



Municipality of Temagami

MINOR VARIANCE APPLICATION PLANNING CLERK REPORT

Report Date: | September 17, 2019

REPORT PREPARED FOR:	COMMITTEE OF ADJUSTMENT
REPORT PREPARED BY:	T. LEPAGE, PLANNING CLERK
REPORT REVIEWED BY:	J. ROBINSON, MCIP, RPP MHBC, PLANNING CONSULTANT
APPLICATION NO.:	MV-19-03
DATE OF NOTICE OF HEARING:	September 12, 2019
DATE OF HEARING:	September 26, 2019
SUBJECT LAND:	20 Lake Temagami Island 337
APPLICANT:	K.J. Allen Investments Inc.



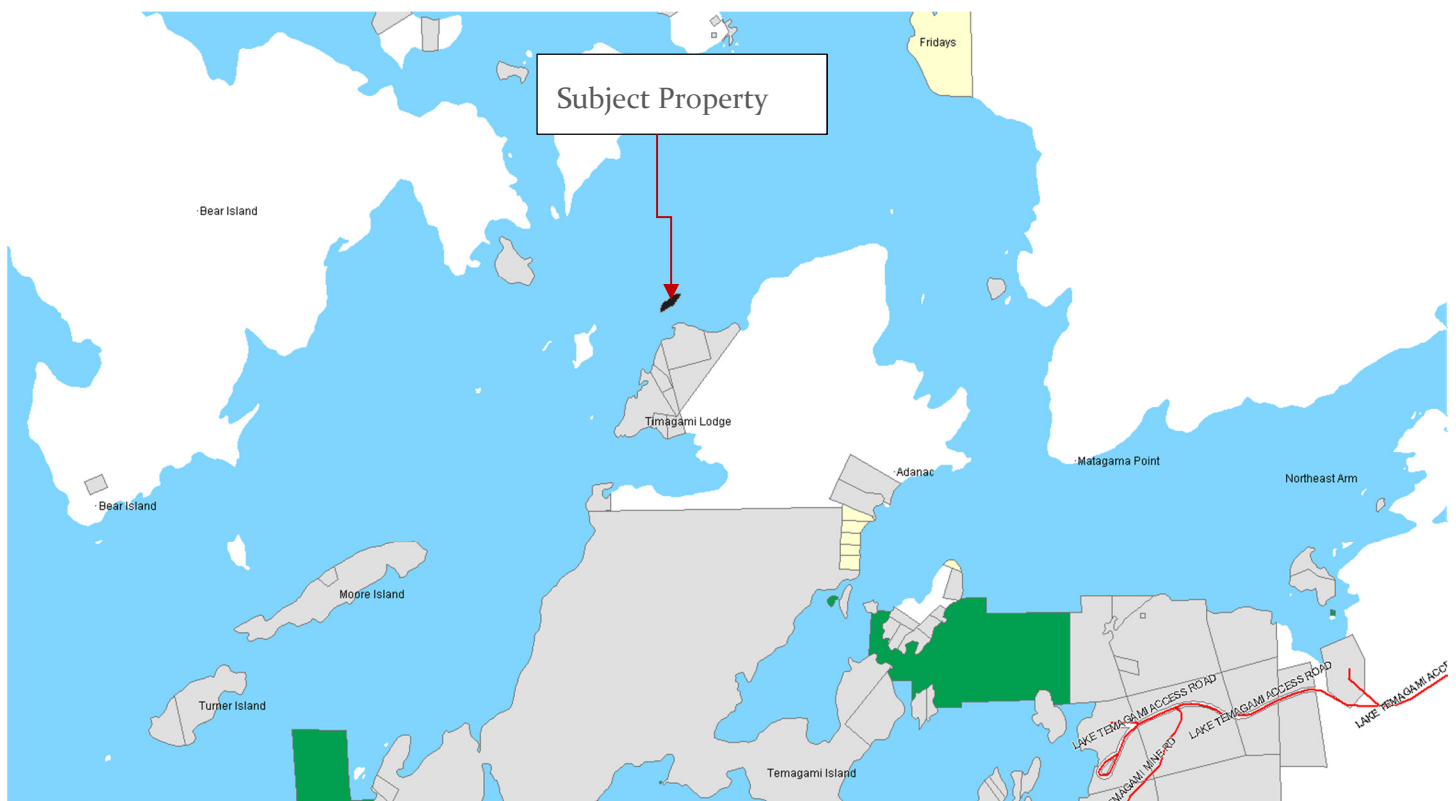
APPLICATION REVIEW

The intake review of the application was deemed complete on August 26, 2019. Notice of the Public Hearing was given by circulating prescribed persons and agencies, posting at the Lake Temagami Access Point landing, and postings on the Municipality's website & Welcome Centre notice board on September 12, 2019. Notice of the application was also provided to the Temagami First Nation, prior to completing the required circulation under the Planning Act.

BACKGROUND

K.J. Allen Investments Inc. have submitted an application for a Minor Variance to permit an addition to an existing legal-non complying cottage, including a screened porch. The application also includes a proposed sleep cabin. The subject property is located at 20 Lake Temagami Island 337, within the Municipality of Temagami. The subject property is located within the Lake Temagami Neighbourhood and is designated Special Management Area. The subject property is shown in black on Figure 1.

Figure 1: Subject Property



PROPOSAL

The purpose of the application is to facilitate the construction of an addition to a legal-non complying cottage and the construction of a sleep cabin on the subject property. The cottage (shown on Figure 2) is currently 45.5 square metres (490 square feet) in size. The proposed addition to the west of the existing cottage is 39 square metres (416 square feet) and the proposed screened porch is 11 square metres (120 square feet) located to the east of the existing cottage. Combined, the total addition to the existing cottage is 50 square metres (538.2 square feet), and the proposed cottage totals 95.5 square metres (1,028 square feet) in size. The proposed sleep cabin is 15.5 square metres (168 square feet) in size. The existing cottage and the proposed development on the subject property is illustrated in Figure 2.

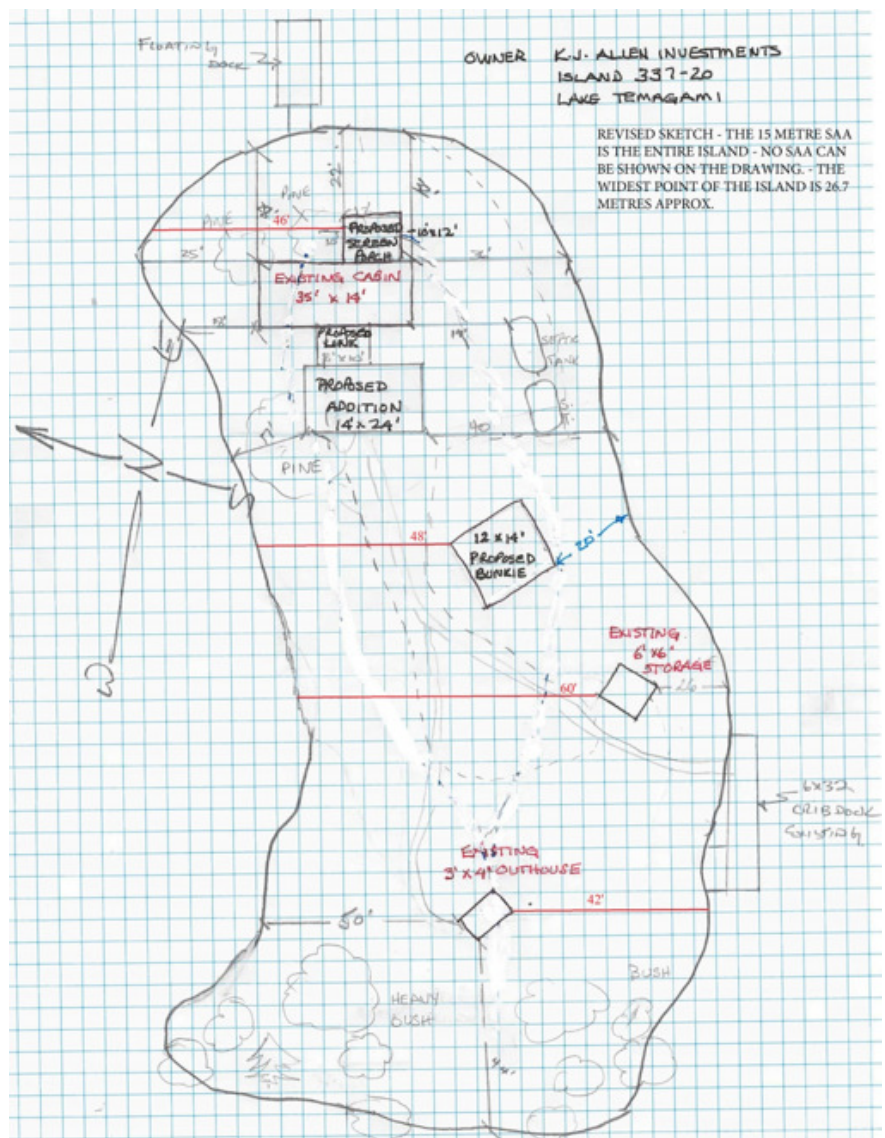
Figure 2: Sketch of Development

The subject property is designated Special Management Area in the Lake Temagami Neighbourhood of the Official Plan of the Corporation of the Municipality of Temagami and is zoned Remote Residential (R1) - Lake Temagami in the Municipality of Temagami Zoning By-law 06-650.

SITE ANALYSIS

The subject property is 2,424 square metres in lot area and is developed with a cottage and accessory uses. Adjacent properties are shown on Figure 1 at the setback distances below.

- North – 618 metres
- East – 1.2 Kilometres
- South – 113 metres
- West – 329 metres



The subject property currently includes the following buildings and structures:

- Cottage – 45.5 square metres;
- Storage Shed – 3.3 square metres;
- Outhouse – 1 square metre;
- Two septic holding tanks;
- Floating dock
- Crib dock

PLANNING ANALYSIS

The Committee needs to be satisfied that the proposal is in-keeping with the “Four Tests” of a minor variance set out in the *Planning Act*. Based on the information provided in the application, we can provide the Committee with planning information to assist the Committee with their decision.

Table 1 provides a comparison of the applicable Zoning By-law performance standards for the development of the proposed addition to the cottage and sleep cabin.

Table 1: Applicable Zoning Standards Section 7.4.2 Remote Residential (R1) Zone.

<u>Zone Provisions</u>	<u>Required Standard</u>	<u>Proposed</u>
Minimum distance from the shore	15 m	Cottage – 5 metres to the north shoreline Cottage – 6.5 metres to the east shoreline Cottage – 11 metres to the south shoreline Sleep Cabin – 6 metres
Maximum Area of Structures Within the Shoreline Activity Area	100 m ²	117 m ²

Lot Coverage (max.)	8%	5 %
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The Proposed Variance

To facilitate the proposed development, the applicant requires a variance to the following sections of the Zoning by-law.

Section 6.28:

- To permit an expansion of a non-complying cottage that is located within the SAA. The cottage has a current size of 45.5 square metres (490 square feet) and is proposed to be expanded to 95.5 square metres (1,028 square feet) which is an increase of 50.0 square metres (536 square feet). The expansion includes the addition and the screened porch.

Section 7.4.2 Any Dwelling Unit a)

- To permit the additions to the existing cottage with minimum distances from the shoreline of 5 metres from the north shoreline of the subject property, 6.5 metres from the east shoreline of the subject property, and 11 metres from the south shoreline of the subject property. The existing cottage is located 5.5 metres from the shore at the closest point, on the north shore of the subject property.

Section 6.40:

- To permit an increase in the maximum area of structures within the Shoreline Activity Area to 117.0 square metres (1,259 square feet) where a maximum of 100 square metres (1,076 square feet) is permitted.

Section 7.4.2 Any Sleeping Cabin without both bathroom and kitchen facilities a):

- To permit a sleep cabin that is located 6 metres (20 feet) from the shoreline on the south side of the subject property where a minimum setback of 15 metres (49 feet) is permitted.

The Four Tests of a Minor Variance

In considering this application, the Committee needs to be satisfied that the proposal is in-keeping with the “Four Tests” of a minor variance as set out in Section 45 (1) in the *Planning Act*. The Municipal Law Enforcement Officer, have had the opportunity to visit the site on September 5, 2019, municipal staff have no objections to the proposed additions with respect to the four tests of minor variances. However, based on the information

provided in the application package, we can provide the Committee with planning information to assist the Committee with their decision.

Information pertaining to Section 45(1), the four tests of a minor variance, is as follows:

1) Is the variance in-keeping with the intent of the Official Plan?

The subject property is located within the Lake Temagami Neighbourhood and is designated Special Management Area by the Municipality of Temagami's Official Plan.

Section 2.14 "Cultural Heritage Features" and Section 9.24 "Complete Application" were reviewed in the pre-consultation phase as there is one known archaeological site approximately 619 metres away at the closest point from the subject property. The proposed additions does not require ground disturbance, and otherwise contains existing development. Staff therefore do not recommend that an Archaeological Assessment be required in support of the proposed addition and sleep cabin.

Section 2.17 of the Official Plan contains policies which guide development on waterfront properties. This policy promotes the retention of vegetative buffers to screen development from the shoreline. The existing cottage is located 5.5 metres (18 feet) from the closest point to the shoreline (the northern shoreline). Given the location of the existing legal non-complying cottage, there is limited opportunity to provide for additions that do not further encroach into the required setback from the shoreline. Furthermore, due to the narrow shape of the subject property, the entire subject property is located within the Shoreline Activity Area (SAA).

Section 5.2.1 provides direction to the land use in the Lake Temagami Neighbourhood and provides the following goals:

- To ensure the protection of visual aesthetics;
- To protect the wilderness and semi-wilderness values; and
- To preserve the natural environment.

The shoreline of the subject property appears to contain vegetation and trees as shown in the photographs submitted with the application. The existing cottage can be viewed from the lake from some views. From the drawing provided with the application, it appears as though the trees along the shoreline are not required to be removed. The addition to the west of the existing cottage does slightly encroach further to the shoreline than the existing setback, however at this location, the existing trees appear to screen the location of this addition. The development as proposed would achieve the goals outlined in 5.2.1 by maintaining the aesthetic and natural features of the

subject property given the proposal is not anticipated to negatively impact the vegetation along the shoreline.

The size of the existing cottage is modest, as are the proposed additions sleep cabin. The maximum area for buildings and structures within the SAA is exceeded as a result of this application, however the overall lot coverage for the subject property is still below what is permitted. The shape of the subject property and the location of the SAA results in all the development being located within 15 metres of the shoreline. The proposed sleep cabin appears to be sited in a location that will be screened from view from the lake. The sleep cabin is 15.6 square metres in size, and a sleep cabin is permitted to be a size of 72 square metres. The sleep cabin has no kitchen or bathroom facilities.

The Timiskaming Health Unit provided comments are confirmed the propose development can be appropriately serviced via the existing septic holding tanks.

Section 5.3.2 of the Official Plan provides that a broad range of uses, including residential uses, accessory uses such as boat houses, docks and storage sheds, sleep cabins, are permitted within the Lake Temagami Neighbourhood. The proposed additions and sleep cabin are considered permitted uses within the Lake Temagami Neighbourhood.

As per Section 9.6.5 of the Official Plan, the Temagami First Nation are to be circulated and notified of all planning and pre-consultation applications proposed within the Municipality of Temagami. The Temagami First Nation was circulated on this application in advance of the statutory timelines.

Based on a review of the policies of the Official Plan, the proposed variances are in-keeping with the intent of the Official Plan.

2) Is the variance in keeping with the intent of the Zoning By-law?

The subject property is located within the Remote Residential (R₁) Zone (Lake Temagami) of the Municipality's Zoning By-law 06-650. The proposed variances seek permission to construct additions to the existing cottage and to construct a new sleep cabin.

Section 6.28 is proposed to be varied to permit the expansion of a legal non-complying seasonal dwelling that is located within the SAA. The proposed additions total 50 square metres (538.2 square feet) and the existing cottage is proposed to be increased to a total of 95.5 square metres (1028 square feet). The proposed cottage is proposed to

be located 5 metres from the north shoreline of the subject property, 6.5 metres from the east shoreline of the subject property, and 11 metres from the south shoreline of the subject property. The location of the existing cottage and the narrow shape of the subject property result in the need to construct the additions within the required setback.

The addition to the east is reducing the existing setback to 6.5 metres, the addition to the west is reducing the setback to the 5 metres, and the addition to the east is located 11 metres from the shoreline (not reducing the existing setback at this location). The only location where the cottage is getting closer to the shoreline than any existing setback is the north portion of the subject property (approximately 0.3 metres or 1 foot). This location contains vegetation along the shoreline and will be screen from view from the lake.

The provisions for a minimum shoreline setback of 15 metres within the SAA is intended to preserve the character of the Lake Temagami shoreline and to enable an area for vegetation between development and the shoreline. Existing vegetation will be maintained between the proposed additions and the sleep cabin. From the photos provided in the application, the proposed sleep cabin will be screened from view from the lake, and be located 6 metres from the shoreline. Provided vegetation is maintained within the shoreline area, the reduced setbacks and the development within the SAA would appear not to impact the character of the area.

Section 6.40 of the Zoning By-law is proposed to be varied as the additions to the cottage and development of a sleep cabin would increase the SAA coverage to 117 square metres where a maximum of 100 square metres is permitted. The purpose of this provision is to limit the built footprint within proximity to the shoreline in order to ensure that semi-wilderness values predominate. The proposed additions to the existing cottage are setback from the shoreline as much as possible, considered the narrow shape of the subject property. The proposed sleep cabin is located 6 metres from the shoreline but appears to be in a location that will be screened from view from the lake. The maximum coverage for buildings and structures within the SAA in this instance is exceeded, however the total lot coverage is 5% where a maximum of 8% is permitted. The amount and scale of development would appear to be appropriate for the size of the subject property.

Section 7.4.2 Any Sleeping Cabin without bathroom and kitchen a) is proposed to be varied to permit a sleep cabin that is located approximately 6 metres from the shore, where a setback of 15 metres is required. The required minimum distance from the shore is to ensure adequate setbacks of buildings from the shoreline to avoid erosion hazards,

to maintain the natural character of the area, and to ensure that there is an area for vegetation between development and the shoreline. As discussed, the location of the proposed sleep cabin appears to be screened from views from the lake. Given the narrow shape of the subject property, there is no opportunity for the sleep cabin to be located beyond 15 metres from the shore.

Based on a review of the regulations of the Zoning By-law, the proposed variances are in-keeping with the intent of the Zoning By-law.

3) Will the variance provide for the desirable development of the land?

The subject property is designated, zoned and presently used for residential purposes. The proposed variances would not change the existing land use and would facilitate the enlargement of an existing cottage and the development of a sleep cabin. The proposed additions and sleep cabin appear to be buffered from the lake by areas of existing vegetation and will not impact views from surrounding properties. The height is not proposed to be increased. The proposed variance is desirable.

4) Is the variance minor?

Staff are unable to definitively confirm whether the proposed variances are minor without conducting a site visit. Given the vegetation on the subject property as evident in the photos provided in the application, the varied minimum shoreline setbacks and maximum development within the SAA proposed would appear to be minor in nature. Further, the proposed development as a whole on the subject property is below the permitted maximum lot coverage. Based on the information presented in the application package and our review, the proposed variances appear to be minor in nature.

RECOMMENDATIONS

Based on the review of Application No. MV-19-03, the proposed application meets the intent of the Official Plan, the intent of the Zoning By-law, is desirable, and appears to be minor. It is recommended that the variance be approved subject to the following conditions:

1. That the variance apply to the location of development proposed in the application sketch; and
2. That the applicant be required to enter into A Site Plan Control Agreement with the Municipality of Temagami, to be registered on title.

COMMENTS RECEIVED FROM AGENCY CIRCULATION AND PUBLIC NOTIFICATION:

Municipal Departments:

Public Works:

Building & Municipal Law Enforcement Officer: no objections

Tax:

Fire:

Ambulance:

Ministry & Agencies:

Ministry of Natural Resources and Forestry:

Timiskaming Health Unit: Comment received September 17, 2019, no objections, as long as, the minimum setbacks in part 8.2.1.6.c. of the Building Code are maintained.

First Nation Community:

Interest Groups & Neighbours:

Comment received from Wayne O'Shea dated September 12, 2019 – no objections