



COMMITTEE OF ADJUSTMENT AGENDA

Monday, August 19th, 2024 – 5:00 p.m.
Municipal Office – Council Chambers – 217 Harper Road

Chair, Larry Sparks

1. CALL TO ORDER

2. AMENDMENTS/APPROVAL OF AGENDA

*Suggested Motion by Richard Schooley/Larry Sparks:
“THAT, the agenda be adopted as presented.”*

**3. DISCLOSURE OF PECUNIARY INTEREST AND/OR CONFLICT OF INTEREST
AND GENERAL NATURE THEREOF**

4. APPROVAL OF MINUTES

- i) **Committee of Adjustment Meeting – May 27th, 2024 - attached, page 6.**

*Suggested Motion by Larry Sparks/Richard Schooley:
“THAT, the minutes of the Committee of Adjustment meeting held May 27th,
2024 be approved as circulated.”*

5. INTRODUCTION

- The purpose of this meeting is to hear applications for Minor Variance:
 - **Rathwell**
 - **Chapman**
 - **Cheff**
- The Committee is charged with making a decision on the applications on the agenda. The decision will be based on both oral and written input received and understandings gained.
- The Planner will provide a brief overview of the details of the file. The applicant will then be given an opportunity to explain the need for the variance. Then, any person or public body, in opposition and then in favour, to the application will be heard.

- If you wish to be notified of the decision of the Committee of Adjustment in respect to the below listed application(s), you must submit a written request to the Secretary-Treasurer of the Committee of Adjustment at adminassistant@tayvalleytwp.ca.
- The Secretary/Treasurer must provide notice of the Committee's decision to all those who request a copy.

6. APPLICATIONS

- i) **FILE #:** **MV24-08 - Rathwell – attached, page 26.**
673 Beaver Dam Lane
Part Lot 3, Concession 8
Geographic Township of North Burgess

- (a) PLANNER FILE REVIEW
- (b) APPLICANT COMMENTS
- (c) ORAL & WRITTEN SUBMISSIONS
- (d) DECISION OF COMMITTEE

*Recommended Decision by Richard Schooley/Larry Sparks:
 “THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-08 is approved, to allow a variance from the requirements of Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, for the lands legally described as 673 Beaver Dam Lane, Part Lot 3, Concession 8, in the geographic Township of North Burgess, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-911-010-23000;*

- *to allow a proposed cottage to be rebuilt at a water setback of 12m rather than the minimum 30m required;*

THAT, the owners enter into a Site Plan Control Agreement prepared by the Township.

AND THAT, the legal description of the property be updated to include the description of right-of-way legal access.”

- ii) **FILE #:** **MV24-09 - Chapman – attached, page 41.**
159 Bob's Lake Lane 21
Part Lot 5, Concession 2
Geographic Township of South Sherbrooke

- (a) PLANNER FILE REVIEW
- (b) APPLICANT COMMENTS

- (c) ORAL & WRITTEN SUBMISSIONS
- (d) DECISION OF COMMITTEE

*Recommended Decision by Larry Sparks/Richard Schooley:
“**THAT**, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-09 is approved, to allow a variance from the requirements of Section 5.2.2 (Zone Provisions) and Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, for the lands legally described as 159 Bob’s Lake Lane 21, Part Lot 5, Concession 2, in the geographic Township of South Sherbrooke, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-911-010-23000;*

- *To permit a 120.4 m² (1,296 sq ft) cottage to be built, at a north side yard setback of 3.0 m, and a south side setback of 2.9 m, rather than the 6 m required;*
- *To allow proposed lot coverage of 12%, rather than the 10% allowed;*
- *To allow a proposed water setback of 24 m rather than the minimum 30m required;*

AND THAT, the owners enter into a Site Plan Control Agreement prepared by the Township.”

iii) **FILE #:** **MV24-10 - Cheff – attached, page 56.**
229 Scott Court
Plan 30, Lot 25, Concession 9
Geographic Township of Bathurst

- (a) PLANNER FILE REVIEW
- (b) APPLICANT COMMENTS
- (c) ORAL & WRITTEN SUBMISSIONS

(d) DECISION OF COMMITTEE

*Recommended Decision by Richard Schooley/Larry Sparks:
“**THAT**, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-10 is approved, to allow a variance from the requirements of Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, for the lands legally described as 229 Scott Court, Plan 30, Lot 255, Concession 9, in the geographic Township of Bathurst, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-916-020-24425;*

- *To allow a proposed cottage addition at a water setback of 28m rather than the minimum 30m required;*

***THAT**, the owners enter into a Site Plan Control Agreement prepared by the Township;*

***AND THAT**, a Development Agreement between the Township and the owner be signed regarding the private unassumed road, if required.”*

7. NEW/OTHER BUSINESS

None.

8. ADJOURNMENT

MINUTES

COMMITTEE OF ADJUSTMENT MINUTES

Monday, May 27th, 2024

5:00 p.m.

Tay Valley Municipal Office – 217 Harper Road, Perth, Ontario
Council Chambers

ATTENDANCE:

Members Present:	Chair, Larry Sparks Peter Siemons Richard Schooley
Members Absent:	None
Staff Present:	Noelle Reeve, Planner Garry Welsh, Secretary/Treasurer
Staff Absent:	None
Applicants/Agents Present:	Carrie Moore, Owner Jeremy Moore, Owner Peter Wright, Owner
Public Present:	Mike Truelove Lissette Wright

1. CALL TO ORDER

The Chair called the meeting to order at 5:00 p.m.
A quorum was present.

2. AMENDMENTS/APPROVAL OF AGENDA

The Agenda was adopted as presented.

3. DISCLOSURE OF PECUNIARY INTEREST AND/OR CONFLICT OF INTEREST AND GENERAL NATURE THEREOF

None at this time.

4. APPROVAL OF MINUTES

i) **Committee of Adjustment Meeting – April 22nd, 2024.**

The minutes of the Committee of Adjustment meeting held on April 22nd, 2024, were approved as circulated.

5. INTRODUCTION

The Chair welcomed the attendees. The Chair then provided an overview of the Minor Variance application review process to be followed, including:

- the mandate and responsibilities of the Committee
- a review of available documentation
- the rules of natural justice, the rights of persons to be heard and to receive related documentation on request and the preservation of persons' rights.
- the flow and timing of documentation and the process that follows this meeting
- any person wanting a copy of the decision regarding this/these application(s) should leave their name and mailing address with the Secretary/Treasurer.

The Chair advised that this Committee of Adjustment is charged with making a decision on the applications tonight during this public meeting. The decision will be based on both the oral and written input received and understandings gained.

Based on the above, the Committee has four decision options:

- Approve – with or without conditions
- Deny – with reasons
- Defer – pending further input
- Return to Township Staff – application deemed not to be minor

The agenda for this meeting included the following application(s) for Minor Variance:

MV24-03 – Moore, Lot 4, Plan 27M12, geographic Township of South Sherbrooke

MV24-07 – Wright, Concession 8, Part Lots 19 and 20, geographic Township of Bathurst

6. APPLICATIONS

i) **FILE #: MV24-03 - Moore**

a) **PLANNER FILE REVIEW**

The Planner reviewed the file and PowerPoint in the agenda package. The Planner noted that the Rideau Valley Conservation Authority (RVCA) prioritizes the 30m water setback, to protect the lake and natural heritage features, even if this causes the side yard setback to be reduced.

The Planner also explained that the application was delayed because the owners wanted to locate the proposed septic system in a different location from what was set out in the subdivision design. The owners obtained a letter from Kollard Associates Engineers indicating compliance with the Ministry of Environment Guideline D-5-4 which was then referred to Jp2g Consultants Inc., for peer review. The compliance letter was also forwarded to RVCA and the Mississippi Rideau Septic System Office (MRSSO).

b) APPLICANT COMMENTS

The owners confirmed that the building design will not have any windows facing the neighbouring property and that there will be minimal excavation required for the building slab.

c) ORAL & WRITTEN SUBMISSIONS

None.

d) DECISION OF COMMITTEE

The Committee asked for clarification of the proposed building location. The Planner then presented additional slides of photos to assist the owners to describe the building site. – *attached, page 6.*

RESOLUTION #COA-2024-08

MOVED BY: Richard Schooley
SECONDED BY: Peter Siemons

“**THAT**, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-03 is approved, to allow a variance from the requirements of Section 5.1.2 (Zone Provisions) of Zoning By-Law 2002-121, for the lands legally described as 168 Posner Lane, Lot 4, Plan 27M12, in the geographic Township of South Sherbrooke, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-914-015-05630;

- To permit an 88.2 m² (949 sq ft) house to be built, at a west side yard setback of 1m, rather than the 6m required;

AND THAT, the owners enter into a Site Plan Control Agreement prepared by the Township.”

ADOPTED

ii) **FILE #: MV24-07 - Wright**

a) **PLANNER FILE REVIEW**

The Planner reviewed the file and PowerPoint in the agenda package. Additional correspondence, received after the Planner's Report was provided, was distributed to the Committee for reference. The Planner also prepared a supplemental PowerPoint with three slides to provide further background on the requirement for a Minimum Distance Separation (MDS) calculation as required by the Ontario Ministry of Agriculture, Food and Rural Affairs. – *attached, page 8.*

The Planner noted that the Mississippi Valley Conservation Authority did not have to provide comments on this application as they had already commented on the creation of the subject lot when it was recently created by severance from the original farm residence property. The Planner confirmed that the H. Mather Drain crosses the property away from the building site and natural heritage features are located well away, on the northwest corner of the lot.

The Planner explained that the Committee is to base their decision on granting a variance from the MDS formula setback according to the four tests under the Planning Act, with consideration of the professional opinion of the Township Planner. Although the neighbouring farm property owners objected to the application, the Planner noted that future expansion of the neighbouring farm operation is hypothetical and not before the Committee at this time.

b) **APPLICANT COMMENTS**

The owner explained that although the property is large, the building site was selected for aesthetic reasons as well as limitations on the septic location due to clay soils behind the current location.

c) **ORAL & WRITTEN SUBMISSIONS**

The attached written submissions include an objection to the application from the neighbouring farm owner, Mike Truelove; additional information provided by Mr. Truelove's lawyer, Philip Osterhout; and a joint submission from Shane and Michelle Frost (who did not object to the Wright application, but sought compensation for fees paid towards their own previous Development Agreement).

Mike Truelove also provided an oral submission that stated that the existing structures on his farm are not adequate for his current requirements or any future expansion of farming activities. Mr. Truelove also stated that his property is a Century Farm with historical ties to his family.

d) **DECISION OF COMMITTEE**

The Committee acknowledged the concerns of the Truelove family but stated that their decision was to address the variance request related to the setback prescribed under the MDS I formula.

It was also noted that if the Trueloves wish to expand livestock operations, they could apply for their own Minor Variance from the results of an MDS II calculation, if required. But until a building permit application is received stating the type of proposed facility, the type of livestock, and the capacity of the proposed livestock facility, in accordance with their OMAFRA approved Nutrient Management Plan, it would be unknown if a variance would be required.

RESOLUTION #COA-2024-09

MOVED BY: Richard Schooley
SECONDED BY: Peter Siemons

“THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-07 is approved, to allow a variance from the requirements of Section 3.18 (Residential Separation Distances from Other Land Uses) of Zoning By-Law 2002-121, for the lands legally described as 476 Keays Road, Part Lot 19, Concession 5, in the geographic Township of Bathurst, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-916-025-11500;

- To permit an approximately 155 m² (1,668 sq ft) existing residence located, 90m from the closest livestock facility, rather than the 104m required for separation from Livestock Facilities as per the Minimum Distance Separation (MDS I) Formula.”

ADOPTED

7. NEW/OTHER BUSINESS

None.

8. ADJOURNMENT

The meeting adjourned at 5:51 p.m.

Moore
Photo 1
West border between properties



1



1

Moore
Photo 2
East lot line along Bob's Lake



2

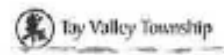


2

Moore
Photo 3
East lot line along Bob's Lake



3



3

Moore
Photo 4
Southwest Shoreline



4



4

May 25th, 2024

TRUELOVE OPPOSITION TO MV24-07 - Wright, 476 Keays Road Part Lot 19, Concession 8 Geographic Township of Bathurst

Dear members of the Committee of Adjustment,

We, Mike and Kyla Truelove, the owners of 485 Keays Road Balderson Ontario, and the neighbours of the above-noted minor variance application hereby advise that we are in **opposition** to the minor variance application for the dwelling at 476 Keays Road.

After consulting with our legal counsel, it is our understanding that the requirements for compliance for application of minor variance have not been met.

The Wright building permit is under appeal due to not meeting the Minimum Distance Separation required from our farm, which is confirmed here by the township's acceptance of this application to excuse the dwelling from not meeting the Minimum Distance Separation, required under provincial and municipal law.

Due to the dwelling permit not meeting the Minimum Distance requirement, this poses significant restrictions to our existing farming operations and our current and future expansion plans. There have also been several complaints pertaining to our natural farming practices from the owners of 476 Keays Road that are concerning to us. The approval of this Minor Variance application could result in permanent and damaging side effects on our existing and future farming operations as well as impact our existing and future farm expansion plans and therefore the viability of our property as a continuing livestock farm.

We purchased our farm in 2021 knowing it had been part of my family heritage as my great uncle Harold Cameron owned and operated the property as a cattle farm between the 60's-90's. We brought livestock to the farm such as horses and chickens and began to quickly add sheep, goats, donkey and ducks to the farm that year. We reclaimed the fields and took hay off as well as worked on fencing and paddocks. In 2022 we sought to build 2 new barns as 2 of the original cattle barns in the barnyard had been,

sadly, torn down by the previous owners with intentions on building a large horse barn in its place. However they moved before this construction took place and we purchased knowing we would be replacing these structures to house our livestock. Summer of 2022 we decided on adding an addition to expand the existing cattle barn in the barnyard to accommodate more sheep and winter the animals as well as plans to build a horse barn as we had interest from existing and potential boarders. These 2 facilities were to generate the majority of our farming income in addition to the crop fields we had planted that year. We have now been waiting on resolution of MDS and permitting issues from the township for over a year and half and have spent the majority of our barn building budget on planning and legal.

The dwelling permits failure to comply with Setback from our farm has resulted in an encroachment of a conflicting land use. This issue was brought to the townships attention by us in January of 2023 at which time we had 5 existing barns and 2 open barn permits issued to us in August and November of 2022. The dwelling permit for 476 Keays Road that was issued in December 2022 only reflected 1 barn permit on the Minimum Distance Separation report to which we corrected the information at a meeting with staff in January 2023. The staff told us that they would correct the MDS for the dwelling permit and informed us they had issued our barn permits without a Nutrient Management Strategy and we would be required to provide one. We agreed to acquire the necessary documents even though it had been several months after our permits were issued and we had already begun construction and had the footings inspected by the building official. In April 2023 we notified the township staff that we had acquired the site visit for the Nutrient Management Strategy. 5 and 6 days later the township revoked both of our permits notwithstanding their initial position to work with us to acquire the necessary documents for our permits. In May 2023 we submit our application for our Nutrient Management Strategy to OMAFRA for approval.

After consulting with professional planning consultants at JP2G, we voiced our concerns around the incorrect MDS for the dwelling permit and the effect this could have on our ability to re-apply for our existing and started permits, the potential for unjust limitations on future permit applications, as well as complaints we had received from the owners of 476 Keays Road about our farm to the township staff and council along with

planning opinion from JP2G consultants. We asked to delegate before council on this matter but were refused. Within the month we were awaiting our approval for the Nutrient Management Strategy, the township staff revoked the neighbours dwelling permit at an emergency council meeting, held on May 18th, 2023, and reissued it for the same location the very next morning. We were not contacted for MDS investigation by the contract planning firm the township had hired and listed as the agent who conducted the measurement on behalf of the Wrights dwelling permit that had been hastily re-issued, and their report fell short to include all of our noted facilities or accommodate our permits that had been approved prior to their dwelling application. These actions seemed to have been done intentionally to lower the MDS requirement for the dwelling permit before our barn permits could be re-issued as they would be required to be included in the setback calculation for the dwelling permit to which they were not. We were given our Nutrient Management Strategy approval early June and appealed the dwelling permit shortly after in hopes to get the MDS resolved before any significant construction of the house had begun and so we would be able to re-apply for our barns with no newly inflicted setback from the dwelling permit that did not exist when we were first approved for our barn construction. Later that year we received file from the Wrights that included information that our permits were revoked for reasons other than the Nutrient Management Strategy.

A year and a half later, 10's of thousands of dollars spent by all parties and yet the newly constructed dwelling still remains within the MDS 1 of our farm as proven by this application. We had invested in the purchase of our farm, fencing, drawings and permits, building materials, a sawmill, concrete and gravel, footings and excavation as well as weeks of labour and preparation for these 2 barns prior to the Wrights dwelling application. Since then we have had Nutrient Management Strategy, Planning review, Survey and an Agrolgist review our property. All agree this is an active working farm and the Separation requirement for the dwelling has not been met. This dwelling permit infringes on our property rights and previously approved and started barn expansion plans. It also poses threat to prevent any future development in our existing barnyard area as it acts as a new point of measurement for all livestock development on our property. This drastically affects the size, intensity, type and location of our operations and sterilizes us from land uses that would, without the encroachment of a

dwelling, otherwise be approved. A direct example of this would be the manure storage facility OMAFRA has requested for the increase in livestock to our farm which we propose adjacent to the barnyard for easy collection and storage of manure. This facility would now need moved outside the setback of this new dwelling. These are restrictions that did not exist when we purchased our property and have been imposed on us since the application of the neighbours dwelling permit. Our property has been a livestock farm since the 1820's and is the original Keays family homestead to which my road is named after. The township had ample time prior to the dwelling beginning construction to correct the MDS and dwelling location which would have allowed everyone to build and expand as they wanted and avoided the need for an appeal or minor variance application. Instead, they allowed the house construction to begin in literally the only location out of the 60 acre lot that affects our property and our farming rights. The township did this while under dispute of MDS and not withstanding their assertion to get these permits right before half loads were removed and construction began for the dwelling.

Further to this, the township is aware of ongoing complaints we have received from our neighbours regarding our natural farm practices. Part of the intent for the Minimum Distance Separation requirement for new development is to avoid complaint from conflicting land uses such as new houses proposed for construction adjacent to existing farms. To date there has been conflict and complaints from the owners of 476 Keays Road about our ongoing farming activities and functions that existed prior to when they purchased their property for residential development. These complaints include but are not limited to such things as our animal noises and housing; our equipment operation, noises and parking; the discharge of our firearms and manure management and location on our property. We are licensed sheep farmers with a Farm Business Registration, members of OFA and we are licensed to carry and shoot firearms. We own several pieces of equipment with required safety features such as back up beepers and lights that are used regularly around the farm in all seasons. The owners of 476 Keays Road do not yet live at their new location which is currently only 70m directly across from our existing barnyard and we are highly concerned these complaints will only escalate in the months and years to come as our livestock counts increase and our crop farming operations expand over our 202 acre property.

The setback requirement from a farming operation exists for everyone's best interest and to protect existing farms so they can operate without complaint and continue to expand without restriction from conflicting land uses. We have been subject to both of these issues due to the MDS for the dwelling at 476 Keays not being adhered to and we feel an application of Minor Variance to this effect is not only not applicable under the circumstances but also unethical. It is becoming increasingly difficult for farmers to not only maintain family farms but also to start up new farming operations even on existing farm lands. As a community we should be seeking to encourage and help young families start and continue farming businesses. We ask that you consider the implications of your decision today not only on our barn permits, our land use rights and our farm business but us as a young family trying to uphold the traditions of our land, community and families.

It appears, based on the agenda and staff report presented to you (with select information) that a decision in favour of the variance application has already been made. We respectfully request that you carefully consider the information presented here and ask you to please choose logically and ethically in regard to the potential impact that minor variance applications can have on the surrounding properties. We hope that you consider **carefully** the implications of your votes.

Sincerely,
Mike and Kyla Truelove
485 Keays Road, Balderson ON
mike-truelove@hotmail.com
(613) 200-1153



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FILE NO: 57367-1000

May 27, 2024

Committee of Adjustment
Tay Valley Township
217 Harper Road
Perth, ON K7C 3C6

Attn: Garry Welsh, Secretary-Treasurer

Dear Committee Members:

**Re: Minor Variance Application MV24-07 – 476 Keays Road
Reduction of Minimum Distance Separation from a Livestock Facility at 485 Keays Road**

We are the lawyers for Kyla and Michael Truelove, owners of the farm located at 485 Keays Road, directly across the street from the new dwelling at 476 Keays Road. Our clients object to the reduction of the minimum distance imposed by the Province, which will have a direct impact on the future operations of their farm.

The proposed variance is an attempt to correct, on paper only, a conflict that has been created through the culmination of errors by the Township over the past year and a half. There is no apparent planning justification in support of the reduced distance. Rather, the variance appears to be supported only as a retroactive measure to legitimize a situation that arose due to the Township's oversight and failure to enforce the Minimum Distance Separation (MDS) requirements initially, and its subsequent refusal to stop work at 476 Keays Road while it reviewed the MDS issue.

As a result of the new dwelling located on 476 Keays Road, the Trueloves' farm will be subject to new Minimum Distance Separation II requirements that will restrict future expansions of their operation, that did not previously apply. In particular, this new restriction would prevent the construction of a barn expansion for which the Township had previously issued a building permit.

Ottawa Office	Kingston Office
700 – 427 Laurier Avenue West, Ottawa ON K1R 7Y2	510 – 366 King Street, Kingston ON K7K 6Y3
T: 613.236.0111 1.866.207.5880 F: 613.238.8507	T: 613.544.7334 1.800.263.4257 F: 343.344.2737

The Trueloves intend to make oral submissions to the Committee at the hearing of the application on May 27, and will speak further to the incompatibility of land uses and nuisance complaints that they have already received pertaining to the normal farming practices routinely carried out on their property.

Application History

The Trueloves raise livestock on their farm, including sheep, horses, goats, donkeys, chicken and ducks. Historically, the farm has also been used for cattle. It currently contains five barns.

On July 10, 2022, the Trueloves applied for a building permit for an addition to an existing cattle barn, to expand it by approximately 36.4 sqm, and convert it for use by sheep. The Township issued the permit on August 22, 2022 (File No. 083-2022) and the Trueloves commenced construction in accordance with the approved plans.

On October 14, 2022, the Trueloves applied for a second building permit for the construction of a 297 sqm horse barn. The Township issued the second permit on November 16, 2022 (File No. 127-2022).

The Wrights initially applied for a building permit to construct the dwelling at 476 Keays Road on November 22, 2022. Notwithstanding the MDS I requirement, the Township issued the permit in December of 2022 (File No. 148-2022). The Trueloves have consistently and repeatedly expressed concern to the Township over the failure to maintain the MDS since that time.

On January 18, 2023, the Township wrote to the Trueloves by email notifying them that a Nutrient Management Strategy should have been required before the Township issued the building permits to the Trueloves. The email also confirmed that "since it was the Township's error, [the Township is] willing to work with [the Trueloves] while [they] provide the information required for the Nutrient Management Strategy."

In response to the Township's email of January 18, the Trueloves retained the services of Environmental Planners, Jp2g Consultants Inc. A site visit was conducted on April 20, 2023, after snow on the property had melted, and the required Nutrient Management Strategy was filed with OMAFRA on May 3, 2023.

Notwithstanding the Township's prior assurance, both of the Truelove's buildings permits were revoked on April 25 & 26, 2023.

On May 18, 2023, the Township revoked the Wright's building permit in 148-2022 because it had been issued in contravention of the MDS I requirement. On May 19, 2023, a new building permit was issued to the Wrights for the same dwelling, in the same location. The only apparent purpose of this exercise was to reduce the applicable MDS I setback for the Wrights, by revoking the barn permits that had already been issued to the Trueloves.

As a result of the new dwelling constructed on 476 Keays Road, the Trueloves' Farm is subject to new MDS II requirements that will prevent them from constructing their new barns as originally proposed and permitted (and for which the Nutrient Management Strategy has now been issued).

The Trueloves have appealed the Wright's Building Permit to the Ontario Superior Court. In support of that proceeding, the Trueloves' Environmental Planning consultants have prepared a review of the MDS requirements, a copy of which is enclosed for the Committee's reference. Those proceedings have not yet been resolved and, consequently, there remains a dispute among professionals concerning the correct MDS I distance that applies to 476 Keays Road. All experts nevertheless agree that the existing house is located within the required setback.

All Applicable Planning Policy Mandates the Imposition of the MDS to Protect Agriculture

The importance of implementing and maintaining the required separation is emphasized in the governing policy documents at the Provincial, County and Township level, and is mandated by the Provincial Policy Statement and Tay Valley Township's own Official Plan.

The Provincial Policy Statement requires that new land uses in rural areas comply with the MDS Formulae:

1.1.5.8 New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the *minimum distance separation formulae*.

[Underlining added; italics in original]

The Provincial Policy Statement *only* permits residential development in rural areas where "locally appropriate," (s. 1.1.5.2(c)).

In keeping with this direction, the Lanark County Sustainable Communities Official Plan confirms that the rural area is not the principal sector for development, and that population growth is intended to be accommodated within identified Settlement Areas, (s. 3.1). The framework imposed by the County Official Plan is intended to ensure that when growth occurs in the rural area, it does so in a way that does not interfere with the existing rural character. In particular, this identity is preserved by minimizing "incompatibility between land uses," (s. 3.3.4.1).

Policy 3.3.4.5 expressly requires the imposition of the MDS:

Local Councils through the development of local Official Plans and municipal zoning by-laws shall regulate rural residential and non-residential development. The use of subdivision and condominium control shall also apply as will the granting of consents by the appropriate consent granting authority. The implementation of this Plan through zoning regulations, subdivision and condominium control and consents shall be based on the following criteria:

...

5. ensure the protection of resources from incompatible uses through appropriate setbacks and the use of Minimum Distance Separation formulae where appropriate.

Tay Valley Township's own Official Plan appropriately adopts this policy direction. Policy 2.18.2 addresses "Development Where Agricultural and Non-Agricultural Uses are Adjacent":

It is a policy of this Plan to address land use compatibility issues related to non-agricultural and agricultural uses through the application of the Minimum Distance Separation I (MDS I) and Minimum Distance Separation II (MDS II) formulae, as may be amended from time to time, to new non-agricultural uses and agricultural uses, respectively.

The Minimum Distance Separation Document itself, published by the Ontario Ministry of Agriculture, Food and Rural Affairs ("OMAFRA") is clear that the purpose of the Minimum Distance Separation requirement is to protect agricultural resources from incompatible sensitive land uses:

2.1 Preface

Livestock agriculture in Ontario is an important economic driver that contributes many jobs and billions of dollars each year to the provincial economy. But agriculture continues to evolve and change. Farms are increasing in size and complexity, and fewer people living in rural areas are farmers. Permitting development which is incompatible with livestock facilities and anaerobic digesters can have a detrimental impact on the ability of surrounding agricultural operations to expand. New development in the rural area introduces potential new sources for nuisance complaints regarding odour from livestock facilities and anaerobic digesters. Increasingly, farm operators are finding it difficult to expand or establish new livestock operations, especially in parts of the province where historically there has been more fragmentation of the agricultural land base through lot creation. Livestock operations generally prefer to locate on suitable agricultural land and away from potential land use conflicts with surrounding land uses. In recognition of the need to protect agricultural land for agricultural uses, the province has a long history of land use policies protecting agricultural land and farm operations.

The Requested Variance does not meet the Four-Part Test

Both the Lanark County Sustainable Communities Official Plan and the Tay Valley Township Official Plan are clear that purpose and intent of the Rural designation is to preserve the rural character of the area, and to manage land use conflicts in accordance with the Minimum Distance Separation Formulae as published by OMAFRA. These policies are mandatory and unambiguous.

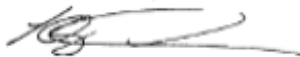
The proposed variance is advanced specifically because the MDS requirement was not properly considered when the Township approved the location of the dwelling. There are no apparent constraints on 476 Keays Road that would have prevented the dwelling from being located in accordance with the MDS I requirement. Instead, the proposed reduction of the MDS I to 90 metres is based on nothing more than where the dwelling happens to be. The patent disregard for the Minimum Distance Separation Formulae is directly contrary to the County's and Township's policies on managing agricultural & non-agricultural development, and does not maintain the general purpose and intent of either applicable Official Plan.

For the same reason, the requested variance fails to maintain the general purpose and intent of the Zoning By-law, which is to manage conflicts between agricultural and residential uses in the rural area in accordance with the MDS I published by OMAFRA (Zoning By-law 2002-121, s. 3.18).

The requested variance would impose a new MDS II requirement on 485 Keays Road, with significant impact, and is therefore not minor. Had the new dwelling been located in accordance with the MDS I requirement, the Trueloves' barn expansion could have proceeded as originally proposed. Additionally, the Trueloves have already received complaints concerning nuisance arising from normal farming practices on their property, demonstrating the conflict arising from the incompatibility of land uses and the need for increased separation.

The requested variance is therefore not desirable and should be refused.

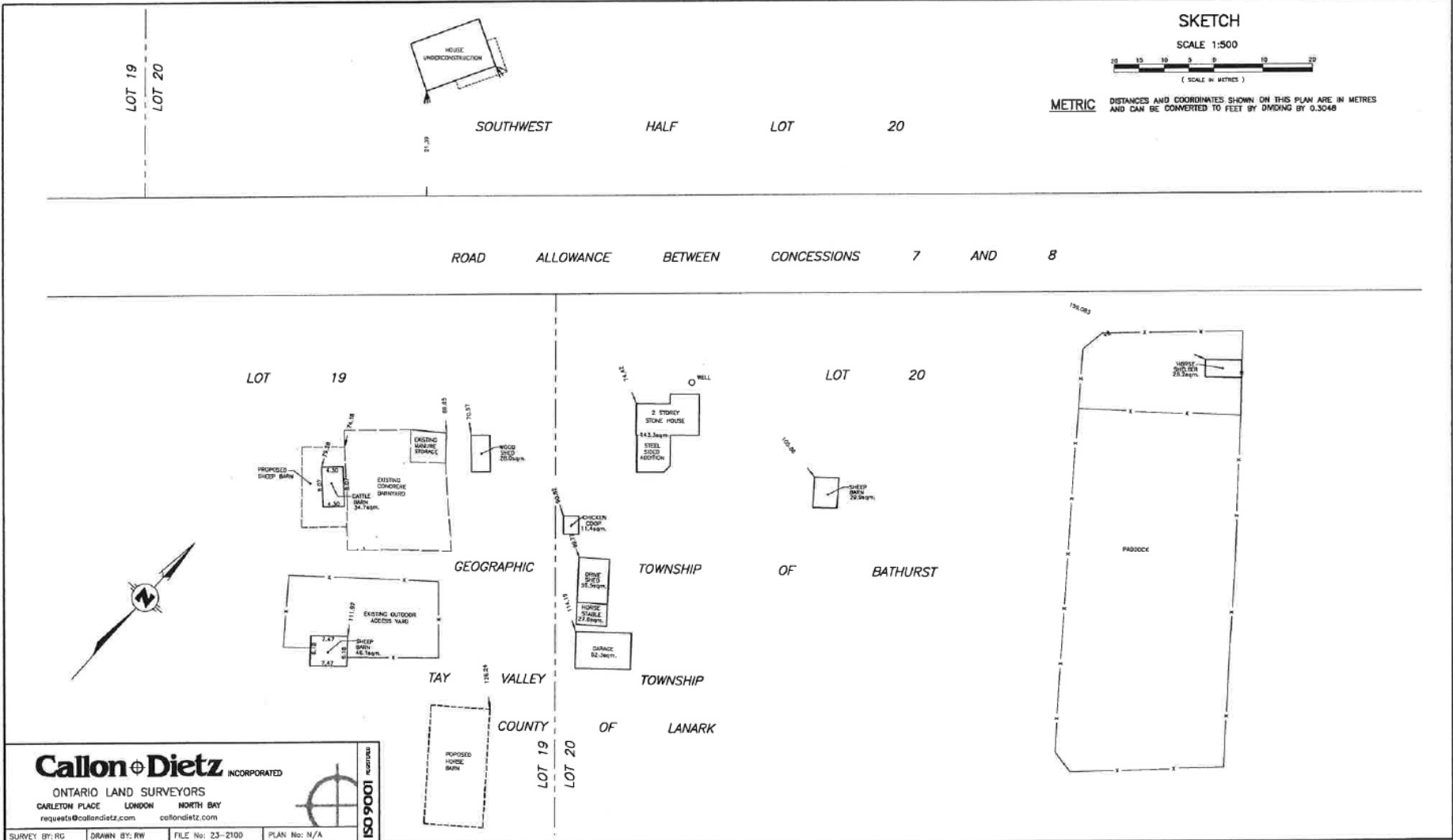
Yours very truly,



Philip Osterhout
PO/po

Encl.

c.c. Noelle Reeve, Tay Valley Township Planner
Laura Robinson, Borden Ladner Gervais LLP
Emma Blanchard, Borden Ladner Gervais LLP
Jennifer Savini, Templeman
Kennedy Levesque, Templeman
Kyla & Michael Truelove



Subject:

FW: re MC24-07

-----Original Message-----

From: noreply@tayvalleytwp.ca <noreply@tayvalleytwp.ca> On Behalf Of Shane & Michelle Frost

Sent: Saturday, May 25, 2024 2:42 PM

To: TVT Admin Assistant <adminassistant@tayvalleytwp.ca>

Subject: re MC24-07

michelle.frost@ocsb.ca.

Dear Committee of Adjustment,

It is with great irony that we find ourselves writing to you today. As landowners in Tay Valley, we severed lots from our property in 2022. Despite our meeting all of the criteria for severance and her ignoring our multiple attempts to contact her prior to filing for our severances, Ms. Wright opposed our severance at 422 Keays Rd. Her argument at the time was that there must be legal documentation advising any potential purchaser of the agricultural uses of her property. As such, despite our lot meeting ALL MDS requirements, the committee required us to spend hundreds of dollars on an unnecessary development agreement simply to appease Ms. Wright. To learn that she is now using the very same process that she weaponized against us to seek relief for her own disrespect of Tay Valley's MDS requirements is outrageous. We have no objection to Ms. Wright being granted the relief that she seeks. We will however expect a full refund from Tay Valley Township for the unnecessary development agreement fees that we were forced to incur at her hands should it be granted.

Sincerely,

Shane & Michelle Frost

APPLICATIONS

Committee of Adjustment

August 19, 2024

Noelle Reeve, Planner

APPLICATION MV24-08

Rathwell

673 Beaver Dam Lane, Part Lot 3, Concession 8
Geographic Township of North Burgess

SUMMARY OF PROPOSAL

Purpose and Effect: To seek relief from Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To allow a proposed cottage to be rebuilt at a water setback of 12m rather than the minimum 30m required.

The effect of the variance is to permit a cottage at a water setback of 9m to be demolished and replaced farther back from Otty Lake at a setback of 12m, with a second storey at 15m from water.

REVIEW COMMENTS

The property is located at 673 Beaver Dam Lane on Otty Lake. The lot is approximately 0.39 ha (0.97 acres) with 40.2m (132 ft) water frontage. The owner is proposing to demolish the existing cottage which is 9m from the water and replace it with a new cottage set back farther at 12m, with a second storey at 15m from water. A concrete holding tank at 6m from the water will be replaced by a new septic system which will be set back at least 15m from water.

A Site Plan Control Agreement will be required. The legal property description must also be updated to include a description of the legal right-of-way access.

Provincial Policy Statement

No concerns. Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Section 2.1 Natural Heritage, and Section 3.1 Protecting Public Health and Safety – Natural Hazards are satisfied as the proposed cottage and septic system are to be set back farther from Otty Lake than the existing cottage and holding tank. A Site Plan Control Agreement will provide protection of the shoreline and can be used to maintain naturalization of the property.

County Sustainable Community Official Plan

No Concerns. Section 3.3.3.1 Rural Area Land Use Policies Objectives are to: ensure development is consistent with rural service levels; to maintain the distinct character of rural, waterfront and settlement areas; and to ensure that development is compatible with natural heritage.

Official Plan

The subject land is designated Rural in the *Official Plan*, and a cottage is a permitted use.

Zoning By-Law

The property is zoned as Seasonal Residential (RS) and a cottage is a permitted use. The proposed lot coverage is 4.6% which is well under the 10% permitted in the zone. The proposed Floor Space Index (FSI) is 3.8% which is also well under the 12% permitted.

The Zoning By-law allows for variances from the 30m setback due to topography. The cottage cannot be placed farther from the lake due to the location of a steep slope to the rear of the existing driveway

The application can be considered minor in impact as proposed lot coverage is minimal and as the existing septic holding tank, located 6m from the lake will be replaced by a septic tank, at least 15m from the lake

The proposal is also desirable and appropriate development of the lands in question as it is a permitted use. In addition, a Site Plan Control Agreement will be registered on the subject property to maintain vegetation.

CIRCULATION COMMENTS

Rideau Valley Conservation Authority (RVCA) – RVCA had no objections. Standard recommendations include the following:

- vegetation along the shoreline and leading to the shoreline be retained and augmented with the exception of a 6m path to the shore.
- sediment control measures shall be implemented throughout the construction process (mainly the placement of a sediment barrier such as staked straw bales between exposed soil and the lake). The sediment barrier should remain in place until all disturbed areas have been stabilized and re-vegetated.
- excavated material shall be disposed of well away from the water.
- natural drainage patterns on the site shall not be substantially altered, such that additional run-off is directed into the lake. In order to help achieve this, eaves troughing shall be installed and outlet to a leach pit or well-vegetated area away from the lake to allow for maximum infiltration.

The owner should contact RVCA prior to proceeding with future development activity to confirm if a permit is required.

Mississippi Rideau Septic System Office – (MRSSO) – The owners have applied to install a new septic system.

Public – None at the time of the report.

SITE PLAN CONTROL AGREEMENT

A Site Plan Control Agreement containing the recommendations of the RVCA is proposed to enhance protection of the water quality and shoreline of Otty Lake.

RECOMMENDATION

That the Minor Variance be granted for relief from the requirements of Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To allow a proposed cottage at a water setback of 12m rather than the minimum 30m required.

because the general intent and purpose of the *Official Plan* and *Zoning By-law* are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the *Planning Act*.

And that the owners enter into a Site Plan Control Agreement prepared by the Township;

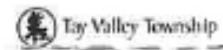
And that the legal description of the property be updated to include the description of right-of-way legal access.

Rathwell Minor Variance

Public Notice

Pursuant to the Planning Act, Notice of Public Hearing is to be provided a minimum of 10 days for a Minor Variance to the Zoning By-law. Notice was duly given by posting at the nearest public road and delivering to adjacent property owners within 60 metres of the location. Notice was also given to public agencies as required.

1



1

Rathwell Minor Variance

Ontario Land Tribunal

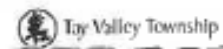
Only the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A "specified person" does not include an individual or a community association.

Please be cautioned that the Ontario Land Tribunal may dismiss all or part of an appeal without holding a hearing if the reasons set out in the appeal do not refer to land use planning grounds offended by the decision, the appeal is not made in good faith or is frivolous or vexatious or made only for the purpose of delay.

The Tribunal may also dismiss the appeal if the appellant did not make oral submission at the public meeting or did not make written submission before the plan or amendment were adopted.

If you choose to appeal, you must submit written reasons, the prescribed fee and any other background material requested.

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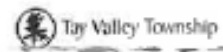
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Rathwell Minor Variance

Decision Process

- based on both the oral and written input received and understanding gained
- four key factors:
 - ✓ Is the application generally in keeping with the intent of the Township's Official Plan?
 - ✓ Is the application generally in keeping with the intent of the Township's Zoning By-laws?
 - ✓ Is it desirable and appropriate development and use of the site?
 - ✓ Is it minor in nature and scope?
- four decision options:
 - ? Approve – with or without conditions
 - ? Deny – with reasons
 - ? Defer – pending further input
 - ? Return to Township Staff – application deemed not to be minor

3



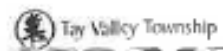
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Rathwell Minor Variance

Hearing Process

- The Planner will review the application and present her comments plus those of the Conservation Authority, Septic System Office, and any public comments received
- The Applicant may provide additional details or clarification
- Any members of the public may contribute comments or questions
- The Committee members will discuss and decide
- The Notice of Decision will be signed

4



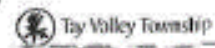
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Rathwell

673 Beaver Dam Lane, Part Lot 3, Concession 8
Geographic Township of North Burgess



5



5

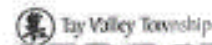
Rathwell - Proposal

The Minor Variance application seeks relief from Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To allow a proposed cottage at a water setback of 12m rather than the minimum 30m required.

The effect of the variance is to permit a cottage at a water setback of 9m to be demolished and replaced farther back from Otty Lake at a setback of 12m, with a second storey at 15m from water.

6



6

Rathwell Photos



9



9

Rathwell Photos



10



10

Rathwell Comments

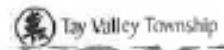
Rideau Valley Conservation Authority (RVCA)

RVCA had no objections.

Standard recommendations include the following:

- vegetation along the shoreline and leading to the shoreline be retained and augmented with the exception of a 6m path to the shore.
- sediment control measures shall be implemented throughout the construction process (mainly the placement of a sediment barrier such as staked straw bales between exposed soil and the lake). The sediment barrier should remain in place until all disturbed areas have been stabilized and re-vegetated.

11



11

Rathwell Comments

Rideau Valley Conservation Authority (RVCA)

- excavated material shall be disposed of well away from the water.
- natural drainage patterns on the site shall not be substantially altered, such that additional run-off is directed into the lake. In order to help achieve this, eaves troughing shall be installed and outlet to a leach pit or well-vegetated area away from the lake to allow for maximum infiltration.

The owner should contact RVCA prior to proceeding with future development activity to confirm if a permit is required.

12



12

Rathwell Comments

Mississippi Rideau Septic System Office (MRSSO)

- The owners have applied to install a new septic system.

13

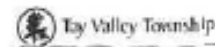


13

Rathwell Provincial Policy Statement

- No concerns.
- Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Section 2.1 Natural Heritage, and Section 3.1 Protecting Public Health and Safety – Natural Hazards are satisfied as the proposed cottage and septic system are to be set back farther from Otty Lake than the existing cottage and holding tank.
- A Site Plan Control Agreement will provide protection of the shoreline and can be used to maintain naturalization of the property.

14

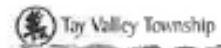


14

Rathwell County Sustainable Communities Official Plan

- No Concerns.
- Section 3.3.3.1 Rural Area Land Use Policies
Objectives are to: ensure development is consistent with rural service levels; to maintain the distinct character of rural, waterfront and settlement areas; and to ensure that development is compatible with natural heritage.

15



15

Rathwell Official Plan

- The subject land is designated Rural in the Official Plan, and a cottage is a permitted use.

16

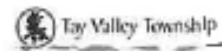


16

Rathwell Zoning By-law

- The property is zoned as Seasonal Residential (RS) and a cottage is a permitted use.

17



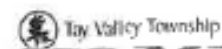
17

Rathwell Official Plan & Zoning Test

Is the application generally in keeping with the intent of the Township's Official Plan & Zoning By-Law?

- Yes. The proposed lot coverage is 4.6% which is well under the 10% permitted in the zone. The proposed Floor Space Index (FSI) is 3.8% which is also well under the 12% permitted.
- The Zoning By-law allows for variances from the 30m setback due to topography. The cottage cannot be placed farther from the lake due to the location of a steep slope to the rear of the existing driveway

18



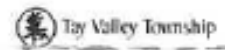
18

Rathwell Development & Use Test

Is it desirable and appropriate development for the use of the site?

- The proposal is also desirable and appropriate development of the lands in question as it is a permitted use. In addition, a Site Plan Control Agreement will be registered on the subject property to maintain vegetation.

19



19

Rathwell "Minor" Test

Is it minor in nature and scope?

- The application can be considered minor in impact as proposed lot coverage is minimal and as the existing septic holding tank, located 6m from the lake will be replaced by a septic tank, at least 15m from the lake.

20

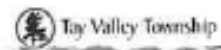


20

Rathwell Site Plan Control Agreement

- A Site Plan Control Agreement containing the recommendations of the RVCA is proposed to enhance protection of the water quality and shoreline of Otty Lake.

21

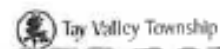


21

Rathwell Public Comments

- No comments were received at the time of the report.
- Members of the public are welcome to speak to the application at this meeting.

22



22

Rathwell Recommendation

That the Minor Variance be granted for relief from the requirements of Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To allow a proposed cottage addition at a water setback of 12m rather than the minimum 30m required.

because the general intent and purpose of the Official Plan and Zoning By-law are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the Planning Act.

23



23

Rathwell Resolution

Recommended Decision:

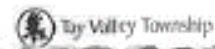
"THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-08 is approved, to allow a variance from the requirements of Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, for the lands legally described as 673 Beaver Dam lane, Part Lot 3, Concession 8, in the geographic Township of North Burgess, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-911-010-23000;

- *to allow a proposed cottage at a water setback of 12m rather than the minimum 30m required;*

AND THAT, the owners enter into a Site Plan Control Agreement prepared by the Township;

AND THAT, the legal description of the property be updated to include the description of right-of-way legal access."

24



24

Committee of Adjustment

August 19, 2024

Noelle Reeve, Planner

APPLICATION MV24-09

Chapman

159 Bob's Lake Lane, Part Lot 5, Concession 2
Geographic Township of South Sherbrooke

SUMMARY OF PROPOSAL

Purpose and Effect: To seek relief from Section 5.2.2 (Zone Provisions) and Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To permit a 120.4 m² (1,296 sq ft) cottage to be built, at a north side yard setback of 3.0m, and a south side setback of 2.9m, rather than the 6m required.
- To allow proposed lot coverage of 12%, rather than the 10% allowed.
- To allow a proposed water setback of 24m rather than the minimum 30m required

The effect of the variance is to permit a cottage to be demolished and rebuilt at the same water setback of 24m with a 0.6m (2 ft) widening on the sides. The proposed small addition at the rear is beyond the 30m setback. The applicant is also demolishing a cabin and privy on the property and installing a septic system.

REVIEW COMMENTS

The property is located at 159 Bob's Lake Lane 21. The lot is approximately 0.01 ha (0.24acres) with 16.8m (55 ft) of water frontage. The owner is proposing to demolish the existing cottage which is 24m from the water and replace it with a new cottage at the same water setback

A Site Plan Control Agreement will be required.

Provincial Policy Statement

No concerns. Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Section 2.1 Natural Heritage, and Section 3.1 Protecting Public Health and Safety – Natural Hazards are satisfied as the proposed cottage is to be built at the same setback as the cottage to be demolished. The cabin and privy on the property are to be demolished and a new septic system is to be installed.

A Site Plan Control Agreement will provide protection of the shoreline and can be used to maintain naturalization of the property.

County Sustainable Community Official Plan

No Concerns. Section 3.3.3.1 Rural Area Land Use Policies Objectives are to: ensure development is consistent with rural service levels; to maintain the distinct character of rural, waterfront and settlement areas; and to ensure that development is compatible with natural heritage.

Official Plan

The subject land is designated Rural in the *Official Plan*, and a cottage is a permitted use.

Zoning By-Law

The property is zoned as Seasonal Residential (RS) and a cottage is a permitted use. The proposed lot coverage is 12% which exceeds the 10% permitted in the zone. The proposed Floor Space Index (FSI) is 12% which meets the 12% permitted.

Relief is required from the side yard minimum setback of 6m as the proposed cottage will have a setback of 3.0m from the north lot line and 2.9m from the south lot line. Relief is also required from the 30m water setback as the proposed cottage will remain at the current 24m.

The application can be considered minor in impact as the proposed water setback is remaining the same, and the FSI meets the maximum allowed. Although the lot coverage exceeds the 10% permitted, the impact will be very minor as the cottage is only increasing in width by 0.6m (2ft) on either side and was quite small to begin with.

In addition, a septic system will be placed on the property meeting the 30m setback (replacing an outhouse) and a Site Plan Control Agreement will be placed on title to protect the vegetation. Both measures will provide an environmental net gain.

The proposal is also desirable and appropriate development of the lands in question as it is a permitted use. In addition, a Site Plan Control Agreement will be registered on the subject property to maintain vegetation.

CIRCULATION COMMENTS

Rideau Valley Conservation Authority (RVCA) – RVCA has no objections.

Standard recommendations include the following:

- vegetation along the shoreline and leading to the shoreline be retained and augmented with the exception of a 6m path to the shore.
- sediment control measures shall be implemented throughout the construction process (mainly the placement of a sediment barrier such as staked straw bales between exposed soil and the lake). The sediment barrier should remain in place until all disturbed areas have been stabilized and re-vegetated.
- excavated material shall be disposed of well away from the water.

- natural drainage patterns on the site shall not be substantially altered, such that additional run-off is directed into the lake. In order to help achieve this, eaves troughing shall be installed and outlet to a leach pit or well-vegetated area away from the lake to allow for maximum infiltration.

The owner should contact the RVCA prior to proceeding with future development activity to confirm if a permit is required.

Mississippi Rideau Septic System Office – (MRSSO) – The owner will be applying to install a new septic system.

Public – None at the time of the report.

SITE PLAN CONTROL AGREEMENT

A Site Plan Control Agreement containing the recommendations of the RVCA is proposed to enhance protection of the water quality and shoreline of Bobs Lake.

RECOMMENDATION

That the Minor Variance be granted for relief from the requirements of Section 5.2.2 (Zone Provisions) and Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To permit a 120.4 m² (1,296 sq ft) cottage to be built, at a north side yard setback of 3.0m, and a south side setback of 2.9m, rather than the 6m required.
- To allow proposed lot coverage of 12%, rather than the 10% allowed.
- To allow a proposed water setback of 24m rather than the minimum 30m required

because the general intent and purpose of the *Official Plan* and *Zoning By-law* are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the *Planning Act*.

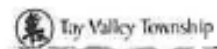
And that the owners enter into a Site Plan Control Agreement prepared by the Township.

Chapman Minor Variance

Public Notice

Pursuant to the Planning Act, Notice of Public Hearing is to be provided a minimum of 10 days for a Minor Variance to the Zoning By-law. Notice was duly given by posting at the nearest public road and delivering to adjacent property owners within 60 metres of the location. Notice was also given to public agencies as required.

1



1

Chapman Minor Variance

Ontario Land Tribunal

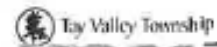
Only the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A "specified person" does not include an individual or a community association.

Please be cautioned that the Ontario Land Tribunal may dismiss all or part of an appeal without holding a hearing if the reasons set out in the appeal do not refer to land use planning grounds offended by the decision, the appeal is not made in good faith or is frivolous or vexatious or made only for the purpose of delay.

The Tribunal may also dismiss the appeal if the appellant did not make oral submission at the public meeting or did not make written submission before the plan or amendment were adopted.

If you choose to appeal, you must submit written reasons, the prescribed fee and any other background material requested.

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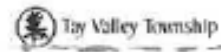
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Chapman Minor Variance

Decision Process

- based on both the oral and written input received and understanding gained
- four key factors:
 - ✓ Is the application generally in keeping with the intent of the Township's Official Plan?
 - ✓ Is the application generally in keeping with the intent of the Township's Zoning By-laws?
 - ✓ Is it desirable and appropriate development and use of the site?
 - ✓ Is it minor in nature and scope?
- four decision options:
 - ? Approve – with or without conditions
 - ? Deny – with reasons
 - ? Defer – pending further input
 - ? Return to Township Staff – application deemed not to be minor

3



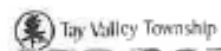
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Chapman Minor Variance

Hearing Process

- The Planner will review the application and present her comments plus those of the Conservation Authority, Septic System Office, and any public comments received
- The Applicant may provide additional details or clarification
- Any members of the public may contribute comments or questions
- The Committee members will discuss and decide
- The Notice of Decision will be signed

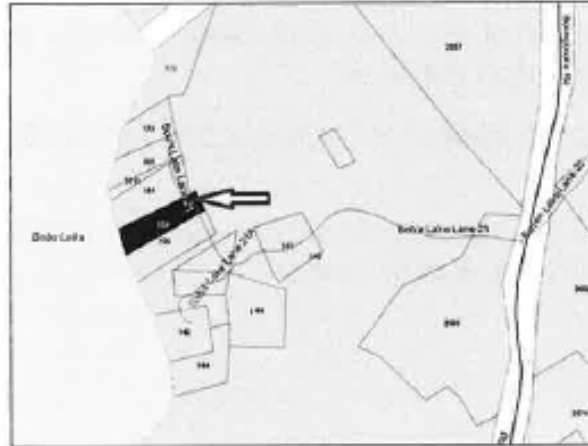
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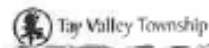
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Chapman

159 Bob's Lake Lane 21, Part Lot 5, Concession 2
Geographic Township of South Sherbrooke



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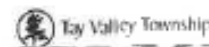
5

Chapman - Proposal

The Minor Variance application seeks relief from Section 5.2.2 (Zone Provisions) and Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To permit a 120.4 m² (1,296 sq ft) cottage to be built at a north side yard setback of 3.0m, and a south side setback of 2.9m, rather than the 6m required.
- To allow proposed lot coverage of 12%, rather than the 10% allowed.
- To allow a proposed water setback of 24m rather than the minimum 30m required

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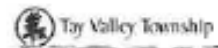
6

Chapman - Proposal

The effect of the variance is to permit a cottage to be demolished and rebuilt at the same water setback of 24m with a 0.6m (2 ft) widening on the sides.

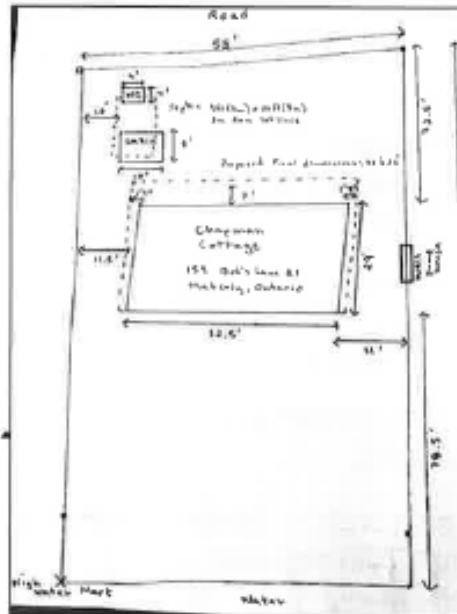
- The proposed small addition at the rear is beyond the 30m setback.
- The applicant is also demolishing a cabin and privy on the property and installing a septic system.

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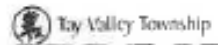


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Chapman Site Drawing



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Chapman Photos



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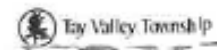


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Chapman Photos



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Chapman Comments

Rideau Valley Conservation Authority (RVCA)

RVCA has no objections.

Standard recommendations include the following:

- vegetation along the shoreline and leading to the shoreline be retained and augmented with the exception of a 6m path to the shore.
- sediment control measures shall be implemented throughout the construction process (mainly the placement of a sediment barrier such as staked straw bales between exposed soil and the lake). The sediment barrier should remain in place until all disturbed areas have been stabilized and re-vegetated.

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Chapman Comments

Rideau Valley Conservation Authority (RVCA)

- excavated material shall be disposed of well away from the water.
- natural drainage patterns on the site shall not be substantially altered, such that additional run-off is directed into the lake. In order to help achieve this, eaves troughing shall be installed and outlet to a leach pit or well-vegetated area away from the lake to allow for maximum infiltration.

The owner should contact RVCA prior to proceeding with future development activity to confirm if a permit is required.

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Chapman Comments

Mississippi Rideau Septic System Office (MRSSO)

- The owner will be applying to install a new septic system to replace the privy.

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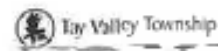


13

Chapman Provincial Policy Statement

- No concerns.
- Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Section 2.1 Natural Heritage, and Section 3.1 Protecting Public Health and Safety – Natural Hazards are satisfied as the proposed cottage is to be built at the same setback as the cottage to be demolished. The cabin and privy on the property are to be demolished and a new septic system is to be installed.
- A Site Plan Control Agreement will provide protection of the shoreline and can be used to maintain naturalization of the property.

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Chapman County Sustainable Communities Official Plan

- No Concerns.
- Section 3.3.3.1 Rural Area Land Use Policies
Objectives are to: ensure development is consistent with rural service levels; to maintain the distinct character of rural, waterfront and settlement areas; and to ensure that development is compatible with natural heritage.

15



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Chapman Official Plan

- The subject land is designated Rural in the Official Plan, and a cottage is a permitted use.

16

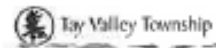


16

Chapman Zoning By-law

- The property is zoned as Seasonal Residential (RS) and a cottage is a permitted use.

17



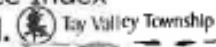
17

Chapman Official Plan & Zoning Test

Is the application generally in keeping with the intent of the Township's Official Plan & Zoning By-Law?

- Yes. Relief from the side yard minimum setback of 6m can be considered in keeping with the Official Plan and Zoning By-law as the proposed cottage will have a setback of 3.0m from the north lot line and 2.9m from the south lot line (only 0.6 wider than the existing cottage). The proposed cottage will remain at the current 24m.
- The proposed lot coverage is 12% which exceeds the 10% permitted in the zone a number of environmental net benefits will result from the new septic and Site Plan Control Agreement. The proposed Floor Space Index (FSI) is 12% which meets the 12% permitted.

18



18

Chapman Development & Use Test

Is it desirable and appropriate development for the use of the site?

- The proposal is also desirable and appropriate development of the lands in question as it is a permitted use. In addition, a Site Plan Control Agreement will be registered on the subject property to maintain vegetation.

19



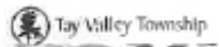
19

Chapman "Minor" Test

Is it minor in nature and scope?

- The application can be considered minor in impact as the proposed water setback is remaining the same, and the FSI meets the maximum allowed.
- Although the lot coverage exceeds the 10% permitted, the impact will be very minor as the cottage is only increasing in width by 0.6m (2ft) on either side and was quite small to begin with.

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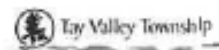


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Chapman Site Plan Control Agreement

- A Site Plan Control Agreement containing the recommendations of the RVCA is proposed to enhance protection of the water quality and shoreline of Bobs Lake.

21

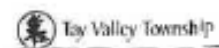


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Chapman Public Comments

- No comments were received at the time of the report.
- Members of the public are welcome to speak to the application at this meeting.

22



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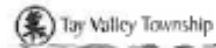
Chapman Recommendation

That the Minor Variance be granted for relief from the requirements of Section 5.2.2 (Zone Provisions) and Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To permit a 120.4 m² (1,296 sq ft) cottage to be built at a north side yard setback of 3.0m, and a south side setback of 2.9m, rather than the 6m required.
- To allow proposed lot coverage of 12%, rather than the 10% allowed.
- To allow a proposed water setback of 24m rather than the minimum 30m required

because the general intent and purpose of the Official Plan and Zoning By-law are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the Planning Act.

23



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Chapman Resolution

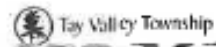
Recommended Decision:

"THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-09 is approved, to allow a variance from the requirements of Section 5.2.2 (Zone Provisions) and Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, for the lands legally described as 159 Bob's Lake Lane 21, Part Lot 5, Concession 2, in the geographic Township of South Sherbrooke, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-911-010-23000;

- *To permit a 120.4 m² (1,296 sq ft) cottage to be built, at a north side yard setback of 3.0m, and a south side setback of 2.9m, rather than the 6m required*
- *To allow proposed lot coverage of 12%, rather than the 10% allowed*
- *To allow a proposed water setback of 24m rather than the minimum 30m required;*

AND THAT, the owners enter into a Site Plan Control Agreement prepared by the Township."

24



24

Committee of Adjustment

August 19, 2024

Noelle Reeve, Planner

APPLICATION MV24-10

Cheff

229 Scott Court, Plan 30, Lot 25, Concession 9
Geographic Township of Bathurst

SUMMARY OF PROPOSAL

Purpose and Effect: To seek relief from Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To allow a proposed cottage addition at a water setback of 28m rather than the minimum 30m required.

The effect of the variance is to permit a sunroom addition to an existing 56m² (603 sq ft) cottage, at a water setback of 28m from Bennett Lake.

REVIEW COMMENTS

The property is located at 229 Scott Court in the Bennett Lake Subdivision. The lot is approximately 1.1 ha (2.7 acres) with 73m (240 ft) water frontage. The owner is proposing to add a 48m² sunroom as an addition to the cottage.

A Site Plan Control Agreement will be required.

Provincial Policy Statement

No concerns. Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Section 2.1 Natural Heritage, and Section 3.1 Protecting Public Health and Safety – Natural Hazards are satisfied as the proposed cottage addition will be located over an open area above the entrance to the basement of the existing cottage. A Site Plan Control Agreement will provide protection of the shoreline and can be used to maintain and add additional naturalization of the property.

County Sustainable Community Official Plan

No Concerns. Section 3.3.3.1 Rural Area Land Use Policies Objectives are to: ensure development is consistent with rural service levels; to maintain the distinct character of rural, waterfront and settlement areas; and to ensure that development is compatible with natural heritage.

Official Plan

The subject land is designated Rural in the *Official Plan*, and a cottage is a permitted use.

Zoning By-Law

The property is zoned as Seasonal Residential (RS) and a cottage is a permitted use. The proposed lot coverage is 1.9% which is well under the 10% permitted in the zone. The proposed Floor Space Index (FSI) is 0.98% which is also well under the 12% permitted.

The Zoning By-law allows for variances from the 30m setback due to existing development. The addition cannot be placed farther from the lake due to the location of the existing cottage.

The application can be considered minor in impact as proposed lot coverage is minimal and the relief from the water setback is minimal.

The proposal is also desirable and appropriate development of the lands in question as it is a permitted use. In addition, a Site Plan Control Agreement will be registered on the subject property to maintain and enhance vegetation.

CIRCULATION COMMENTS

Mississippi Valley Conservation Authority (MVCA) – MVCA screened out the application. Standard recommendations include the following:

- vegetation along the shoreline and leading to the shoreline be retained and augmented with the exception of a 6m path to the shore.
- sediment control measures shall be implemented throughout the construction process (mainly the placement of a sediment barrier such as staked straw bales between exposed soil and the lake). The sediment barrier should remain in place until all disturbed areas have been stabilized and re-vegetated.
- excavated material shall be disposed of well away from the water.
- natural drainage patterns on the site shall not be substantially altered, such that additional run-off is directed into the lake. In order to help achieve this, eaves troughing shall be installed and outlet to a leach pit or well-vegetated area away from the lake to allow for maximum infiltration.

The owner should contact MVCA prior to proceeding with future development activity to confirm if a permit is required.

Mississippi Rideau Septic System Office – (MRSSO) – The applicant had a number of conversations with the MRSSO to clarify the use of the proposed addition and it was determined that, the addition would not be considered “finished area” if it is un-insulated. If the space is insulated, a Part 10/11 application is required to review the potential impacts to the performance of the existing sewage system.

If the total “finished area” remains below 200 m², there would be no increase to the design flow of the sewage system and therefore no reduction in performance of the system.

Public – None at the time of the report.

SITE PLAN CONTROL AGREEMENT

A Site Plan Control Agreement containing the recommendations of the MVCA is proposed to enhance protection of the water quality and shoreline of Bennett Lake.

RECOMMENDATION

That the Minor Variance be granted for relief from the requirements of Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To allow a proposed cottage addition at a water setback of 28m rather than the minimum 30m required.

because the general intent and purpose of the *Official Plan* and *Zoning By-Law* are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the *Planning Act*.

And that the owners enter into a Site Plan Control Agreement prepared by the Township;

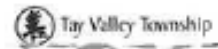
And that a Development Agreement between the Township and the owner be signed regarding the private unassumed road, if required.

Cheff Minor Variance

Public Notice

Pursuant to the Planning Act, Notice of Public Hearing is to be provided a minimum of 10 days for a Minor Variance to the Zoning By-law. Notice was duly given by posting at the nearest public road and delivering to adjacent property owners within 60 metres of the location. Notice was also given to public agencies as required.

1



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Cheff Minor Variance

Ontario Land Tribunal

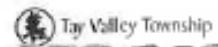
Only the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A "specified person" does not include an individual or a community association.

Please be cautioned that the Ontario Land Tribunal may dismiss all or part of an appeal without holding a hearing if the reasons set out in the appeal do not refer to land use planning grounds offended by the decision, the appeal is not made in good faith or is frivolous or vexatious or made only for the purpose of delay.

The Tribunal may also dismiss the appeal if the appellant did not make oral submission at the public meeting or did not make written submission before the plan or amendment were adopted.

If you choose to appeal, you must submit written reasons, the prescribed fee and any other background material requested.

2



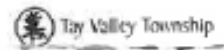
2

Cheff Minor Variance

Decision Process

- based on both the oral and written input received and understanding gained
- four key factors:
 - ✓ Is the application generally in keeping with the intent of the Township's Official Plan?
 - ✓ Is the application generally in keeping with the intent of the Township's Zoning By-laws?
 - ✓ Is it desirable and appropriate development and use of the site?
 - ✓ Is it minor in nature and scope?
- four decision options:
 - ? Approve – with or without conditions
 - ? Deny – with reasons
 - ? Defer – pending further input
 - ? Return to Township Staff – application deemed not to be minor

3



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Cheff Minor Variance

Hearing Process

- The Planner will review the application and present her comments plus those of the Conservation Authority, Septic System Office, and any public comments received
- The Applicant may provide additional details or clarification
- Any members of the public may contribute comments or questions
- The Committee members will discuss and decide
- The Notice of Decision will be signed

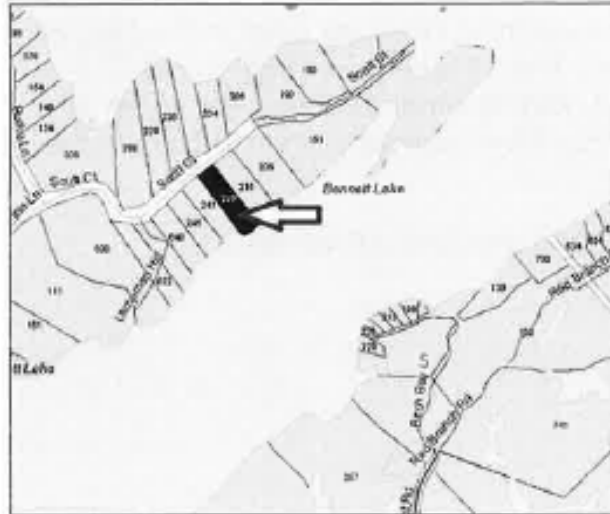
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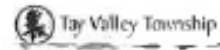
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Cheff

229 Scott Court, Plan 30, Lot 25, Concession 9
Geographic Township of Bathurst



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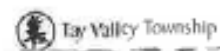
Cheff - Proposal

The Minor Variance application seeks relief from Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

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The effect of the variance is to permit a sunroom addition to an existing 56m² (603 sq ft) cottage, at a water setback of 28m from Bennett Lake.

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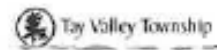


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Cheff - Proposal

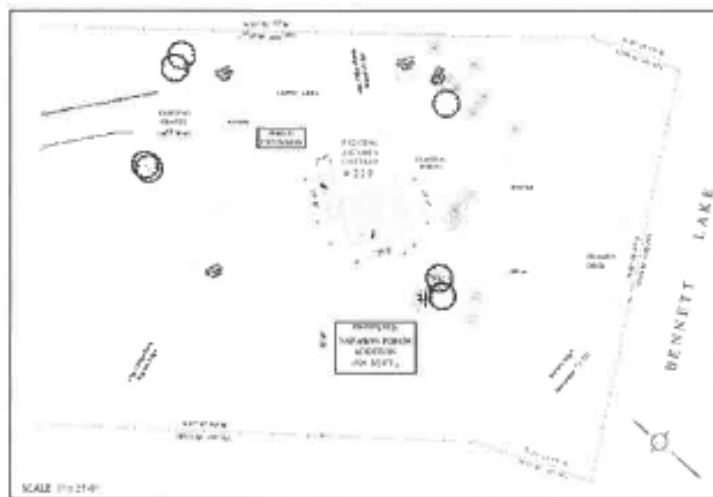
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- A Site Plan Control Agreement will be required.

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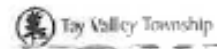


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Cheff Site Drawing



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Cheff
Photos



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Cheff
Photos



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Cheff Photos



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Cheff Comments

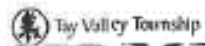
Mississippi Valley Conservation Authority (MVCA)

MVCA has no objections.

Standard recommendations include the following:

- vegetation along the shoreline and leading to the shoreline be retained and augmented with the exception of a 6m path to the shore.
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Cheff Comments

Mississippi Valley Conservation Authority (MVCA)

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The owner should contact MVCA prior to proceeding with future development activity to confirm if a permit is required.

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Cheff Comments

Mississippi Rideau Septic System Office (MRSSO)

- The applicant had a number of conversations with the MRSSO to clarify the use of the proposed addition and it was determined that, the addition would not be considered "finished area" if it is un-insulated. If the space is insulated, a Part 10/11 application is required to review the potential impacts to the performance of the existing sewage system.
- If the total "finished area" remains below 200 m², there would be no increase to the design flow of the sewage system and therefore no reduction in performance of the system.

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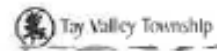


14

Cheff Provincial Policy Statement

- No concerns.
- Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, Section 2.1 Natural Heritage, and Section 3.1 Protecting Public Health and Safety – Natural Hazards are satisfied as the proposed cottage addition will be located over an open area above the entrance to the basement of the existing cottage.
- A Site Plan Control Agreement will provide protection of the shoreline and can be used to maintain naturalization of the property.

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Cheff County Sustainable Communities Official Plan

- No Concerns.
- Section 3.3.3.1 Rural Area Land Use Policies
Objectives are to: ensure development is consistent with rural service levels; to maintain the distinct character of rural, waterfront and settlement areas; and to ensure that development is compatible with natural heritage.

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Cheff Official Plan

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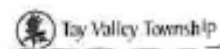


17

Cheff Zoning By-law

- The property is zoned as Seasonal Residential (RS) and a cottage is a permitted use.

18



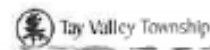
18

Cheff Official Plan & Zoning Test

Is the application generally in keeping with the intent of the Township's Official Plan & Zoning By-Law?

- Yes. The proposed lot coverage is 1.9% which is well under the 10% permitted in the zone. The proposed Floor Space Index (FSI) is 0.98% which is also well under the 12% permitted.
- The Zoning By-law allows for variances from the 30m setback due to existing development. The addition cannot be placed farther from the lake due to the location of the existing cottage.

19



19

Cheff Development & Use Test

Is it desirable and appropriate development for the use of the site?

- The proposal is also desirable and appropriate development of the lands in question as it is a permitted use. In addition, a Site Plan Control Agreement will be registered on the subject property to maintain vegetation.

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Cheff "Minor" Test

Is it minor in nature and scope?

- The application can be considered minor in impact as proposed lot coverage is minimal and the relief from the water setback is minimal.

21

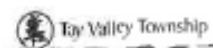


21

Cheff Site Plan Control Agreement

- A Site Plan Control Agreement containing the recommendations of the MVCA is proposed to enhance protection of the water quality and shoreline of Bennett Lake.

22

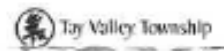


22

Cheff Public Comments

- No comments were received at the time of the report.
- Members of the public are welcome to speak to the application at this meeting.

23



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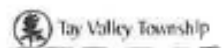
Cheff Recommendation

That the Minor Variance be granted for relief from the requirements of Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, as amended, as follows:

- To allow a proposed cottage addition at a water setback of 28m rather than the minimum 30m required.

because the general intent and purpose of the Official Plan and Zoning By-law are maintained; further, that the variance is desirable for the appropriate development of the lands and can be considered minor. As such, the application meets the tests of the Planning Act.

24



24

Cheff Resolution

Recommended Decision:

"THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application MV24-10 is approved, to allow a variance from the requirements of Section 3.29 (Water Setbacks) of Zoning By-Law 2002-121, for the lands legally described as 229 Scott Court, Plan 30, Lot 255, Concession 9, in the geographic Township of Bathurst, now known as Tay Valley Township in the County of Lanark – Roll Number 0911-916-020-24425;

- To allow a proposed cottage addition at a water setback of 28m rather than the minimum 30m required;*

AND THAT, the owners enter into a Site Plan Control Agreement prepared by the Township;

AND THAT, a Development Agreement between the Township and the owner be signed regarding the private unassumed road, if required."