



Planning Report

To: Municipality of Kincardine Committee of Adjustment

From: Jake Bousfield-Bastedo, Intermediate Planner

Date: October 9, 2024

Re: Minor Variance Application A-2024-031 (Austman)

Recommendation:

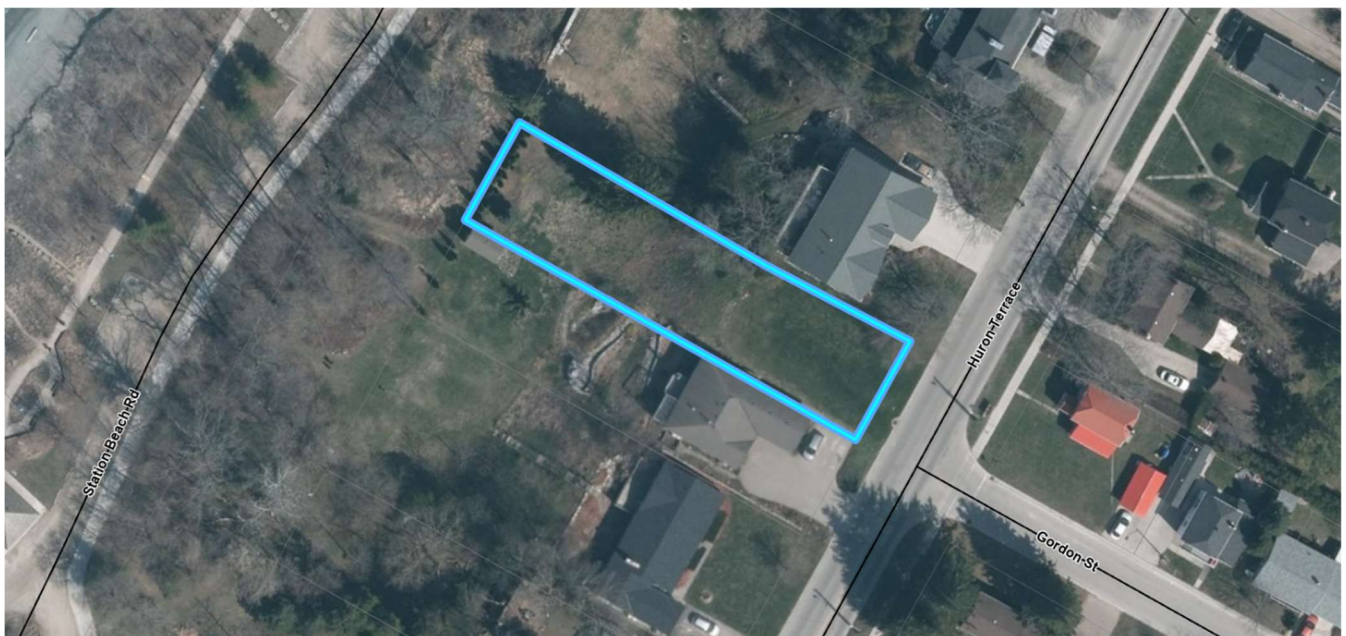
Subject to a review of submissions arising from the public meeting:

That Committee approve Minor Variance A-2024-031 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 2 m, where 6 m is required. If approved, this will permit the construction of a shed and pool on the subject property. The property is located at 558 Huron Terrace and was severed earlier in 2024 to create a new building lot.

Airphoto



Site Plan

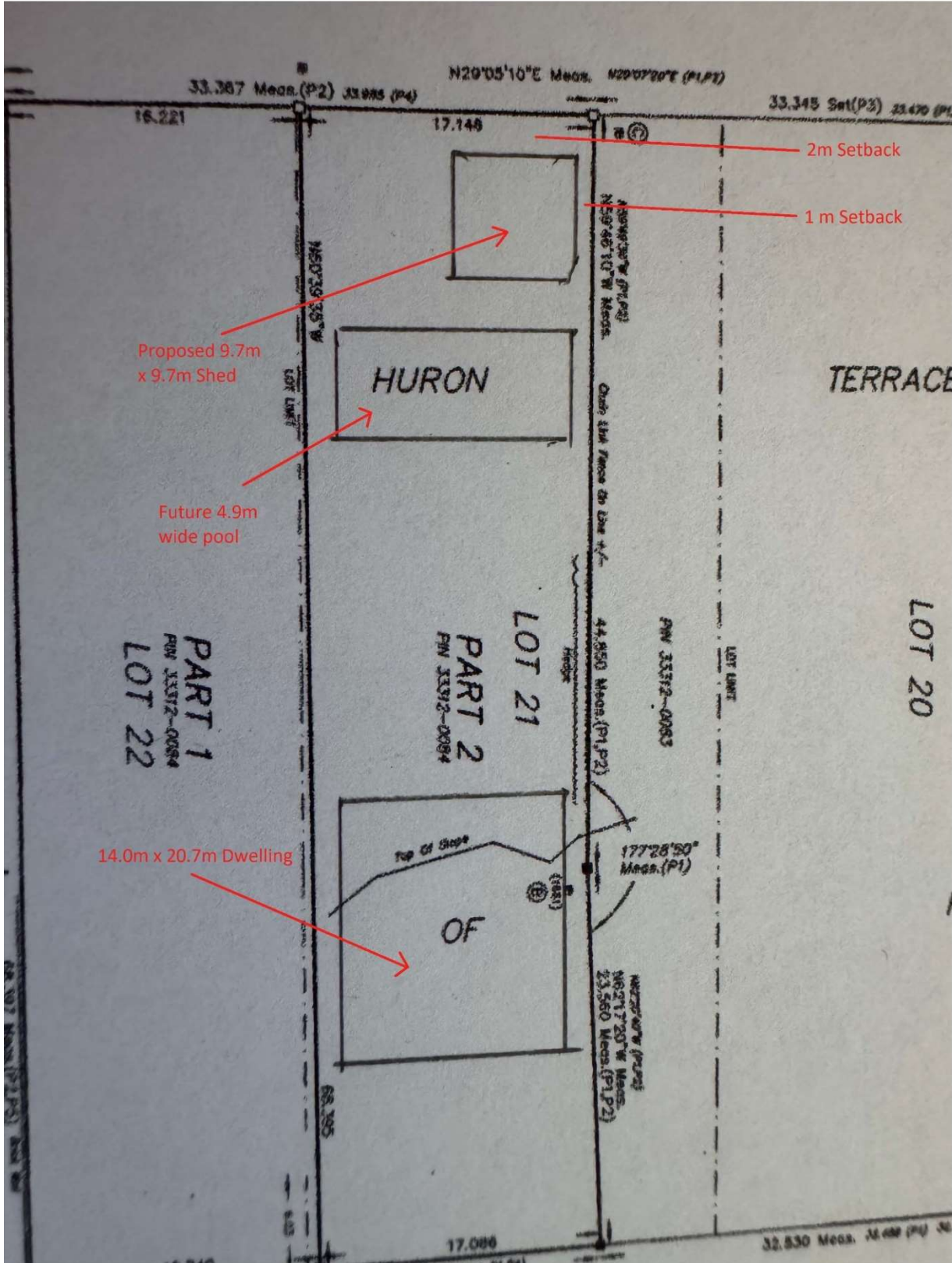


Image of Subject Property (Looking East)



Image of Subject Property (Looking West)



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 Plans?

The subject property is designated Primary Urban Communities in the Bruce County Official Plan. This designation permits a range of land uses, including residential and accessory uses. The Kincardine Official Plan designates the subject property Residential and Natural Environment and is overlaid by the designation of Area Specific Policy D7.10.c. No development is proposed within the Natural Environment Designation through this application. The Permitted uses in the Residential designation include residential uses as well as accessory structures. The Area Specific Policy applies to the ancient glacial Lake Algonquin bluff west of Penetangore Row and Huron Terrace and provides policy direction for development with respect to the site specific slope hazards found in this area. 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 applicant’s request to site the structure 2m from the rear lot line rather than the 6m required in the Zoning By-law is related to the spatial constraints placed on the lot by the ancient Lake Algonquin bluff. The proposed shed and a pool to be constructed in the future will be beyond the hazard area associated with the toe of the slope if the minor variance is approved.

The lands are also within an area of Archaeological Potential. Both the County and local Official Plan require an evaluation of the significance of cultural heritage resources. A Stage 1 & 2 Archaeology Assessment was completed to remove a holding provision which had been applied following a severance earlier in 2024. The report concluded that the site was free of archaeological concern and no additional archaeological assessments were recommended.

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

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

The subject property is zoned R1-cc ‘Residential’. The R1 zone permits a variety of lower density residential uses, including single detached dwellings and accessory structures.

The subject property is defined as a 'Through Lot' in the Zoning By-law (defined as "a lot which has access on two opposite sides to a street or a lane"). Under section 6.4.3 "Location of Accessory Building or Structure" the Zoning By-law specifies that on through lots, the rear yard setback requirement for an accessory building or structure shall be equal to the front yard setback requirement of the principal building. In the case of the R1 zone, the setback is 6m.

The intent of the above provisions is to manage streetscape impacts to rear yards abutting streets or lanes. On lots which are not through lots, accessory structures are permitted to be 1m from rear lot lines. The street behind the subject property is Station Beach Road which is not physically located within the road allowance but rather within a piece of municipally owned land along the beach. The road allowance itself is maintained in a semi-naturalized state. As such, the streetscape of Station Beach Road is effectively buffered from development on the rear of the subject property by the 20m road allowance. The proposed shed will not encroach into the municipally owned road allowance and would not physically limit any potential future uses of the road allowance.

Given the configuration described above, the proposal to situate the accessory structure 2m from the rear lot line 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 shed is appropriate for the property and is compatible with the residential intent of the lands and the surrounding area. Accessory structures at the base of the slope are common within the area and the proposal is not introducing a new use 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 shed 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. Given the large setback maintained to the travelled portions of Station Beach Road, the placement of the shed is not anticipated to impact the streetscape or character of the area. The proposed shed will not encroach into the municipally owned road allowance and would not physically limit any potential future uses of the road allowance.

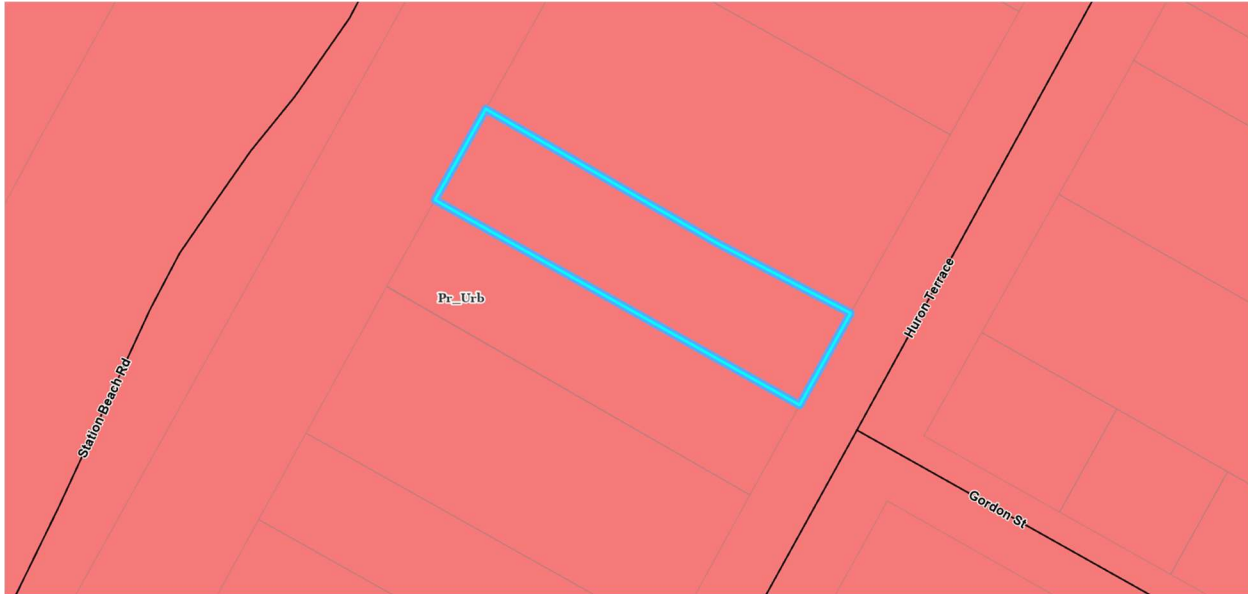
The variance is considered minor.

Appendices

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

- Public Notice

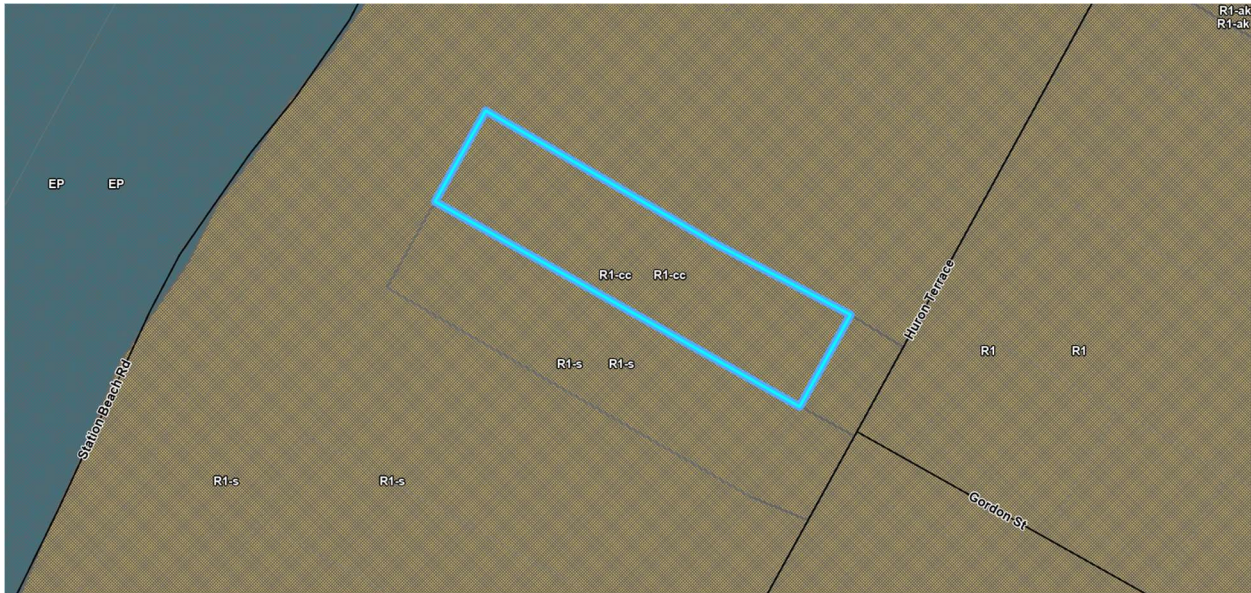
County Official Plan Map (Designated Primary Urban Communities)



Local Official Plan Map (Designated Residential, Natural Environment, Area Specific Policy D7.10.c)



Local Zoning Map (Zoned R1-cc - Residential One)



Agency Comments

Historic Saugeen Métis:

- The Historic Saugeen Métis (HSM) Lands, Waters and Consultation Department has reviewed the relevant documents and has no objection or opposition to the proposed Minor Variance as presented.

Municipality of Kincardine Manager of Development Services/ Chief Building Official:

- Garage/ Shed wall that is 1m to lot line will need to be confirmed through a survey
- The exterior wall that is 1m to the lot line will need to be Fire Rated in accordance with the Ontario Building Code and no windows will be permitted
- Installation of the pool and shed will need to be in accordance with the approved grading plan
- *Staff Note: these comments have been confirmed to be applicable at the building permit stage*

Municipality of Kincardine Manager, Parks and Facilities:

- No concerns. If they are going to be using the rear for construction access, they will require an agreement with the Municipality.

Risk Management Office:

- Noted review of earlier severance file and noted no change in comments.

Saugeen 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: Julie Bousfield-Bastedo, Planner

RE: A-2024-031 (Austman)
Unassigned civic address, Huron Terrace
Part Lot 21 W/S Huron Terrace, Part 2 Plan 3R10861
Roll No.: part of 410822000618900
Geographic Town of Kincardine
Municipality of Kincardine

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the above-noted application as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020) and as a regulatory authority under Ontario Regulation 41/24. SVCA staff has also provided comments as per our Memorandum of Agreement (MOA), dated September 2019, with the County of Bruce representing natural hazards, and water resources; and 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.

Purpose

The purpose of this application is a Minor Variance to permit a reduced rear yard setback of 2 m, where 6 m is required. If approved, this will permit the construction of a shed on the subject property.

Recommendation

The application is generally acceptable to SVCA staff.

Background

As part of the pre-submission consultation process for severance and proposed additional residential dwelling, on the recommendation from Bruce County planning, dated April 6, 2023, the landowner contacted the SVCA on April 14, 2023. SVCA provided pre-submission consultation comments dated April 27, 2023, which noted the requirement of a geotechnical/slope study that would address the slope concerns and support the severance with additional residential development. A geotechnical/slope

report titled Geotechnical Slope Assessment dated August 2, 2023 was prepared by WSP. SVCA staff found the report to be acceptable. SVCA also provided comments (dated November 29, 2024) to the related files for the property B-2023-083 and Z-2023-085.

On April 12, 2024, SVCA issued SVCA permit 24-070 for construction of a dwelling and related works on the property.

Delegated Responsibility and Advisory Comments - Natural Hazards

The natural hazard feature affecting the property is the shoreline bluff/slope. This natural hazard feature is generally identified by the R1-s zone in the Municipality of Kincardine zoning by-law.

Provincial Policy Statement – Section 3.1

Section 3.1 of the PPS, 2020 states in part that development shall generally be directed to areas outside of: b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding and erosion hazards; and c) hazardous sites. It is the opinion of SVCA staff that the application generally complies with Section 3.1. of the PPS, 2020.

County of Bruce OP Policies

Section 5.8 of the County of Bruce OP and section D7 of the Municipality of Kincardine OP generally directs development to be located outside of Hazardous Land Area and/or NE designation. It is the opinion of SVCA staff that the application appears to be consistent with, and have addressed the policies of the Bruce County OP and Municipality of Kincardine OP.

Drinking Water Source Protection (DWSP)

SVCA staff has 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. The subject property appears to SVCA staff to be located within Intake Protection Zone (IPZ), an area that is subject to the local Source Protection Plan where applicable policies may apply. A separate Notice from the local Risk Management Official may be required as specified under the Clean Water Act, 2006 to allow your project to proceed.

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.

Almost the entirety of the property is within the SVCA Approximate Regulated Area because of shoreline bluff/slope. The SVCA Approximate Regulated Area is associated with Ontario Regulation

41/24. As such, development and/or site alteration within the SVCA Approximate Regulated Area requires permission from SVCA, prior to carrying out the work.

Once construction is proposed for the detached accessory building, the landowner should continue to be in contact with SVCA staff, Michael Oberle (m.oberle@svca.on.ca) to continue with the SVCA permit process. Proposed development will need to be in accordance with the Geotechnical Slope Assessment dated August 2, 2023 prepared by WSP.

Summary

SVCA staff has reviewed the application 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*.

The application is generally acceptable to the SVCA.

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, 2020 has been demonstrated;
and
- 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 the County of Bruce with regard to the application. We respectfully request to receive a copy of the decisions and notices of any appeals filed. Should you have any questions, please contact the undersigned.

Sincerely,



Michael Oberle
Environmental Planning Coordinator
Saugeen Conservation
MO/

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



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



September 16, 2024

File Number: A-2024-031

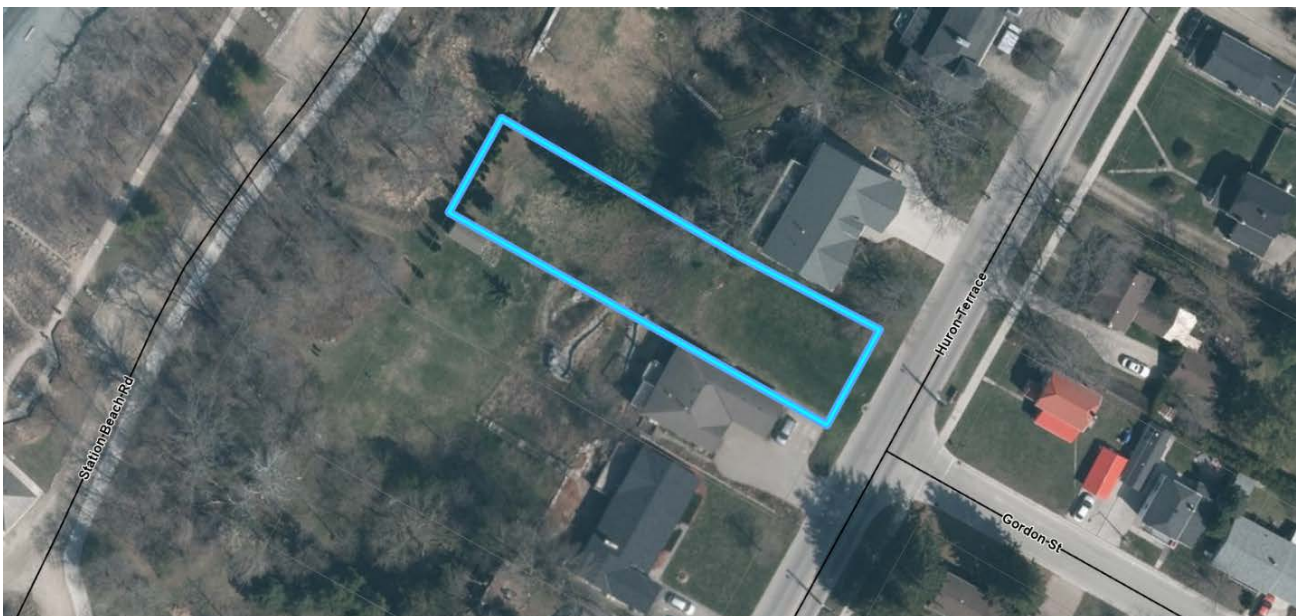
Public Hearing Notice

You're invited to participate in a Public Hearing
to consider Minor Variance File A-2024-031
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 a Minor Variance to permit a reduced rear yard setback of 2 m, where 6 m is required. If approved, this will permit the construction of a shed on the subject property.



KINCARDINE TP PENETANGORE PT; LOT 21 W HURON TERRACE RP; 3R10861 PART 2
Municipality of Kincardine (Kincardine Town)
Roll Number 410822000618900

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

