

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-73-19.21 'Flett'

Recommendation

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

That Committee approve Minor Variance A-73-19.21 as attached.

Summary

The application is to seek relief from the side yard setback provisions of the Municipality of Kincardine Zoning By-law in order to permit the construction of a shed. The required setback is 1 metre and the applicant is proposing a 0 metre setback in order to limit site disturbance and tree removal.

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.

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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. The Provincial guidelines consider lands within 300 metres of a navigable waterway to be areas of high archaeological potential. The Provincial 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 29, 2019, the applicant states:

“...The land where we are proposing to place the shed has had extensive and intensive ground disturbance. This area was covered in trees, and in 2014 the trees were removed and the land dug up so that we could connect the cottage to town water. The water line is underneath the place where we want to put the shed, and the reason we want to locate it there is because we don't want to lose any more trees...”

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 agencies with an archaeological interest provided comments.

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 predominantly Shoreline Residential in the Local Official Plan, which permits detached residential dwellings as well as compatible accessory structures such as the proposed shed. 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 (R1) in the Municipality's Zoning By-law. Detached accessory buildings are permitted subject to Section 6.4.3 of the By-law. Specifically, 6.4.3.2.ii states:

“On lots which adjoin a navigable body of water, detached garages and accessory buildings may be located in the front yard provided that such garage or

accessory building is not located closer than six metres from the front lot line and 1 metres from any side lot line. This also includes any lot that is separated from a body of water only by an unopened Municipal road allowance.”

The proposed shed is located in the front yard of the property; however, the side yard setback is deficient. The variance represents a minor departure from what is currently permitted in the by-law and won't result in a noticeable difference on the property. The proposal conforms to 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 a storage shed without significantly disturbing the property or removing any trees. There is no impact to the functionality of the property and the abutting municipal right of way for which the setback is being sought.

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

Appendices

Aerial Photo



Kincardine Official Plan



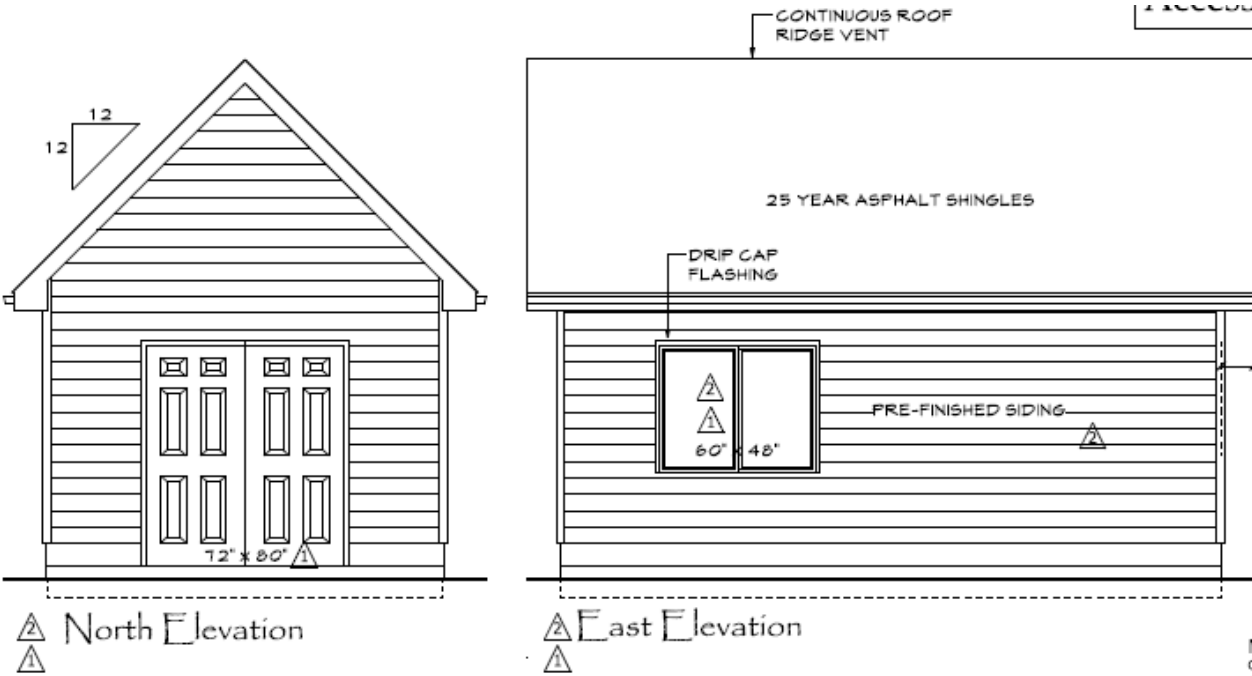
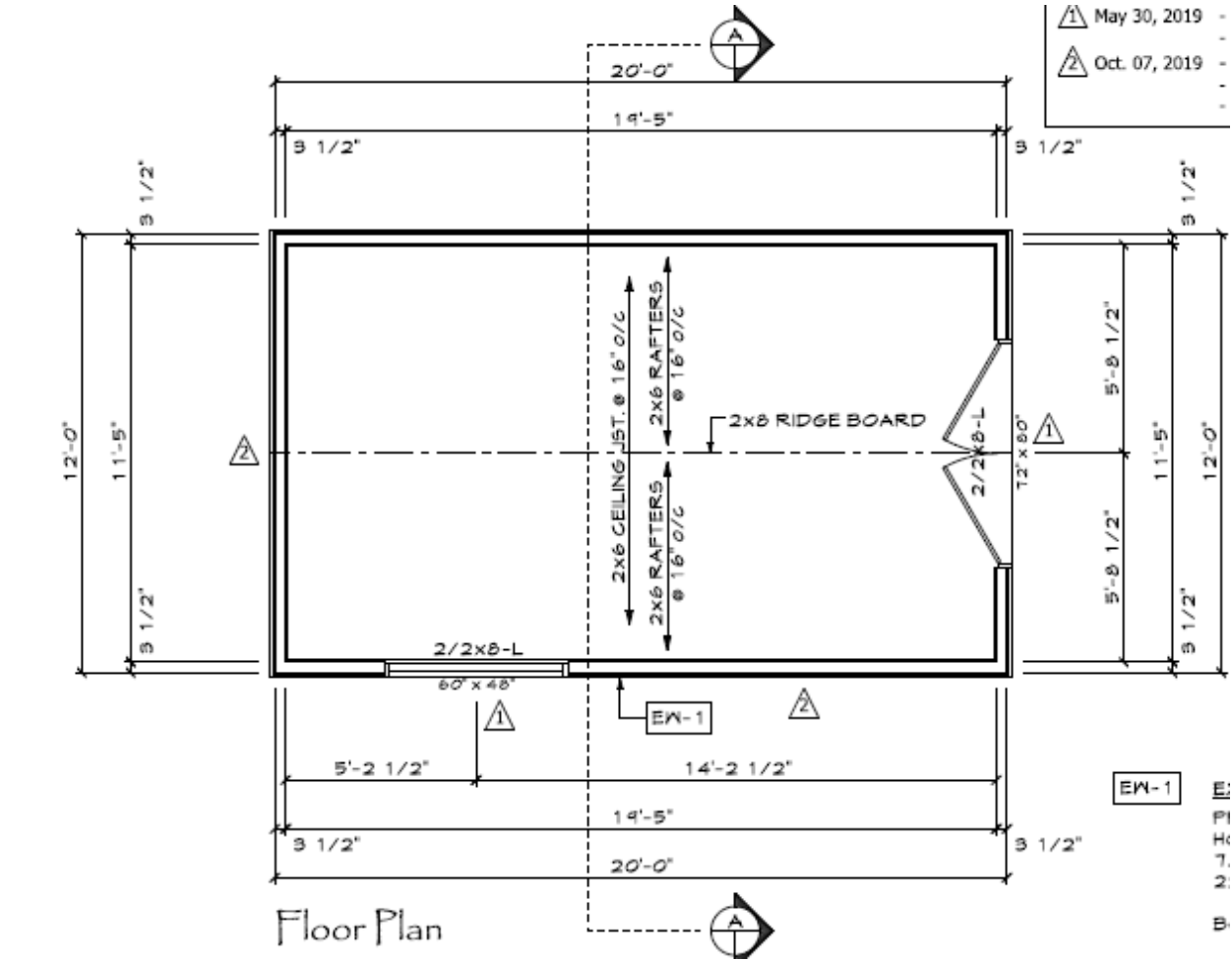
Kincardine Zoning By-law



Additional Site Photos



Architectural Drawings



Agency Comments

Bruce-Grey Catholic DSB: No comments

Historic Saugeen Metis: No objection or opposition

Westario: No comments

CBO: No comments

SVCA: See attached



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SENT ELECTRONICALLY ONLY (*jsteeper@brucecounty.on.ca*)

October 29, 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-73-19.21
258 Victoria Street
Part Lots 19 and 20, Plan 445, Part 1 Plan 3R6520
Roll No.: 410821000506900
Geographic Township of Kincardine
Municipality of Kincardine (Flett)

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 side yard setback 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

The lakeside 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. The NE designation and EP zone generally coincide with the SVCA Hazardous Lands mapping as plotted for the property by SVCA staff. The SVCA Hazardous Lands include Lake Huron and the flooding and erosion hazards of Lake Huron. Based on Schedule 'A' to the application, proposed development will not be located within the EP zone.

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 northwest of the property. Lake Huron is considered fish habitat by SVCA staff. Section 2.1.8 of the PPS 2014 indicates that, among other things, development and site alteration



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

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, but rather 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 majority of the property 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 the flooding and erosion hazards of Lake Huron, as well as an offset distance of 15 metres 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 18-268 and letter dated December 20, 2018 for the construction of an addition to the east side of the existing dwelling. Furthermore, SVCA staff advised that the relocation of an existing shed to the south of the existing dwelling would be beyond the SVCA Approximate Regulated Area and would therefore not require permission from the SVCA. Finally, please be advised that the construction of an accessory building, as shown on Schedule 'A' to the application, will be located beyond the SVCA Approximate Regulated Area and will not require a Permit from the SVCA.

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/

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