

# Municipality of Kincardine Planning Report

**To: Committee of Adjustment**

**From: Daniel Kingsbury, Planner for the Municipality**

**Date: November 19, 2019**

**Application: Minor variance**

**File: A-69-19.21 'Newton'**

## Recommendation

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

That Committee approve Minor Variance A-69-19.21 as attached.

## Summary

The application is to seek relief from the Zoning By-law provision related to the height of accessory building in order to permit the construction of a two-storey detached garage. The permitted height of an accessory building is 4.5 metre. The applicant is proposing detached garage with a lean-to (or shed) style angled roof with maximum a height of 7.93 metres. The increase height would allow the applicants to construct a loft above the garage area that is to be used as additional living space.

The following considerations have been reviewed in the Planning Analysis section of this report:

- Archaeological Resource Potential
- Four Tests of a Minor Variance

The application is consistent with the Provincial Policy Statement and conforms to the County Official Plan, the local Official Plan and the intent and purpose of the local zoning by-law.

Planning staff recommend to approval of the proposed minor variance.

# Concept Plan



## Planning analysis

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

### Archeological Resource Potential

The property is located on the shore of Lake Huron and is adjacent to Andrew's Creek. The Provincial Guidelines consider lands within 300 metres of a navigable waterway to be areas of high archaeological potential. The Guidelines direct that an Archaeological Assessment be completed prior to development within these areas, however, there are exceptions where an assessment may not be required.

The Provincial guidelines outline that an Archaeological Assessment is not required if the proposed project area has undergone extensive and intensive ground disturbance. In correspondence dated September 24, 2019, the applicant states:

"I believe my property has undergone what you would consider recent, extensive and intensive ground disturbance, such as:

- septic system installation
- construction of addition with basement in 1988
- underground hydro and utility lines to the house
- the waterway (Andrew's Creek) that runs through my property was completely excavated and its banks were reinforced with large rocks under the approval of the SVCA and completed by Jackson's construction in the last 10-15 years. The project included roughly 400 ft of bank.
- drilled well installation"

The applicant further confirmed that this disturbance took place within the proposed project area. The application was circulated to all review agencies that may have a potential interest in the archaeological potential of the project area. The Historic Saugeen Metis indicated no objection. No other comments were received by those agencies with an archaeological interest.

Based on the applicant's statement of extensive and intensive disturbance, Planning Staff are generally satisfied that the application is consistent with Provincial policies related to Archaeology.

## Four tests of a minor variance

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

The property is designated Shoreline Residential and Natural Environment in the Local Official Plan. Detached residential dwellings as well as compatible accessory structures are permitted within the Shoreline Residential designation. The proposed structure is

located outside the Natural Environment designation located on the property. The proposed variance maintains the intent and purpose of the Official Plan.

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

The property is zoned Residential One Special (R1-p) and Environmental Protection (EP) in the Municipality's Zoning By-law. The Special provision notes that a Limited Service Agreement is necessary prior to any development within due to the property fronting a private road. The applicant has been made aware of this requirement.

Detached accessory buildings are permitted subject to Section 6.4.3 and 6.4.4 of the By-law. Specifically, 6.4.4 states that the maximum height of an accessory structure is 4.5 metres.

The main dwelling is relatively limited in size and does adequately meet the needs of the Newton family. The variance is being requested in order to provide a garage with additional living space above. The structure would be permitted as of right if it were attached to the main dwelling as an addition, however, the applicants have indicated that their preference is to separate the accessory building from the main house by approximately 1 metre. The proposal maintains the intent of the Zoning by-law.

#### Is the application minor in nature?

Whether a variance is minor is evaluated in terms of impacts the proposed development is expected to have on the surrounding neighbourhood. It is not expected that permitting the variance will have any impact of the character of the area or impact the ability of adjacent property owners to use their property for permitted uses.

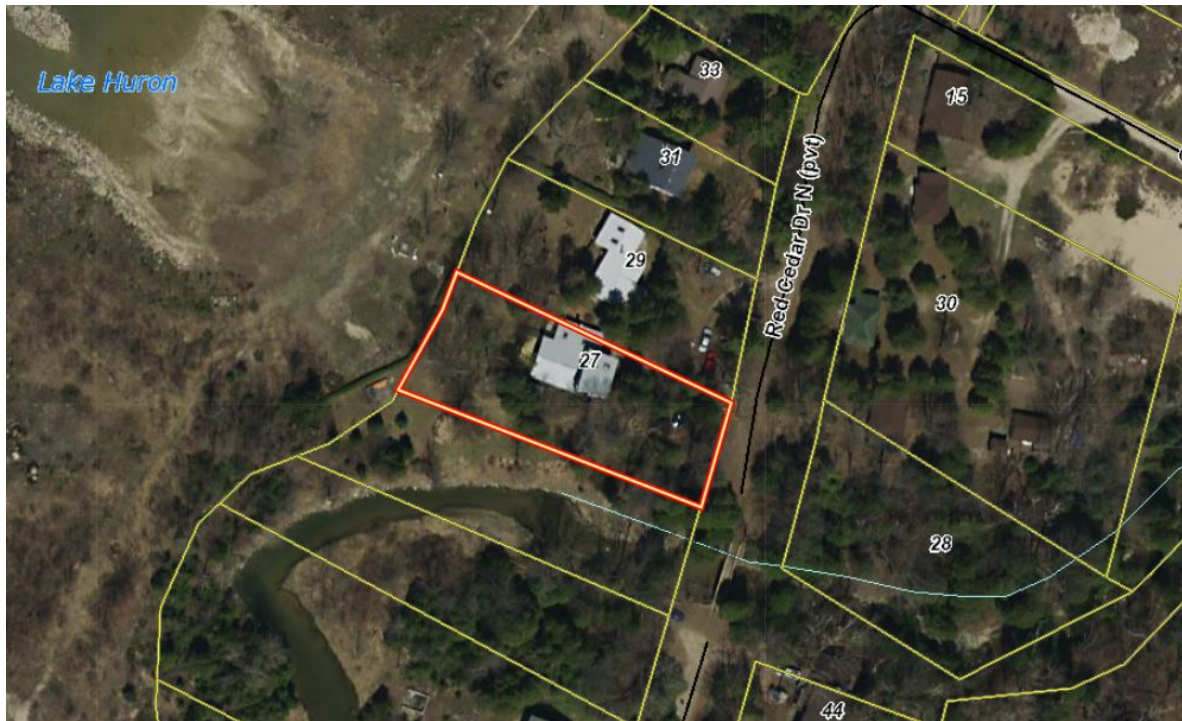
#### Is the application desirable for the appropriate development of the land, building or structure?

The proposed variance will allow the applicants to construct an accessory structure that is in keeping with the neighbourhood character and appropriate and desirable for the property.

The variance meets all four tests required under the Planning Act. Planning staff recommend approval.

# Appendices

## Aerial Photo



## Kincardine Official Plan







## Additional Site Photos





The site plan illustrates a proposed garage and driveway layout. The proposed garage is a rectangular structure with a finished floor elevation of 178.22 and a top of foundation elevation of 179.51. It is situated on a 9.4m wide breezeway. The driveway, labeled 'GRAVEL DRIVEWAY', is 3.52m wide and leads to a 'MATCH TO EX. GRADE (TYP)'. The plan includes various elevations (e.g., 178.99, 179.01, 179.13, 179.15, 179.19, 179.21, 179.22, 179.24, 179.25, 179.26, 179.27, 179.28, 179.29, 179.30, 179.31, 179.32, 179.33, 179.34, 179.35, 179.36, 179.37, 179.38, 179.39, 179.40, 179.41, 179.42, 179.43, 179.44, 179.45, 179.46, 179.47, 179.48, 179.49, 179.50, 179.51, 179.52, 179.53, 179.54, 179.55, 179.56, 179.57, 179.58, 179.59, 179.60, 179.61, 179.62, 179.63, 179.64, 179.65, 179.66, 179.67, 179.68, 179.69, 179.70, 179.71, 179.72, 179.73, 179.74, 179.75, 179.76, 179.77, 179.78, 179.79, 179.80, 179.81, 179.82, 179.83, 179.84, 179.85, 179.86, 179.87, 179.88, 179.89, 179.90, 179.91, 179.92, 179.93, 179.94, 179.95, 179.96, 179.97, 179.98, 179.99, 180.00) and grades (e.g., 0.63%, 0.91%, 0.97%, 1.9%, 2.5%, 3.1%, 3.6%, 4.5%, 4.6%, 4.7%, 4.8%, 4.9%, 5.0%, 5.1%, 5.2%, 5.3%, 5.4%, 5.5%, 5.6%, 5.7%, 5.8%, 5.9%, 6.0%, 6.1%, 6.2%, 6.3%, 6.4%, 6.5%, 6.6%, 6.7%, 6.8%, 6.9%, 7.0%, 7.1%, 7.2%, 7.3%, 7.4%, 7.5%, 7.6%, 7.7%, 7.8%, 7.9%, 8.0%, 8.1%, 8.2%, 8.3%, 8.4%, 8.5%, 8.6%, 8.7%, 8.8%, 8.9%, 9.0%, 9.1%, 9.2%, 9.3%, 9.4%, 9.5%, 9.6%, 9.7%, 9.8%, 9.9%, 10.0%). The plan also shows existing features like 'STONE PATIO', 'FLOWER BED', 'STONE WALKWAY', and 'GRAVEL DRIVEWAY'. A 'FLOWER BED TO BE REMOVED' is indicated. The plan is labeled 'PROPOSED GARAGE' and 'FINISHED FLOOR - 178.22 TOP OF FOUNDATION - 179.51'. A 'MATCH TO EX. GRADE (TYP)' is shown at the bottom right. The plan is labeled 'CT 3' and 'CT 4'. A 'FLOWER BED' is shown at the bottom left. A 'STONE PATIO' is shown at the top left. A 'STONE WALKWAY' is shown at the top right. A 'GRAVEL DRIVEWAY' is shown at the bottom right. A 'FLOWER BED TO BE REMOVED' is shown at the bottom left. A 'MATCH TO EX. GRADE (TYP)' is shown at the bottom right. The plan is labeled 'CT 3' and 'CT 4'. A 'FLOWER BED' is shown at the bottom left. A 'STONE PATIO' is shown at the top left. A 'STONE WALKWAY' is shown at the top right. A 'GRAVEL DRIVEWAY' is shown at the bottom right. A 'FLOWER BED TO BE REMOVED' is shown at the bottom left. A 'MATCH TO EX. GRADE (TYP)' is shown at the bottom right.



## Agency Comments

Bruce-Grey Catholic DSB: No comments

Historic Saugeen Metis: No objection or opposition

CBO: Zoning requires Limited Service Agreement Prior to development

Fire Chief: No comments

Public Works: No comments

SVCA: See attached



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SENT ELECTRONICALLY ONLY ([jsteeper@brucecounty.on.ca](mailto:jsteeper@brucecounty.on.ca))

October 31, 2019

Corporation of the County of Bruce Planning & Development  
1243 MacKenzie Road  
Port Elgin, Ontario  
N0H 2C6

ATTENTION: Julie Steeper, Planning Applications Technician

Dear Ms. Steeper,

RE: Proposed Minor Variance A-69-19.21  
27 Red Cedar Drive N.  
Part Lot 53 Concession A  
Roll No.: 410821000506900  
Geographic Township of Kincardine  
Municipality of Kincardine

(Flora)

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the proposed minor variance in accordance with the SVCA's mandate, the Saugeen Valley Conservation Authority Environmental Planning and Regulations Policies Manual, amended October 16, 2018, and the Memorandum of Agreement between the Authority and the County of Bruce relating to Plan Review. The purpose of the application is to provide relief for the height from the zoning by-law for a proposed accessory building on the subject lands. The application is acceptable to SVCA staff and the following comments are offered.

### **Natural Hazards**

A portion of the property is designated Natural Environment (NE) in the Kincardine Official Plan (OP), this same area is zoned Environmental Protection (EP) in the Municipality of Kincardine Zoning By-law. As part of the SVCA Regulatory review for proposed development at the property, a floodplain analysis was required to be prepared. A floodplain analysis titled Technical Memo, dated September 13, 2018 by GM BluePlan was prepared. The floodplain analysis illustrated that the majority of the property is located within the floodplain of Andrew's Creek.

SVCA staff recommend that the NE designation and the EP zone be updated for the property at the next available opportunity to reflect the floodplain analysis. Therefore, please find attached SVCA mapping dated October 31, 2019, showing SVCA staff's recommended EP zone for the property shown on the SVCA mapping as SVCA Hazardous Lands. The SVCA Hazardous Lands include Lake Huron and Andrew's Creek, as well as the flooding and erosion hazards of Lake Huron and Andrew's Creek.

Based on Schedule 'A' to the application, proposed development will not be located within the recommended NE designated and EP zoned lands. Furthermore, as part of the SVCA Regulatory review process, it is the opinion



### **Watershed Member Municipalities**

Municipality of Arran-Elderslie, Municipality of Brockton, Township of Chatsworth, Municipality of Grey Highlands,  
Town of Hanover, Township of Howick, Municipality of Morris-Turnberry, Municipality of South Bruce,  
Township of Huron-Kinloss, Municipality of Kincardine, Town of Minto, Township of Wellington North,  
Town of Saugeen Shores, Township of Southgate, Municipality of West Grey

of SVCA staff that the flooding and erosion hazards have been addressed for this proposal, and that an SVCA Permit has been issued for the proposed work. This is explained in further detail below. Finally, and specifically, safe access/egress to the property is available in accordance with the Provincial Policy Statement 2014. (PPS 2014).

### **Natural Heritage**

In the opinion of SVCA staff, the natural heritage features and areas affecting the property includes the adjacent lands to fish habitat, and significant woodlands.

#### Adjacent Lands to Fish Habitat

Lake Huron is located on lands adjacent to the west of the property and Andrew's Creek is located on lands adjacent to the south of the property. The lake and creek are considered fish habitat by SVCA staff. Section 2.1.8 of the PPS 2014 indicates that, among other things, development and site alteration shall not be permitted on the adjacent lands of fish habitat unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on fish habitat or on their ecological functions. Based on Schedule 'A' to the application, proposed development will be located within the adjacent lands to fish habitat.

#### Significant Woodlands

Significant woodlands are shown in the Municipality of Kincardine OP, and are identified on the property. Based on Schedule 'A' to the application, proposed development will be not be located within significant woodlands, however, development is proposed on lands adjacent to significant woodlands.

#### Environmental Impact Study (EIS)

Though the above referenced natural heritage features are located on and/or within the adjacent lands to the property, Section D7.6 of the Municipality of Kincardine OP allows the waiving of an EIS upon the recommendation of the SVCA. SVCA staff is of the opinion that the impacts to the natural heritage features and areas referenced above will be negligible, as a result of this proposal, and the preparation of an EIS to address the natural heritage features and areas is not recommended by SVCA staff at this time.

### **SVCA Regulation**

The property, in its entirety, is within the SVCA Approximate Regulated Area associated with the SVCA's Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (Ontario Regulation 169/06, as amended). 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.

#### "Development" and Alteration

Subsection 28(25) of the *Conservation Authorities Act* defines "development" as:

- a) *the construction, reconstruction, erection or placing of a building or structure of any kind,*
- b) *any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure increasing the number of dwelling units in the building or structure,*
- c) *site grading, or*
- d) *the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.*

According to Section 5 of Ontario Regulation 169/06, as amended, alteration generally includes the straightening, diverting or interfering in any way the existing channel of a river, creek, stream or watercourse, or the changing or interfering in any way with a wetland.

For this property, the SVCA Approximate Regulated Area includes Lake Huron and Andrew's Creek and the flooding and erosion hazards of Lake Huron and Andrew's Creek, as well as an offset distance of 15 metres outwards/landwards from the flooding and erosion hazards.

#### Permission for Development

If development or alteration including construction, reconstruction, conversion, grading, filling or excavation, is proposed on the property, the SVCA should be contacted, as permission may be required.

SVCA staff issued SVCA Permit 19-176, dated July 11, 2019 for the construction of a 540 square foot garage and related works associated with the proposal shown on Schedule 'A' to the application for minor variance.

#### **Conclusion**

All of the plan review functions listed in the Agreement have been assessed with respect to the application. The proposed minor variance is acceptable to SVCA staff.

We trust you find this information helpful. Should questions arise, please do not hesitate to contact this office.

Sincerely,



Michael Oberle  
Environmental Planning Technician  
Saugeen Conservation

MO/





Enclosure

cc: Donna MacDougall, Clerk, Municipality of Kincardine (via email)  
Maureen Couture, Authority Member, SVCA (via email)  
Bill Stewart, Authority Member, SVCA (via email)



27 Red Cedar Dr. N.  
Pt Lt 53, Con A  
Kincardine Twp.  
Mun. of Kincardine  
Roll No.:  
410821000506900

### Legend

-  SVCA Hazardous Lands
-  Watercourse
-  Approximate Subject Property
-  Parcel Fabric



UTM Zone 17N, NAD 83

1:500

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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October 31, 2019