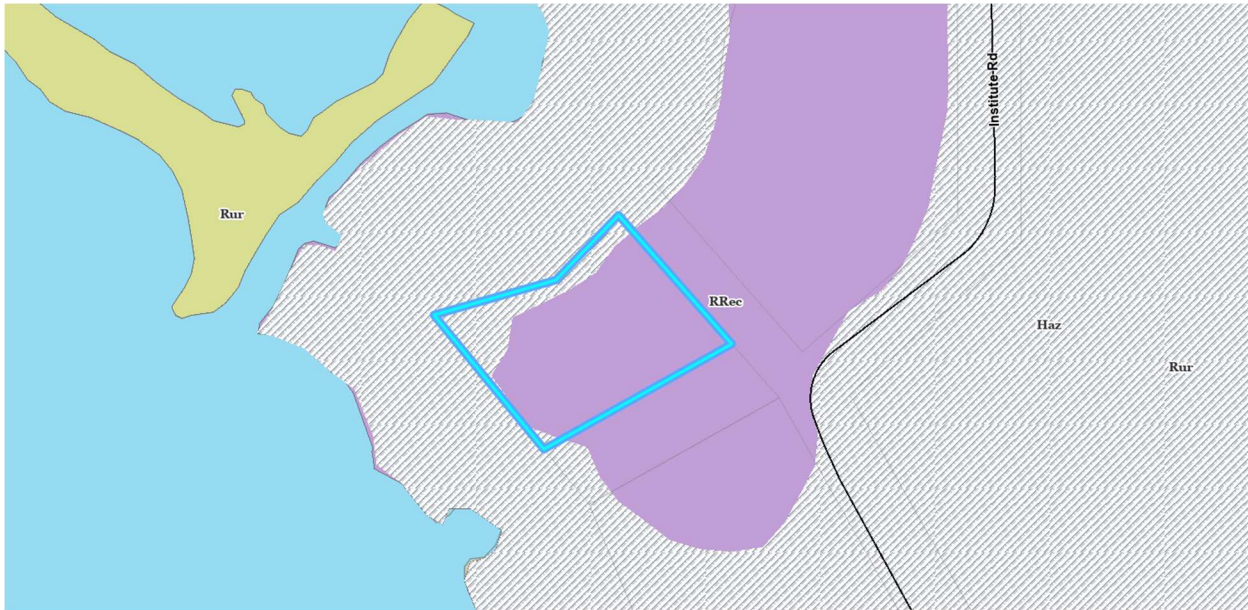
Whether a variance is minor is evaluated in terms of the impact the proposed development is expected to have on its surroundings. It is not expected that permitting the addition nearer to the rear lot line than is permitted in the Zoning By-law will have an impact on the ability of adjacent property owners to use their properties for permitted uses. The placement of the addition is not anticipated to create any public access or use issues of the waterfront.

The variance is considered minor.

Appendices

- County Official Plan Map
- Local Zoning Map
- Agency Comments
- Public Notice

County Official Plan Map (Designated Rural Recreational and Hazard Land Area)



Local Zoning Map (Zoned R1 - Residential One, EP - Environmental Protection)



Agency Comments

Municipality of Kincardine:

- The addition will require the private septic system to be reviewed by a licensed installer and be sized accordingly to meet the Ontario Building Code - The existing

system appears to be within the “EP” boundary as well and will need a boundary adjustment through approvals with the SVCA.

- *Staff note: this comment has been confirmed to be applicable at the building permit stage*
- The addition expands into the “EP” zone which is not permitted - Approval from SVCA will be required in support of an adjustment to the “EP” designation boundary under Section 34.3 of B/L 2003-025.
- *Staff note: the body of the report notes the procedure for addressing this discrepancy*
- The Site Plan describes setback distances for the proposed structure which will need to be verified by submission of a survey -The accuracy of the setbacks to lot lines should be confirmed prior to approval.
- *Staff note: a condition has been drafted in the Decision Sheet to address th need for a survey.*

Saugen Valley Conservation Authority: Provided in full below.

Public Comments

No comments were received from the public at the time of writing this report.

SENT ELECTRONICALLY ONLY: JBousfield-Bastedo@brucecounty.on.ca and bcplpe@brucecounty.on.ca

September 23, 2024

County of Bruce Planning & Development Department
1243 Mackenzie Road
Port Elgin, Ontario N0H 2C6

ATTENTION: Jake Bousfield-Bastedo, Planner

Dear Mr. Bousfield-Bastedo,

RE: A-2024-012 (Bieman)
39 Institute Road
Roll No.: 410826000509300
Lot 11 to 12 Plan 485
Geographic Township of Bruce
Municipality of Kincardine

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the above-noted proposal as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3 of the Provincial Policy Statement (PPS, 2020) and as a regulatory authority under Ontario Regulation 41/24 (SVCA's Prohibited Activities, Exemptions and Permits Regulation). SVCA staff has also provided comments as per our Memorandum of Agreement (MOA) with the County of Bruce representing natural hazards. The application has also been reviewed through our role as a public body under the Planning Act as per our CA Member approved Environmental Planning and Regulations Policies Manual, amended October 16, 2018. Finally, we have screened the application to determine the applicability of the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Plan, prepared under the Clean Water Act, 2006.

Purpose

The purpose of this application is to permit a rear yard setback of 5.6 m, where 7.5 m is required. If approved, this will permit the construction of an addition in line with the existing dwelling which is between 2.2 m and 6.8 m from the rear lot line.

Background

As part of the specific development proposal related to the minor variance proposal, the owner contacted the SVCA on February 7, 2024. SVCA staff conducted a site inspection to the property on March 5, 2024, and provided a letter dated March 6, 2024, stating in part, that the proposal was

acceptable to the SVCA, and that a permit from the SVCA would be required. SVCA provided the SVCA permit form and requested other SVCA requirements being the site plan and SVCA fee.

Recommendation

The proposed application is generally acceptable to SVCA staff.

Natural Hazards

The natural hazard features of concern on the property include Lake Huron and its related flood and erosion hazards.

It is SVCA staff's opinion that the Municipality of Kincardine Zoning By-law 2003-25 Environmental Protection (EP) zone and Environmental Hazard designation in the County of Bruce Official Plan (OP) can be revised slightly to coincide with SVCA mapping, to follow the western exterior of the existing dwelling. Therefore, please find attached SVCA mapping with SVCA hazard land/recommended EP zone. It is the opinion of SVCA staff that the proposed addition to the dwelling will be beyond/outside the SVCA recommended EP zone.

Provincial Policy Statement – Section 3.1

Section 3.1.1 of the PPS, 2020 states in part that development shall generally be directed to areas outside of hazardous lands and hazardous sites. Based on the plan submitted with the proposal, the proposal would be consistent with Section 3.1.1 of the PPS, 2020.

County of Bruce OP Policies

Section 5.8 of the County of Bruce OP generally directs development to be located outside of the Hazard Land designated area. It is the opinion of SVCA staff that the proposal would comply with the County of Bruce OP.

Drinking Water Source Protection

The property appears to SVCA staff to not be located within an area that is subject to the local Drinking Water Source Protection Plan.

SVCA Regulation 41/24

SVCA staff has reviewed the proposal as per our responsibilities as a regulatory authority under Ontario Regulation 41/24 (SVCA's Prohibited Activities, Exemptions and Permits Regulation). This regulation, made under Section 28 of the Conservation Authorities Act, enables SVCA to regulate development in or adjacent to river or stream valleys, Great Lakes and inland lake shorelines, watercourses, hazardous lands and wetlands. Subject to the CA Act, development taking place on or adjacent to these lands may require permission from SVCA to confirm that the control of flooding, erosion, dynamic beaches, or unstable soil or bedrock are not affected. SVCA also regulates the alteration to or interference in any way with a watercourse or wetland.

Most of the property is within the Approximate Regulated Area associated with the SVCA's Prohibited Activities, Exemptions and Permits Regulation (Ontario Regulation 41/24). This Regulation is in

accordance with Section 28 of the *Conservation Authorities Act* R.S.O, 1990, Chap. C. 27, and requires that a person obtain the written permission of the SVCA prior to any “development” within a Regulated Area or alteration to a wetland or watercourse.

For this property, the SVCA Approximate Regulated Area includes Lake Huron and its related flood and erosion hazards, and an offset distance inland of these natural hazard features.

To determine where the SVCA Approximate Regulated Area is located associated with our Regulation on the property, please refer to the SVCA’s online mapping program, available via the SVCA’s website at <http://eprweb.svca.on.ca>, alternatively, please see the attached SVCA mapping.

Permission for Development or Alteration

If development or alteration including construction, reconstruction, conversion, grading, filling or excavation, is proposed within the SVCA Approximate Regulated Area, associated with our Regulation on the property, the SVCA should be contacted, as permission will be required.

Based on the plan submitted with the application, an SVCA permit will be required, and can be issued based on the plans submitted. Please provide a copy of this correspondence to the landowner, so that they can continue with the SVCA permit review process. The landowner should contact Michael Oberle (m.oberle@svca.on.ca).

Summary

SVCA staff has reviewed this proposal in accordance with our MOA with the County of Bruce, and as per our mandated responsibilities for natural hazard management, including our regulatory role under the *Conservation Authorities Act*.

Given the above comments, it is the opinion of the SVCA staff that:

- 1) Consistency with Section 3.1, Natural Hazard policies of the PPS has been demonstrated.
- 2) Consistency with local planning policies for natural hazards has been demonstrated.

Please inform this office of any decision made by the Municipality of Kincardine and/or County of Bruce with regard to the proposal. Should you have any questions, please contact the undersigned.

Sincerely,

Michael Oberle
Environmental Planning Coordinator
Saugeen Conservation
MO/

Enclosure: SVCA map

cc: Jennifer Lawrie, Clerk, Municipality of Kincardine (via email)
Jennifer Prenger, Authority Member, SVCA (via email)
Bill Stewart, Authority Member, SVCA (via email)



0 100 m

The included mapping has been compiled from various sources and is for information purposes only. Saugeen Valley Conservation Authority (SVCA) is not responsible for, and cannot guarantee, the accuracy of all the information contained within the map.

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This mapping contains products of the South Western Ontario Orthophotography Project 2020 (SWOOP2020). These images were taken in 2020 at 16cm resolution by Mapcon Mapping Ltd. They are the property of Saugeen Valley Conservation Authority ©2023.







February 13, 2024



UTM Zone 17N, NAD 83

1:2000

Legend

-  100 Year Flood Line
-  Wave Uprush Allowance
-  Unevaluated Wetland
-  Hazard Lands
-  SVCA Regulated Area
-  SVCA Screening Area

Daniel Bieman
 39 Institute Road
 Lot 11 to 12, Plan 485
 Roll No. 410826000509300
 Geographic Township of Bruce
 Municipality of Kincardine





County of Bruce
Planning & Development Department
1243 MacKenzie Road
Port Elgin, ON N0H 2C6
brucecounty.on.ca
226-909-5515



September 13, 2024

File Number: A-2024-012

Public Hearing Notice

**You're invited to participate in a Public Hearing
to consider Minor Variance File A-2024-012
October 9, 2024 at 5:00 p.m.
Municipal Administration Centre**

The Public Meeting will be held in a hybrid format (virtual or in-person) at the Municipal Administration Centre located at 1475 Concession 5, Kincardine.

For information on how to participate in the public meeting, please visit the municipal website at www.kincardine.ca/en/municipal-office/agendas-and-minutes.aspx under "Agendas and Minutes." Please contact the Municipality of Kincardine at clerk@kincardine.ca or 519-396-3468 if you have any questions about how to participate in the meeting.

A change is proposed in your neighbourhood: The purpose of this application is to permit a rear yard setback of 5.6 m, where 7.5 m is required. If approved, this will permit the construction of an addition in line with the existing dwelling which is between 2.2 m and 6.8 m from the rear lot line.



39 INSTITUTE RD - PLAN 485 LOT 11 TO 12 CEDAR;S
Municipality of Kincardine (Bruce Township)
Roll Number 410826000509300

Learn more

Additional information about the application is available online at <https://www.brucecounty.on.ca/active-planning-applications>. Information can also be viewed in person at the County of Bruce Planning Office noted above, between 8:30 a.m. and 4:30 p.m. (Monday to Friday).

The Planner on the file is: Jake Bousfield-Bastedo

Have your say

Comments and opinions submitted on these matters, including the originator's name and address, become part of the public record, may be viewed by the general public and may be published in a Planning Report and Council Agenda. Comments received after **September 26, 2024** may not be included in the Planning report, but will be considered if received prior to a decision being made, and included in the official record on file.

1. Please contact us by email bcplpe@brucecounty.on.ca, mail, or phone (226-909-5515) if you have any questions, concerns or objections about the application.
2. You can participate in the public hearing. For information on how to participate in the public meeting, please contact the Municipality of Kincardine at clerk@kincardine.ca or 519-396-3468.

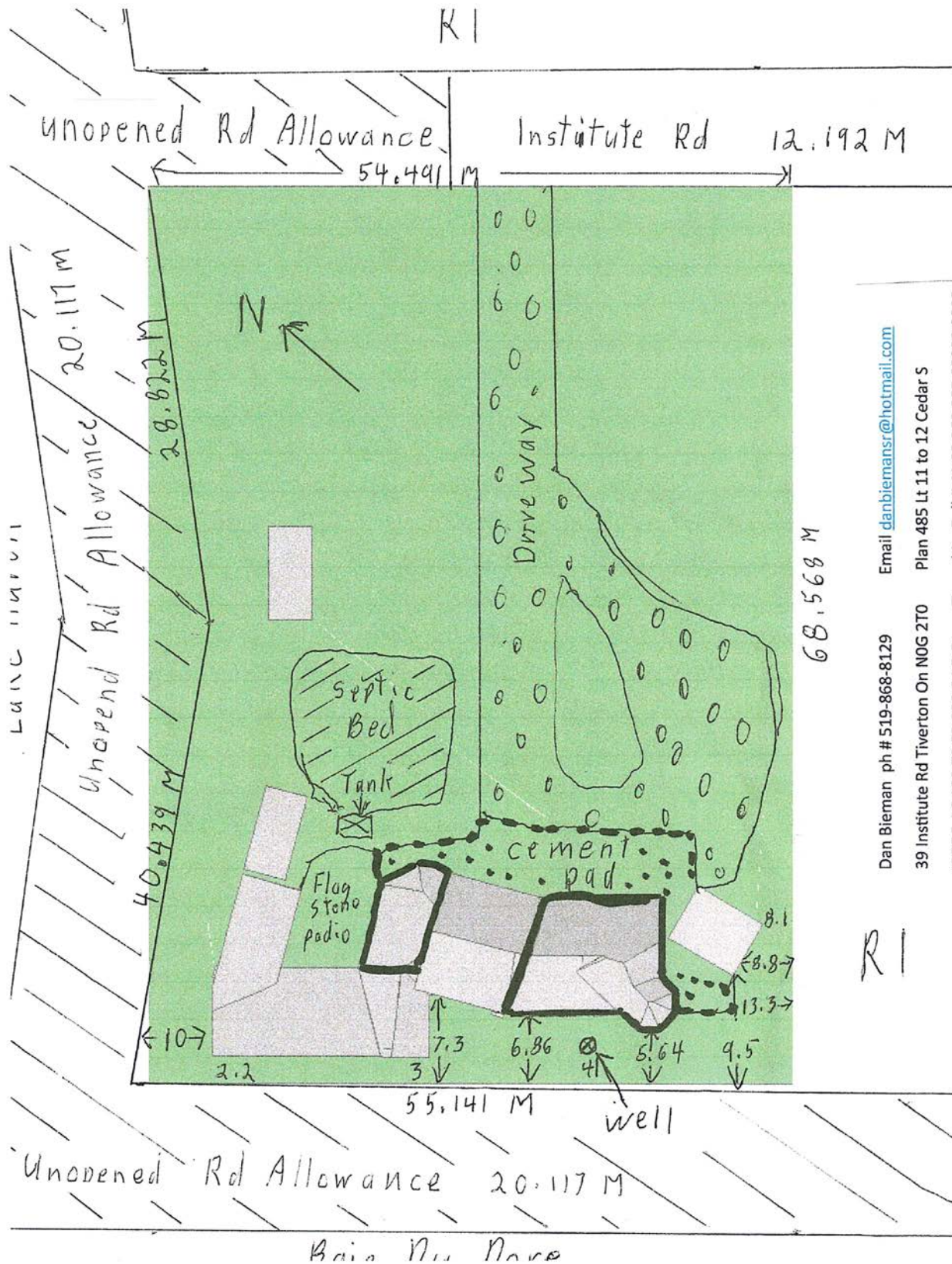
Stay in the loop

If you'd like to be notified of the decision of the Committee of Adjustment on the proposed application(s), you must make a written request to the Bruce County Planning Department on behalf of the Secretary-Treasurer for the Committee of Adjustment.

Know your rights

Only the applicant, the Minister, a specified person (being a utility and transportation company) or public body that has an interest in the matter may within 20 days of the making of the decision appeal to the Tribunal against the decision of the Committee by filing with the Secretary-Treasurer of the Committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection. Appeals must be accompanied by payment of the fee charged by the Tribunal as payable on an appeal from a Committee of Adjustment decision to the Tribunal. For more information, please visit the Ontario Land Tribunal website at <https://olt.gov.on.ca/appeals-process/>.

Site plan



Email danbiemansr@hotmail.com

Dan Bieman ph # 519-868-8129

39 Institute Rd Tiverton On NOG 2T0 Plan 485 Lt 11 to 12 Cedar S

R1