

MUNIICIPALITY OF TEMAGAMI			
Report Prepared For:	Suzie Fournier, Municipal Clerk	Applicant/Agent Name:	Thomas Evans
Report Prepared By:	Jamie Robinson, BES, MCIP, RPP and Patrick Townes, BA, BEd	Owner Name:	Heather Cooper-Jones
Location:	2 Island 312, Lake Temagami	Application Type:	Minor Variance
Application Number:	MV-20-04	Report Date:	February 25, 2021

A. PROPOSAL/BACKGROUND

An application for a Minor Variance has been submitted for the subject property located at 2 Island 213, Lake Temagami. The application was submitted by Thomas Evans on behalf of the owner Heather Cooper-Jones. The subject property is legally described as: PCL 16402 SEC NIP; SUMMER RESORT LOCATION HS2129 PHYLLIS BEING PT ISLAND 665, IN LAKE TEMAGAMI AS IN NP9514; TEMAGAMI DISTRICT OF NIPISSING.

The subject property is located within the Special Management Area designation and within the Lake Temagami Neighbourhood in the Official Plan. The subject property is located within the Remote Residential (R1) Zone in the Zoning By-law. There are no mapped environmental features identified on the subject property or within adjacent lands. The general location of the subject property is circled in red on Figure 1.

Figure 1: Subject Property



According to the Municipality's mapping program, the subject property has a lot area of 2 hectares (4.9 acres) and a lot frontage 190 metres on the shoreline of Lake Temagami. The subject property

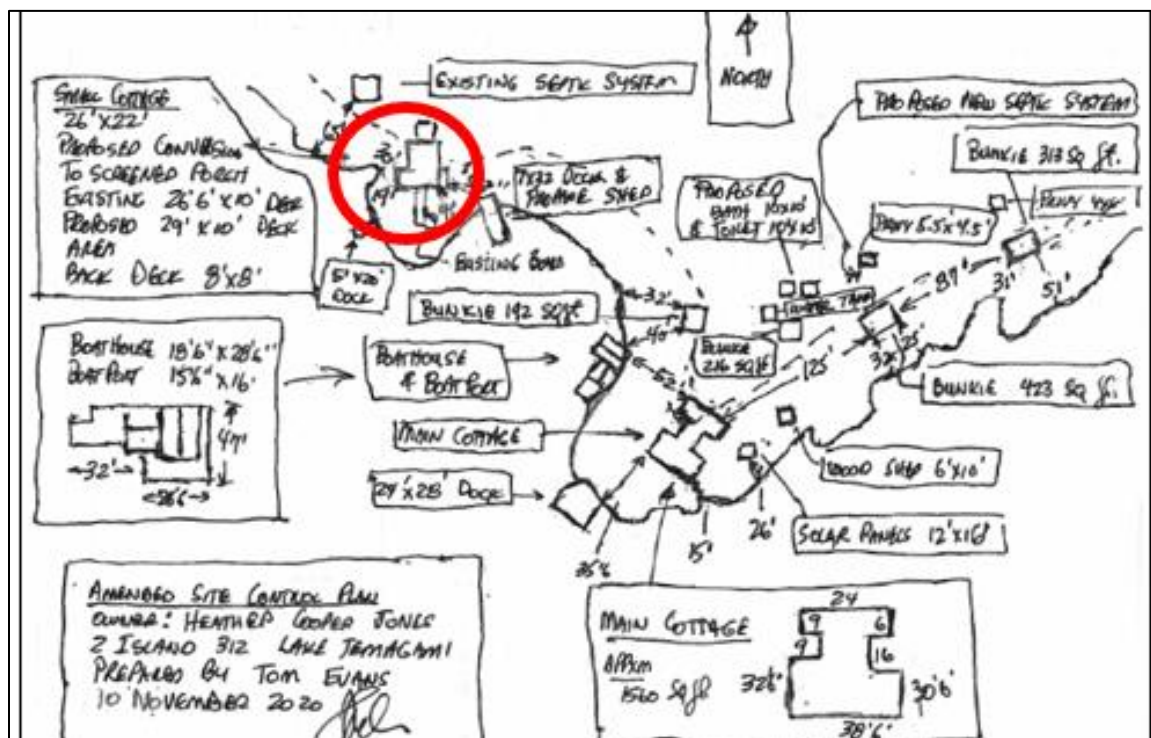
is immediately surrounded by Crown Land and is well separated from other patented lands on the island and surrounding areas. An aerial image of the subject property is included in Figure 2.

Figure 2: Aerial Image of Subject Property



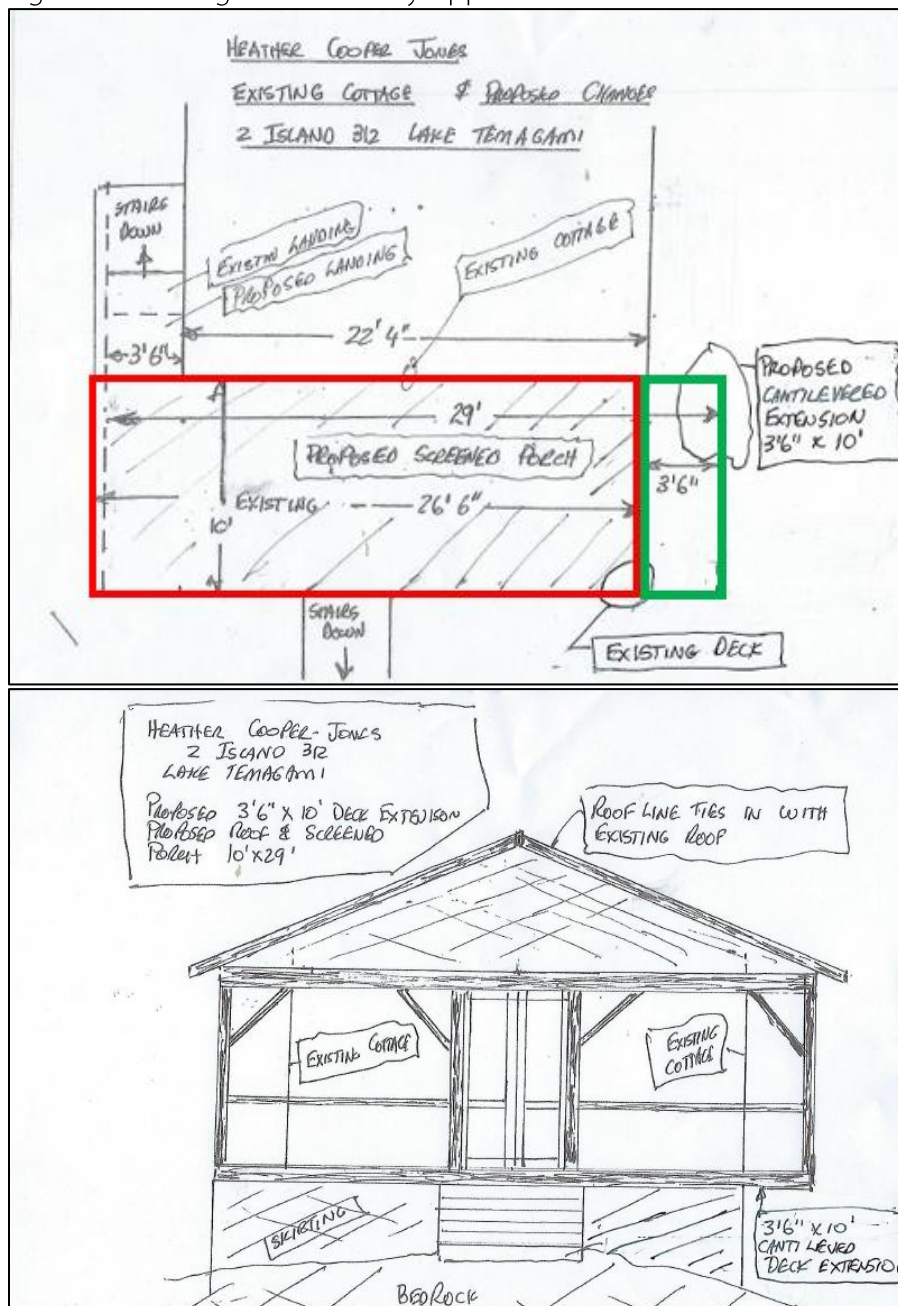
The subject property contains a number of existing buildings and structures. The site plan submitted with the application is included as Figure 3. The existing development on the subject property includes a cottage, a number of sleep cabins and a number of accessory buildings and structures. As the lot is over 1.6 hectares in size a sleep cabin with a washroom and kitchen is permitted. The building subject to this application is considered an existing sleep cabin with a washroom and kitchen.

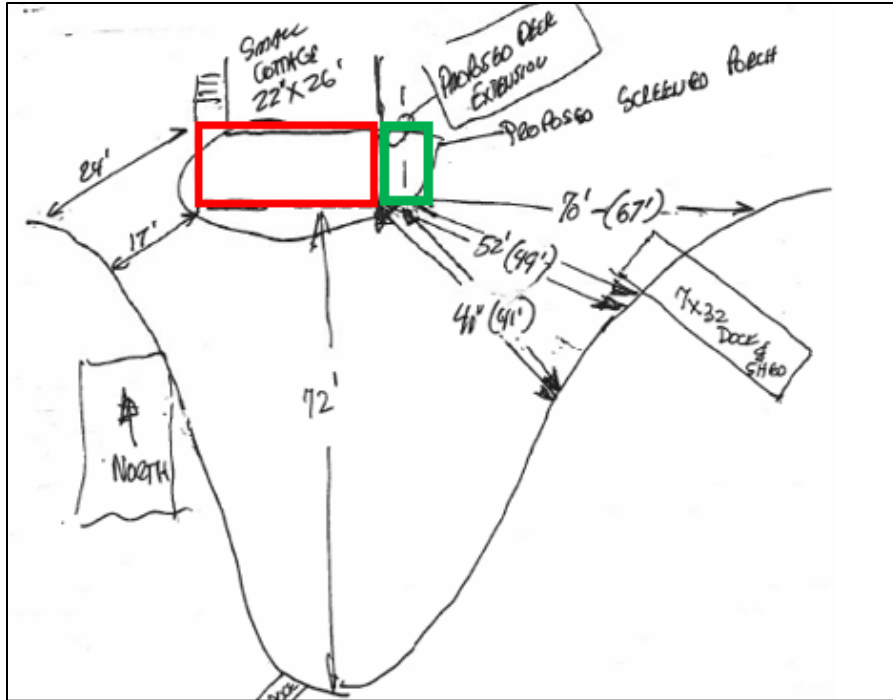
Figure 3: Site Plan Drawing



The proposal is to permit an extension to an existing deck on the front of an existing sleep cabin and to permit the deck to be covered and screened in. The location of the sleep cabin subject to this application is circled in red in Figure 3. The proposed extension to the length of the existing deck extends the length by 1.06 metres (3 feet, six inches and runs the width of the current deck which is 3.05 metres (10 feet). The total area of the extension is 3.3 square metres (35 square feet) and the proposed screened in porch is 27 square metres (290 square feet). The extension to the existing deck is to be cantilevered to avoid the need for additional deck piers or site alteration. The drawings submitted with the application are included in Figure 4.

Figure 4: Drawings submitted by Applicant





In regards to Section 2.14 of the Official Plan titled Cultural Heritage Features and Section 9.24 of the Official Plan titled Complete Application, the application was originally circulated to Temagami First Nation for comments. The applicant's original proposal included a deck extension that was to be sited on piers and as a result required site alteration.

The following comments were provided:

In response to MV-20-04, we have some comments about the extension of the deck.

Island 312, known as both Phyllis Island and High Rock Island, is a very special and sacred place to Temagami First Nation and Teme-Augama Anishnabai. With this in mind, we urge with caution with any developments on this island.

As the 3'6" extension will encroach into the area of archaeological potential we recommend that a phase two archaeological assessment be undertaken in the area where the extension will be built.

We appreciate that this proposal appears to be mostly in keeping with the vision of the Official Plan, as the extension does not appear to be overly visible from the water's edge. However, photographs of the site would provide very useful information about trees coverage and screening.

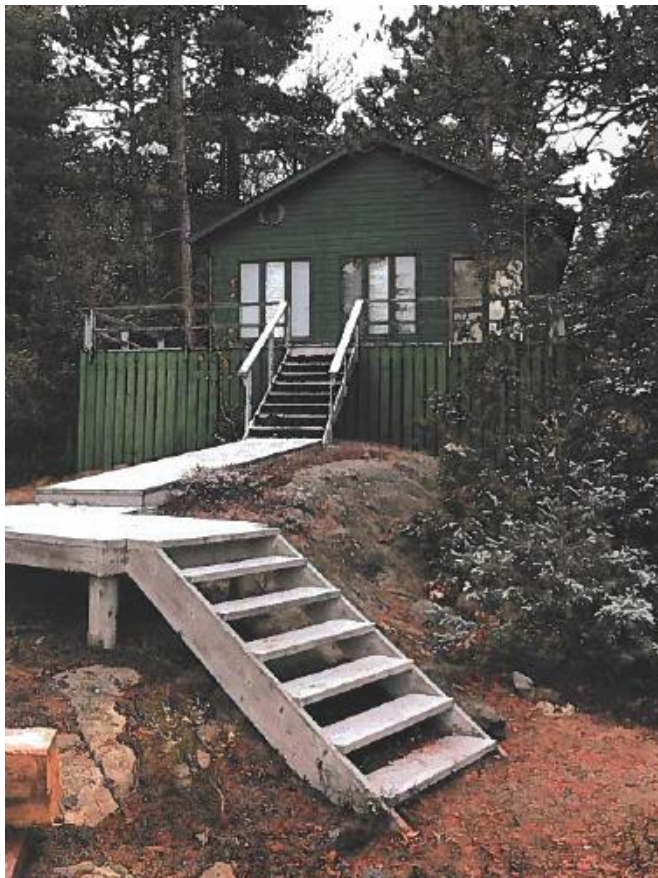
Due to the significance of this area, we encourage communication throughout this process. In closing, please provide us with all planning reports and the final decision for this property.

In response to the comments received from Temagami First Nation and to avoid the need for site alteration, which triggers the phase two archaeological assessment, the applicant has revised the design for the proposed deck extension so that the extended portion is cantilevered and would not result in any site alteration or soil disturbance. The applicant must demonstrate that the

proposed cantilevered deck extension complies to the Ontario Building Code prior to obtaining a building permit.

Photos of the existing sleep cabin are included as Figure 5.

Figure 5: Photos of Existing Sleep Cabin



B. PROPOSED MINOR VARIANCE

The proposed deck extension and covered porch does not meet the following provisions of the Zoning By-law and variances are required in accordance with the following:

- Section 7.4.2 a) of the Zoning By-law requires a minimum distance from shore for any dwelling unit of 15 metres. The 15 metre setback also applies to sleep cabins. The closest portion of the existing deck to the shore is 5.2 metres (17 feet). The existing deck is to be covered and screened in and is to maintain the existing setback from the shore of 5.2 metres (17 feet) at the closest point.
- Section 6.40 of the Zoning By-law states that the maximum total of all structures within the Shoreline Activity Area (lands within 15 metres of the shore) is 100 square metres. The applicant has indicated that the existing amount of structures within the Shoreline Activity Area is 344 square metres (3,702 square feet). The proposed extension to the existing deck is to increase the amount of structures within the Shoreline Activity Area by 3.3 square metres (35 square feet) and therefore the proposed Shoreline Activity Area on the subject property is to be 347.5 square metres (3,737 square feet).
- A variance is required to Section 6.28 of the Zoning By-law because the proposed extended deck addition is to an existing non-complying building, and the proposed extended deck and covered porch is to be located within the minimum setback of the shore and to increase the area of structures within the Shoreline Activity Area.

C. COMMENTS RECEIVED

Prior to the preparation of this report, comments have been submitted from the following on the proposed application:

- Temagami First Nation – Letter dated December 16, 2020
- Temagami First Nation – Email dated January 20, 2021

A copy of the comments that were submitted are attached to this report.

D. THE FOUR TESTS OF A MINOR VARIANCE

In considering the Minor Variance application, the Committee of Adjustment 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*. 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 designated as Special Management Area and is located within the Lake Temagami Neighbourhood in the Official Plan.

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 deck extension and covered porch does not result in any further encroachment towards the shore of Lake Temagami. When viewed from the lake, the character of the existing sleep cabin will be very similar to what is existing now.

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 majority of the subject property and portions of the shore appear to be well vegetated as demonstrated in the photographs provided with the application and from review of the aerial images. The proposed development 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.

Section 5.3.2 of the Official Plan provides that a broad range of uses, including residential uses, accessory uses such as boathouses, docks and storage sheds, sleep cabins, are permitted within the Lake Temagami Neighbourhood. The proposed development represents a desirable form of development 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. As a result of the Temagami First Nation comments, the applicant has revised the proposed deck extension to require site alteration. A condition is recommended for the minor variance approval that states the proposed addition shall not result in any site alteration. If site alteration is required, a stage two archaeological study will be required.

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 in the Municipality of Temagami's Zoning By-law. The permitted uses of the R1 Zone are listed under Section 7.4.1 of the Zoning By-law and include a permanent dwelling unit or seasonal dwelling unit, and sleep cabins.

A total of three variances are required to permit the extension the existing deck and to permit the existing deck to be covered.

- Section 7.4.2 a) of the Zoning By-law requires a minimum distance from shore for any dwelling unit of 15 metres. The closest portion of the existing deck to the shore is 5.2 metres (17 feet). The existing deck is to be covered and screened in and is to maintain the existing

setback from the shore of 5.2 metres (17 feet) at the closest point. The proposed deck extension is located 12.5 metres (41 feet) from the shore. The purpose of the minimum distance from the shore is to maintain an area of land between buildings and the shore, to ensure buildings are adequately setback from the shore, and to maintain the character of the area. The proposed deck extension is not proposed any closer to the shore than the existing deck; and by covering the existing deck, development is not encroaching any further towards the shore. No vegetation is required to be removed and when viewed from the lake, the character will be very similar to the existing building.

- Section 6.40 of the Zoning By-law states that the maximum total of all structures within the Shoreline Activity Area (lands within 15 metres of the shore) is 100 square metres. The applicant has indicated that the existing amount of structures within the Shoreline Activity Area is 344 square metres (3,702 square feet). The proposed extension to the existing deck is to increase the amount of structures within the Shoreline Activity Area by 3.3 square metres (35 square feet) and therefore the proposed Shoreline Activity Area on the subject property is to be 347.5 square metres (3,737 square feet). The existing deck is already calculated in the existing calculation of structures within the Shoreline Activity Area. The amount of structures within the Shoreline Activity Area is only proposed to be increased by 3.3 metres (35 square feet) which is the area of the proposed deck extension. The purpose of this provision in the Zoning By-law is to limit the amount of development located within 15 metres of the shore. The majority of the existing development on the subject property is located within the Shoreline Activity Area, and the proposed deck extension is a modest increase in this case. The proposed deck extension does not result in the over development of the Shoreline Activity Area.
- A variance is required to Section 6.28 of the Zoning By-law because the proposed extended deck addition is to an existing non-complying building, and the proposed extended deck and covered porch is to be located within the minimum setback of the shore and to increase the area of structures within the Shoreline Activity Area. The intent of this provision is to require proposed development to existing non-complying situations go through a planning review process. The proposed deck extension and covered porch has been reviewed and the modifications to the existing non-complying building does not negatively affect the character of the area, and does not result in an excessive expansion to an existing non-complying building.

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 currently used for residential purposes. The proposed variances would not change the existing land use. The applicant are seeking to construct a deck extension and a covered deck which is attached to an existing sleep cabin. The proposed development would not result in a negative impact to the existing character of the area, view from the lake, nor have an impact on adjacent landowners. The proposed variances are desirable.

4) **Is the variance minor?**

Based on a review of the three previous tests, and the proposed size and location of the deck extension and covered deck, the proposal is considered minor. The proposed development is limited in size and does not encroach closer to the shore than the existing sleep cabin/deck on the subject property and would have a very limited impact on the massing of the sleep cabin. Staff have not had an opportunity to visit the subject property, however have reviewed the photos submitted with the application, the proposed development drawings, and the aerial imagery of the subject property in order to conclude the proposal is minor.

E. SUMMARY

Based on the review of the Minor Variance application MV-20-04, the proposed variances are in-keeping with the intent of the Official Plan, the intent of the Zoning By-law, can be considered desirable development for the subject property, and appear to be minor. It is recommended that the variances be approved to permit the proposed deck extension and covered deck, in accordance with the drawings submitted with the application. The proposed extension to the existing deck is 3.3 square metres (35 square feet) and the proposed screened in porch is 27 square metres (290 square feet).

It is recommended that the variance be approved subject to the following conditions:

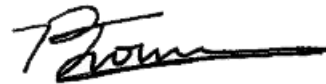
1. That the variances apply to the proposed deck extension and covered deck referenced in the application sketch;
2. That prior to the issuance of a building permit, the Site Plan Control Agreement for the subject property be amended as necessary to reflect the proposed variances, and registered on title; and,
3. That the proposed deck extension be cantilevered or designed in a manner that does not require any site alteration on the subject property.

Respectfully Submitted,

MHBC Planning



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