



Municipality of Temagami

MINOR VARIANCE APPLICATION PLANNING CLERK REPORT

Report Date: | January 20, 2020

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-20-01
DATE OF NOTICE OF HEARING:	January 16, 2020
DATE OF HEARING:	January 30, 2020
SUBJECT LAND:	61 Rattler Road
APPLICANT:	Karen Beauchamp of Clearwater Planning, on behalf of Rob and Lynn Wolstenholme



APPLICATION REVIEW

The intake review of the application was deemed to be complete on January 14, 2020. Notice of the Public Hearing was given by circulating prescribed persons and agencies, posting at the subject property, and postings on the Municipality's website, and posting on the Welcome Centre notice board on January 16, 2020.

BACKGROUND

Karen Beauchamp of Clearwater Planning has submitted an application on behalf of the owners, Rob and Lynne Wolstenholme, for a Minor Variance to permit an addition to the existing dwelling to increase the amount of living room space. The proposed addition is located over an existing deck on the east side of the cottage.

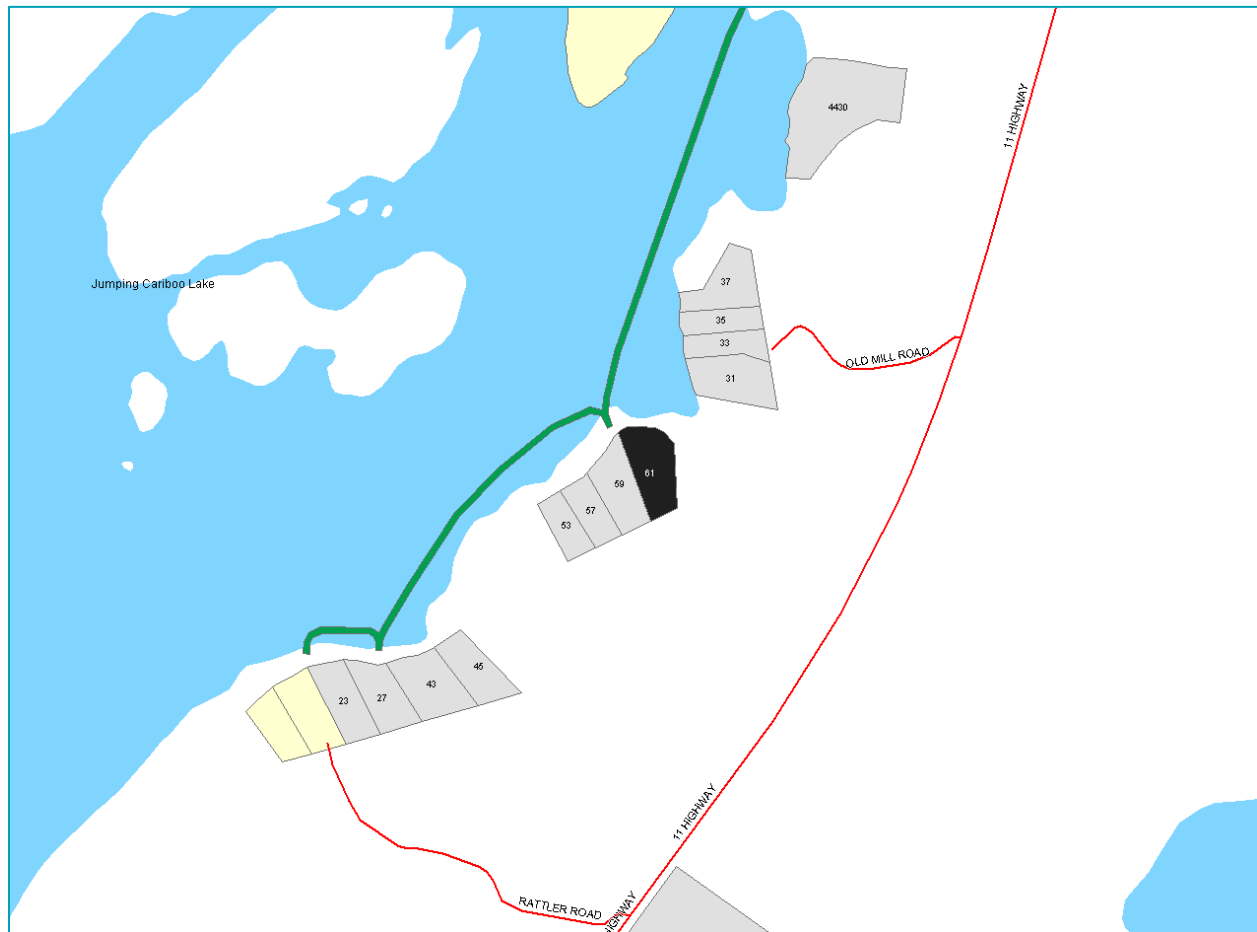
The subject property is located at 61 Rattler Road which is located on Jumping Caribou Lake. The subject property legally described as: PCL-1-1 SECONDED BY 36M411; SUMMER RESORT LT 1 PL M411 OLIVE; SURFACE RIGHTS ONLY LOCATION CL16225 BEING PT OF OLIVE, LYING IN FRONT OF LT 1 M411 TEMAGAMI PTS 1 & 2 36R13010 SUBJECT TO AN EASEMENT OVER PART 2 36R13010 AS IN BS11122; TEMAGAMI; DISTRICT OF NIPISSING.

On September 15, 2016, a Minor Variance approval was granted for application MV-16-08, to permit a covered porch located at a setback of 12.2 metres (40 feet) from the shore where 15 metres (49 feet) is required by the Zoning By-law. On April 23, 2012, a Minor Variance approval was granted for application M-12-01 to permit a deck at a setback of 12.2 metres (40 feet) from the shore where 15 metres (49 feet) is required by the Zoning By-law, and to permit a deck at a setback of 1.4 metres (4.5 feet) from a side lot line where 5 metres (11.5 feet) is required by the Zoning By-law.

The subject property also has Site Plan Agreement (No. SPC-11-01) that was granted previously for the construction of a new main cottage, and for the conversion of the main cottage into the sleep cabin, with the removal of the kitchen. SPC-11-01 was previously amended by SPC-12-04 which included the construction of the deck in 2012, and amended further by SPC SPC-16-12 which included the construction of a crib dock, a two slip boathouse, and a covered porch in 2016.

The subject property is shown in black on Figure 1.

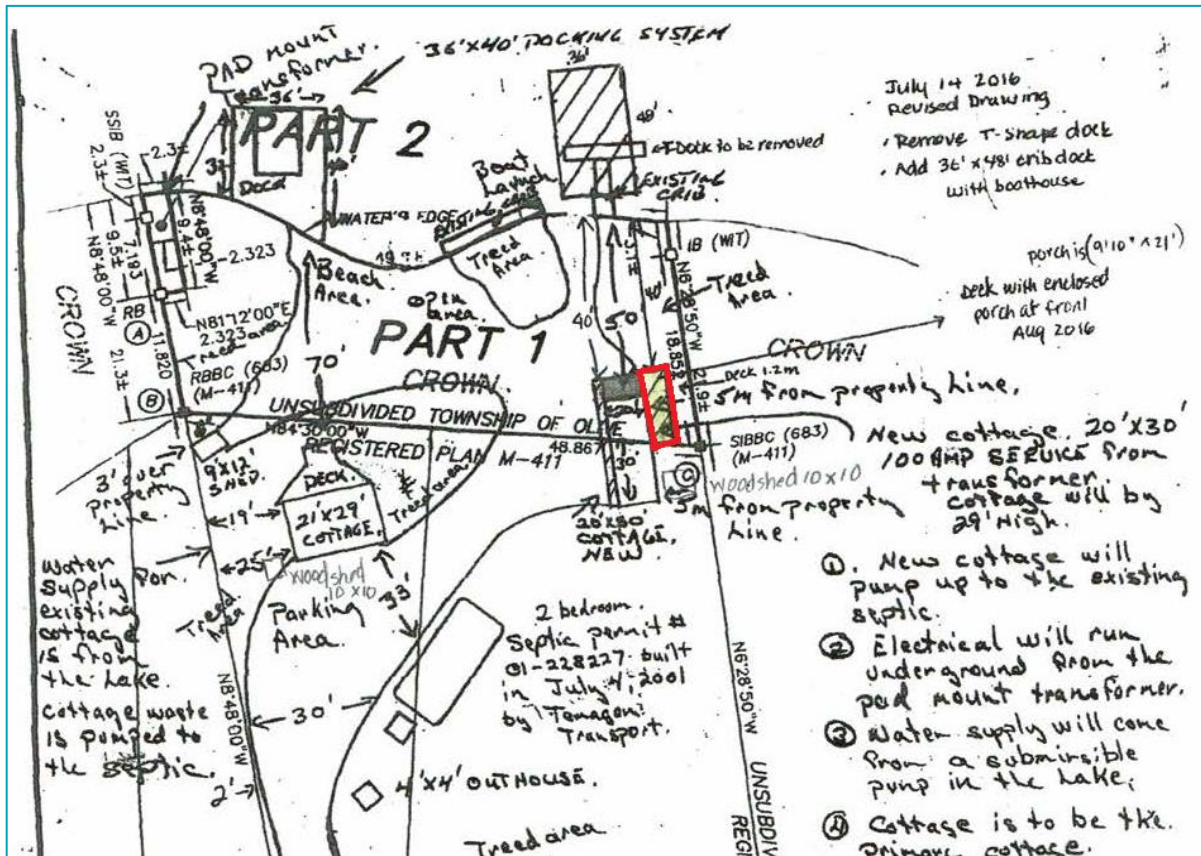
Figure 1: Subject Property



PROPOSAL

The purpose of the application is to permit an addition to the existing dwelling to increase the amount of living room space. The proposed addition is located over an existing deck on the east side of the cottage. The proposed addition is 3.6 metres by 6.7 metres (11.5 feet by 22 feet) and is 24 square metres (264 square feet) in floor area. The existing cottage is 6 metres (19.5 feet) by 12.2 metres (40 feet) and has a total floor area of (74 square metres = 796 square feet). The existing cottage is one and one-half stories and has a gross floor area of 129 square metres (1,388 square feet). Including the proposed addition over the existing deck, the floor area of the cottage is proposed to be 98 square metres (1,054 square feet), and the gross floor area is proposed to be 153 square metres (1,646 square feet). The proposed addition is outlined in red, and is shown on Figure 2.

Figure 2: Sketch of Development



The subject property is designated Integrated Management Area in the Marten River Neighbourhood of the Official Plan of the Corporation of the Municipality of Temagami; and is zoned Remote Residential (R2) in the Municipality of Temagami Zoning By-law 06-650.

SITE ANALYSIS

The subject property is 0.58 hectares in lot area, and has a lot frontage on Jumping Caribou Lake of 52.2 metres. There are other shoreline residential properties located to the west of the subject property. There are no neighbours on the east and south side of the subject property, as it abuts Crown Land as shown in Figure 3. The surrounding land uses include the following:

- North: Jumping Caribou Lake
- South: Crown Land

- East: Crown Land
- West: Shoreline Residential

Figure 3: Aerial View



The subject property is currently developed with the following buildings and structures:

- Cottage – 74 square metres (796 square feet);
- Sleep Cabin – 57 square metres (613 square feet);
- Shed One – 38 square metres (409 square feet);
- Shed Two – 10 square metres (108 square feet);
- Shed Three – 10 square metres (108 square feet);
- Water Based boathouse – 132 square metres (1,421 square feet);

The cottage and the sleep cabin is serviced by a Class 4 Septic System. There are also two existing docks located on the shoreline of the subject property.

The existing buildings and structures that are applicable to the calculation for lot coverage on the subject property is 189 square metres (2,034 square feet). The lot coverage on the subject property is 3.25% where a maximum lot coverage of 8% is permitted. Including the proposed addition in the lot coverage calculation (24 square metres or 264 square feet) the proposed lot coverage is 3.7%.

ACCESS

The subject property is located on the west side of Highway 11. The subject property is accessed by crossing over Crown Land, and the property owners who use the road maintain their access.

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.

Table 1: Applicable Zoning Standards Section 7.5.2 Remote Residential (R2) Zone.

<u>Zone Provisions</u>	<u>Required Standard</u>	<u>Proposed</u>
Minimum distance from the shore	15.0 metres	12.2 metres Variance is required
Minimum side yard	5 metres	1.4 metres Variance is required

The Proposed Variances

To facilitate the proposed development, the applicant requires a variance to the following sections of the Zoning By-law as shown in Table 1.

- Section 7.5.2 a) Any Dwelling Unit - To reduce the minimum distance for any dwelling unit from the shore to 12.2 metres (40 feet) where a minimum of 15 metres (49 feet) is required. This is a reduction of 2.8 metres (9 feet).
- Section 7.5.2 c) Any Dwelling Unit - To reduce the minimum side yard to 1.4 metres (4.5 feet) where a minimum of 5 metres (16 feet) is required. This is a reduction of 3.6 metres (11.5 feet).

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) as set out in the *Planning Act*. A site inspection hasn’t been completed on this subject property by Municipal Staff. 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 Marten River Neighbourhood and is designated Integrated Management Area by the Municipality of Temagami’s Official Plan.

Section 2.14 “Cultural Heritage Features” and Section 9.24 “Complete Application” were reviewed through pre-consultation process. There is one known archaeological site approximately 541 metres away at the closest point from the subject property. The proposed addition located on top of an existing deck does not require ground disturbance. Comments were provided by Temagami First Nation on January 15, 2020. The comments included:

“...this property sits on an area of high archaeological potential. We understand that no soil will be moved if this application is approved. However, we feel it is best to put this concern on the official record as soon as possible, in case the property owners decide to build additions in the future.”

No excavating or disruption of the ground is proposed, as the proposed addition will be constructed on the existing deck and footings, therefore Staff do not recommend that an Archaeological Assessment be required in support of the proposed application.

It is however recommended that the Notice of Decision and the new Site Plan Agreement (consolidating the previous Site Plan Agreements) include wording that directs the owners to contact the Ministry of Tourism, Culture and Sport and Temagami First Nation if artifacts are discovered, to determine if a licenced archaeologist needs to attend the site.

During the pre-consultation process, Staff reviewed mapping provided by Land Information Ontario (LIO), for Spawning Areas, Areas of Natural and Scientific Interest (ANSI), Calving Sites, and Aggregates, however none of these features and areas were identified on or on adjacent lands. The Trail Segment was also reviewed which showed a canoe and portaging route adjacent to the shoreline.

The comments from Temagami First Nation also included:

“The canoe route is approximately 150m from the property, and the portage is approximately 300m from the property. We would like to ensure that there would be no resulting increase in visibility from these routes from this deck enclosure.”

The applicant notes that the proposed addition is screened by existing tree cover (see photo in Figure 4) and the existing cottage is a dark brown colour that blends in with the surrounding tree cover. The proposed addition is also to be a brown colour. The existing deck and the proposed addition is also located behind the existing boathouse.

Figure 4: View from Deck to Lake



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 proposed addition is located over an existing deck structure, and therefore is not increasing the overall footprint of the existing structure. The shoreline on the subject property appears to contain vegetation that assists in screening the existing development on the subject property. The land between the proposed addition and the shore is screened by existing trees.

The purpose of the minimum development setback from the shore is to maintain the character of the shoreline, and to assist in minimizing the visual impact of development. Due to the location of the proposed addition, no additional trees or vegetation are proposed to be removed, and as referenced, the existing trees on the subject property appear to screen views from the lake.

The addition is proposed no further towards the shore or the side lot line than the existing building. The area to the east of the property is Crown Land and therefore a reduced setback is not expected to cause any negative impacts to adjacent land owners.

Section 6.2.1 provides direction to the land use in the Marten River Neighbourhood and provides the following goals:

- To encourage remote residential development in appropriate locations; and
- To preserve that natural environment of the Neighbourhood while permitting some development.

The shoreline of the subject property appears to be well vegetated as demonstrated in the photographs provided with the application. The development proposed would achieve the goals outlined in 6.2.1 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.

Section 6.3.2 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 Integrated Management Area. Additions to existing cottages are permitted within the Marten River 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 during the pre-consultation review of the application, and provided written comments to the Municipality.

Based on a review of the policies of the Official Plan, the proposed variances meet 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 (R2) Zone of the Municipality's Zoning By-law 06-650. The proposed variances are required to permit an addition to the existing dwelling to increase the amount of living room space.

The proposed variances would permit a minimum distance from the shore of 12.2 metres, and a minimum side yard of 1.4 metres. The R2 Zone requires a minimum setback from the shore of 15 metres, and a minimum side yard of 5 metres.

The minimum distance from the shore requirement exists in the R2 Zone to that buildings are adequately setback from the shore to maintain the character of the area and to promote vegetative buffers between development and the shore. The minimum side yard is to implement setbacks between buildings on surrounding properties, and to ensure access can be provided to and from the front/rear yards.

Existing vegetation is proposed to be maintained between the proposed addition and the shore, and the proposed addition will be screened from view from the shore. The location of the proposed addition is on top of an existing deck and therefore the overall footprint of the structure is to be maintained. The reduced side yard is also an existing setback and the adjacent lands on the east side of the subject property are Crown Land.

The proposed variances would not result in an impact to the existing character of the area, nor impact adjacent land owners.

Section 6.40 of the Zoning By-law was review to ensure compliance with the Shoreline Activity area (SAA) regulations of the Zoning By-law. The SAA is the area within 15 metres of the normal high water mark that maintains the natural viewscape, and protects the environmental integrity of the shoreline on waterfront lots. On lots smaller than 0.8 hectares, the SAA permits a maximum coverage of 100 square metres of structures. The proposed enclosure does not change the amount of development that is currently located within the SAA (calculated at 27 square metres).

Based on the information presented in the application package and our review, the proposed variances meet the intent of the Zoning Bylaw.

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 construction of an addition. The proposed addition appears to be screened from the Lake by existing vegetation and will not impact views from surrounding properties. The height is not proposed to be increased. The proposed variances are desirable.

4) Is the variance minor?

Staff are unable to definitively confirm whether the proposed variances are minor without conducting a site visit. The proposed addition is limited to the location of an existing deck. Given the considerable vegetation on the subject property as evident in the images provided in the application, the existing setbacks from the shore and the side lot line, the lot coverage and the SAA development, the variances could be considered to be minor in nature.

RECOMMENDATIONS

Based on the review of Application No. MV-20-01 submitted by Karen Beauchamp of Clearwater Planning on behalf of Rob and Lynne Wolstenholme, the proposed variances meet the intent of the Official Plan, the intent of the Zoning By-law, are desirable, and appear to be minor. It is recommended that the variances be approved subject to the following conditions:

1. That the variance apply to the proposed addition referenced in the application sketch; and
2. Prior to the issuance of a building permit, the Site Plan Control Agreement for the property be repealed and replaced to reflect the proposed variances, and registered on title.
3. That the Site Plan Control Agreement include the following clause:
The property is located within an area of high archaeological potential. If artifacts are uncovered on the property, the owners shall contact the Ministry of Tourism, Culture and Sport, as well as Temagami First Nation, to determine whether or not a licensed archaeologist needs to attend the site.

COMMENTS RECEIVED FROM AGENCY CIRCULATION AND PUBLIC NOTIFICATION:

Municipal Departments:

Public Works:

Building:

Tax:

Fire:

Ambulance:

Ministry & Agencies:

Ministry of Natural Resources and Forestry: No comments received as of January 20th

Timiskaming Health Unit: No comments received as of January 20th

First Nation Community:

Comments provided from Temagami First Nation are attached below as part of this report.

Interest Groups & Neighbours:



TEMAGAMI FIRST NATION

BEAR ISLAND
LAKE TEMAGAMI, ONTARIO P0H 1C0
TEL 1.888.737.9884 or 705.237.8943
tfn@temagamifirstnation.ca
www.temagamifirstnation.ca

January 15, 2020

Tammy Lepage, Municipality of Temagami

Re: application MV-20-01, sent via email

Dear Tammy,

We would like to address consent application MV-20-01, also referred to as the Wolstenholme property, located at 61 Rattler Road, in Olive Township. We have two primary concerns within proximity of the property.

1. Near the property there is a canoe route and a portage. The canoe route is approximately 150m from the property, and the portage is approximately 300m from the property. We would like to ensure that there would be no resulting increase in visibility from these routes from this deck enclosure.
2. We would like to state for the record that this property sits on an area of high archaeological potential. We understand that no soil will be moved if this application is approved. However, we feel it is best to put this concern on the official record as soon as possible, in case the property owners decide to build additions in the future.

Given that this property sits on an area of high archaeological potential, we would ask for appropriate action to be taken if artifacts (including bone fragments or fire broken rock) were uncovered. Appropriate action includes immediately contacting the Ministry of Tourism Culture and Sport as well as contacting Temagami First Nation to determine whether or not a licensed archaeologist needs to attend the site.

Finally, please provide us with all planning reports and the final decision for this property.

Regards,

Victoria Winsor | GIS Intern

landstech@temagamifirstnation.ca

1-705-237-8600 ext. 210