

# Committee of Adjustment Agenda

1:00 PM - Monday, July 22, 2024

Council Chambers

[Zoom Meeting Registration](#)

## 1. Call to Order

## 2. Traditional Land Acknowledgement

We begin this gathering by acknowledging and celebrating these traditional lands as a gathering place of the first peoples and their ancestors who are entrusted to care for Mother Earth since time immemorial. We do so respecting both the land and the Indigenous People who continue to walk with us through this world. Today, the Township of North Frontenac is committed to working with Indigenous Peoples and all residents to pursue a united path of reconciliation.

## 3. Approval of Agenda

- a) July 22, 2024

**Be It Resolved That** the Committee approves the Agenda dated July 22, 2024, as circulated.

## 4. Disclosure of Pecuniary Interest and General Nature Thereof

## 5. Delegations

None.

## 6. Adoption of Minutes

- a) Minutes of Meeting 3 - 10

**Be It Resolved That** the Committee adopts the Minutes of a Meeting held on June 24, 2024, as circulated.

[Committee of Adjustment - 24 Jun 2024 - Minutes - Pdf](#)

## 7. Business Arising Out of Minutes

- a) Resolution #16-24 and #17-24 - Severance Application File #B08/24 11 - 32  
and Minor Variance File #A04/24 - Ben Thompson and Greg Thompson  
- Deferred at the June 24, 2024 Meeting

[Notice of Hearing](#)

[Planning Report](#)

## 8. Zoning By-law Amendment Application (Recommendation to Council)

None.

## 9. Consent Applications

None.

## 10. Minor Variance Applications

- a) File #A07/24 - Minor Variance for Reduced Setback of Accessory Structure from the High Water Mark - Part of Lot 29, Concession 2, Geographic Township of Palmerston (1076 Goudge Drive) 33 - 64  
[Notice of Hearing](#)  
[Planning Report](#)

## 11. Other Business

- a) 2024 Ontario Association of Committee of Adjustment (OACA) Conference 65 - 70

**Be It Resolved That** the Committee receives for information the Deputy Clerk/Assistant to the Planning Manager's Administrative Report entitled "2024 Ontario Association of Committee of Adjustment (OACA) Conference"

[2024 Ontario Association of Committee of Adjustment \(OACA\) Conference](#)

- b) Upcoming OACA Events 71

**Be It Resolved That** the Committee receives for information the date and location of the 2024 OACA Seminar and the 2025 OACA Conference;

**And That** Committee Members interested in attending the 2024 OACA Seminar and/or the 2025 OACA Conference will advise the Secretary.

[OACA Events](#)

## 12. Adjournment

- a) Adjournment of the Committee Meeting

**Be It Resolved That** the meeting adjourns at \_\_\_\_\_ p.m. until August 26, 2024, at 1:00 p.m. or at the call of the Chair.



# Committee of Adjustment Minutes

1:00 PM - Monday, June 24, 2024  
Council Chambers

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**Present:** Carl Tooley (Chair), Garry Wood (Electronic Participation), Jim Ogilvie, and Brent Smith (Electronic Participation)

**Also Present:** Tara Mieske, Secretary/Treasurer; Brooke Drechsler, Deputy Clerk/Assistant to the Planning Manager; Sonya Bolton, Manager of Community Planning, County of Frontenac (Electronic Participation); Jennie Kapusta, Community Planner, County of Frontenac; and Mike Kelly, Community Planner, County of Frontenac

## 1. Call to Order

The Chair called the meeting to order at 1:00 p.m. The Secretary read the Opening Remarks.

## 2. Traditional Land Acknowledgement

We begin this gathering by acknowledging and celebrating these traditional lands as a gathering place of the first peoples and their ancestors who are entrusted to care for Mother Earth since time immemorial. We do so respecting both the land and the Indigenous People who continue to walk with us through this world. Today, the Township of North Frontenac is committed to working with Indigenous Peoples and all residents to pursue a united path of reconciliation.

## 3. Approval of Agenda

### a) *June 24, 2024*

**14-24 Moved by Jim Ogilvie, Seconded by Garry Wood**

**Be It Resolved That** the Committee approves the Agenda for June 24, 2024, as circulated.

**Carried**

## 4. Disclosure of Pecuniary Interest and General Nature Thereof

None declared.

## 5. Delegations

None.

## 6. Adoption of Minutes

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North Frontenac Committee of Adjustment Minutes

June 24, 2024

Page 1 of 8

- a) **Minutes of Meeting held May 27, 2024**  
**15-24 Moved by Jim Ogilvie, Seconded by Garry Wood**

**Be It Resolved That** the Committee adopts the Minutes of a Meeting held on May 27, 2024 as circulated.

**Carried**

**7. Business Arising Out of Minutes**

None.

**8. Zoning By-law Amendment Application (Recommendation to Council)**

None.

**9. Consent Application with Minor Variance**

- a) **File #B08/24 - Creation of One New Lot**  
**File #A04/24 - Minor Variance for Reduced Water Frontage**  
**Part of Lot 15, Concession 1, Geographic Township of Barrie (Big Gull Lake)**

Ben Thompson, applicant, was present at the hearing.

Jennie Kapusta, Community Planner, provided an overview of the Consent application to create one lot and the Minor Variance application to permit a reduced waterfrontage of 61 metres on the proposed new lot. She advised the property is currently zoned Residential Waterfront (RW) and Rural (RU), with an area of regulated wetland on the retained parcel.

Kapusta advised North Frontenac Council recently passed a Resolution approving a transfer of land in exchange for Thompson Road between the property owners and the Township. She noted the transfer will result in the natural severance of a parcel (shown as Part 4 on site plan) that does not meet the requirements of the Zoning By-law; however the proposed land transfer will not have an impact on the Consent and Minor Variance applications.

Kapusta advised the existing structures will be removed prior to the creation of the proposed lot to reduce density on the waterfront. She noted the septic review provided with the Consent application confirmed the retained and severed lots are suitable for septic installation. Kapusta advised Mississippi Valley Conservation Authority (MVCA) were formally circulated and had no objections to the creation of the new lot with the reduced frontage. She advised MVCA recommended a 15 metre buffer around the wetland area on the retained parcel.

Kapusta advised planning staff typically wouldn't be supportive of a reduced waterfrontage; however the proposed reduction will permit the retained parcel to use the existing cleared area to access the waterbody and limit the impact on the existing

wetland. She noted comments were received from the neighbouring property owners regarding the exchange of land and the Minor Variance application, which may require a deferral of the applications for further review.

### Public Comments

Steven Follett, solicitor representing the Kosziwka family (neighbouring property owner), provided a presentation to the Committee addressing Kosziwka's concerns with the applications.

Mr. Follett noted the land exchange between the Township and the Thompson family is not part of the planning applications; however he advised the Consent and Minor Variance applications should not be approved as they do not conform to the Township's Official Plan and Zoning

By-law. He noted the Township already owns Part 3 (parcel proposed to be conveyed to the Township); therefore if the applications are approved, Part 3 should be conveyed with no consideration. Also, further/future variances should not be permitted on Parts 1,2 and 4 on the provided site plan to limit future development.

Mr. Follett advised the Minor Variance application only addresses variances on Part 1; the application does not address the proposed oversized buildings within the 30 metre setback from the high water mark shown on the sketch. He noted the Committee should be shown the overall intent of the proposed development.

Mr. Follett noted the retained parcel is not adequately described in the Consent application. He advised the applicants are requesting a 21% reduction in waterfrontage, which should not be considered minor in nature, but is a significant variance. He noted Section 4.10.3 (d) of the Township's Official Plan shows the importance of limiting density to maintain character. He advised if the Committee approves the reduced frontage, they could be opening the door to other applications proposing the creation of waterfront lots with significant reduced frontage.

Mr. Follett advised that by law the Township owns Part 3, being a forced road that has existed and been maintained for decades. He noted the Committee should deny the applications; however, if the applications are approved, additional conditions should include the conveyance of Part 3 to the Township for no consideration and no additional minor variances be permitted. He advised there are concerns with setting precedent if the request for reduced water frontage is approved.

### George Kosziwka

Mr. Kosziwka advised he provided written comments to the Committee for consideration. He noted if the applications are approved, many other similar requests for reduced frontage will be submitted. He advised the applicants are asking the Township to change the By-law to permit the reduction.

Mr. Kosziwka advised the Township passed the Resolution approving the land exchange

with the Thompsons on June 6, 2024; however he was not notified of the decision until June 19, 2024. He advised the land exchange goes against their rights as abutting land owners as they are not being offered a portion of the road allowance as per the Township's policy and asked if the Township has ever done this before. Mr. Kosziwka advised he has put the Township on notice they, as abutting land owners, are entitled to half the Concession Road Allowance; and that legal action will be pursued if the land exchange moves forward.

Mr. Kosziwka noted Part 4 will require a Minor Variance as it is 1/4 of the area required to meet the Zoning By-law and is not developable. He advised the applicants will continue to request minor variances to develop the parcels; and requests the Committee defer the applications until all future Minor Variances are identified.

Kapusta advised any condition included in a Notice of Decision must be completed within two years and that conditions cannot be imposed on the retained lot unless the applicant is in agreement. She noted all planning applications are considered on a case-by-case basis and decisions by the Committee will not set a precedent. Sonya Bolton, Manager of Community Planning noted the Planners had received additional details and information which requires review; and they recommend a deferral of the applications to allow time to review the comments and provide recommendations to the Committee.

#### Committee Comments

Garry Wood noted the Committee and Planners had received information that needs to be reviewed and agreed with the recommendation to defer the applications.

Jim Ogilvie asked if the 15 metre setback is required around the entire wetland area. Kapusta advised the wetland area is located on the retained parcel. She noted the Zoning By-law provides for a 30 metre setback for structures from a wetland and a 15 metre natural vegetative buffer.

Mr. Follett advised he provided a letter to the Committee identifying case law regarding precedent and the idea to "maintain the intent of the By-law". He noted decisions of the Committee could have consequences that need to be considered.

#### Applicant Comments

Mr. Thompson advised both properties have water frontage; however the reduced frontage will protect the wetland area. He advised there is 16 metres of usable waterfront on the retained and there will be no impact on the density. He noted there is no intent to further sever the lots.

Mr Thompson advised the Minor Variance application is only to create usable waterfront and they intend to respect the 30 metre setback from the high water mark, with no further variances requested. He noted when Part 3 is transferred to the Township, a natural severance will occur. He advised enlarging Part 3 will allow for a proper parking area and provide public access to the water.

Jen Thompson asked if the road could be changed to where the road allowance should be and move the forced road off the Thompson property. Carl Tooley advised that is a question for the Public Works Manager to answer.

Mr. Kosziwka advised if the road allowance was divided between the property owners, he would have no objections to the proposed development. Mr. Kosziwka noted they have a legal right to 50% of the road and are prepared to take legal action.

Jim Ogilvie asked about the impact if the Committee makes a decision about the Consent and Minor Variance application. Kapusta advised the land exchange has no impact on the applications; however Planning staff would like time to review the additional information provided.

Garry Wood advised he is not clear about the road allowance issue, as well as the potential Minor Variances on the property. Woods noted concerns were received late in the process. Bolton advised the Committee is the approval authority but she recommends a deferral.

**16-24 Moved by Jim Ogilvie, Seconded by Garry Wood**

**Be It Resolved That** Severance Application File #B08/24 – Ben Thompson and Greg Thompson, Thompson Road (Big Gull Lake) - shall be deferred until the comments provided today can be addressed by Township, Council or the solicitor.

**Carried**

**17-24 Moved by Jim Ogilvie, Seconded by Garry Wood**

**Be It Resolved That** Planning Application File #A04/24 – Application for Minor Variance – Ben Thompson and Greg Thompson, Thompson Road (Big Gull Lake) - shall be deferred until the comments provided today can be addressed by Township staff, Council or the solicitor.

**Carried**

## **10. Minor Variance Applications**

- a) ***File #A03/24 - Request for Permission to Expand Legal Non-Complying Structure - Plan 1944, Lots 26 and 33, Geographic Township of South Canonto (4103 Palmerston Lake)***

Mary Rothfels, applicant, was present for the hearing.

Jennie Kapusta, Community Planner, provided an overview of the application requesting permission to expand a legal non-complying structure by enclosing the existing deck to create additional living space and adding an unenclosed deck.

Kapusta advised there is limited vegetation where the proposed addition will be located. She noted Mississippi Valley Conservation Authority (MVCA) advised there is a steep slope on the property which may be an erosion hazard; however they noted the proposed addition is minor and unlikely to cause slope stability issues in the future. Kapusta advised no public comments were received and recommended approval of the application.

Jim Ogilvie advised he attended the site, located on a north facing peninsula. He advised the lot is fairly steep on the east side and well treed on the west side. He noted the marking cards were posted during the required timeline. He advised the change in footprint is quite small and consistent with development within the area. Ogilvie recommended approval of the application subject to the conditions in the planning report.

Drechsler advised there were no comments from the public.

**18-24 Moved by Garry Wood, Seconded by Jim Ogilvie**

**Be It Resolved That** Planning Application File #A03/24 – Request for Permission to Expand Legal Non-Complying Structure – Mary Rothfels, 4103 Palmerston Lake - shall be approved subject to the conditions noted in the planning report;

**And That** the Secretary shall forward a copy of the Notice of Decision to the Applicant and each person or public body that made a written request to be notified and any other person or public body prescribed by July 4, 2024.

**Carried**

- b) ***File #A05/24 - Application for Minor Variance: Reduced Setback from High Water Mark - Plan 699, Lot 8, Concession 11, Geographic Township of Barrie (1149 Rekrview Lane)***

William Campbell, applicant, was present for the hearing.

Jennie Kapusta, Community Planner, provided an overview of the application to construct a 35 square metre covered, unenclosed outdoor kitchen with a sitting area within the 30 metre setback of the high water mark. She noted the property is well treed, naturally vegetated and fairly level.

Kapusta advised the application was screened out of Mississippi Valley Conservation Authority's (MVCA) review process as no natural hazards were identified. She noted permits would be required from MVCA for any future shoreline work. Kapusta advised a septic review was not required as there is no proposed increase in fixtures or interior living space. Kapusta recommended approval of the application.

Tooley advised he attended the site on June 12, 2024 and the required marking cards were posted. He noted no vegetation will be removed during construction. Tooley advised the structure cannot move back further due to the embankment and existing driveway. He recommended approval subject to the conditions included in the planning report.

Drechsler advised there were no public comments.

**19-24 Moved by Jim Ogilvie, Seconded by Garry Wood**

**Be It Resolved That** Planning Application File #A05/24 – Application for Minor Variance – William Campbell, 1149 Rekrview Lane - shall be approved subject to the conditions noted in the planning report;

**And That** the Secretary shall forward a copy of the Notice of Decision to the Applicant and each person or public body that made a written request to be notified and any other person or public body prescribed by July 4, 2024.

**Carried**

- c) ***File #A06/24 - Application for Minor Variance: Reduced Setback from High Water Mark - Part of Lot 19, Concession 10, Geographic Township of Clarendon (1112 Elizabella Lane)***

Heather and Robert Laliberte, applicants, were present for the hearing.

Mike Kelly, Community Planner, provided an overview of the application to construct a 121 square metre dwelling with a 26 square metre uncovered and unenclosed deck to be located on the north side of the dwelling. The proposed setback of the dwelling is 22.8 metres from the high water mark of Kashwakamak Lake. Kelly advised there is a retaining wall, storage trailer and septic system on the lot.

Kelly advised Mississippi Valley Conservation Authority (MVCA) had no objections to the proposed development but recommended a slope stability assessment due to the proximity to the retaining wall. Kelly noted the Township's Chief Building Official advised a compaction test would be required prior to the issuance of a building permit. Kelly recommended approval subject to conditions included in the planning report.

Wood advised he attended the site on June 6, 2024. He noted the property contained a cleared flat area, existing well and septic system, as well as a set of stairs to a dock on the water. He noted the proposed development seems reasonable and recommended approval.

Drechsler advised there were no public comments.

**20-24 Moved by Garry Wood, Seconded by Jim Ogilvie**

**Be It Resolved That** Planning Application File #A06/24 – Application for Minor Variance – Robert and Heather Laliberte - shall be approved subject to the conditions noted in the planning report;

**And That** the Secretary shall forward a copy of the Notice of Decision to the Applicant and each person or public body that made a written request to be notified and any other person or public body prescribed by July 4, 2024.

**Carried**

**11. Other Business**

None.

**12. Adjournment**

a) ***Adjournment of the Committee Meeting***

**21-24 Moved by Jim Ogilvie, Seconded by Garry Wood**

**Be It Resolved That** the meeting adjourns at 2:41 p.m. until July 22, 2024 at 1:00 p.m. or at the call of the Chair.

**Carried**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Secretary/Treasurer



6648 Road 506 Plevna, Ontario K0H 2M0

## **Notice of Public Hearing**

### **Application for Minor Variance - File #A04/24**

Clause 45(1) of the Planning Act  
Section 3, O.Reg. 200/96

### **Application for Consent File #B08/24**

Clause 53(5) of the Planning Act  
Section 3, O.Reg. 197/96

**Subject Land:** Part of Lot 15, Concession 1, Geographic Township of  
Barrie (Big Gull Lake)

**Applicant(s):** Ben Thompson and Greg Thompson

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**Take Notice:** The Township of North Frontenac Committee of Adjustment will hold a public meeting on **June 24, 2024 at 1:00 p.m.** to discuss and hear comments regarding the above-noted applications under the authority of Section 45 and Section 53 of the Planning Act, R.S.O. 1990 as amended. The meeting will be held in person at the Municipal Office in Council Chambers, 6648 Road 506, Plevna, Ontario; or through Electronic Participation.

### **Application for Consent**

**Explanation of Purpose and Effect:** The Applicants are proposing to create One (1) New Lot with an area of approximately 1.52 hectares and a proposed water frontage on Big Gull Lake of 61 metres

The retained lot will have an approximate area of 3.31 hectares with a proposed water frontage of approximately 167 metres.

### **Application for Minor Variance**

**Explanation of Purpose and Effect:** The Applicants have also submitted a Minor Variance application (File #A04/24) as the frontage of the proposed lot does not meet the required 77 metres of waterfrontage as per Section 4.4.3 of the Zoning By-law.

**Submissions:** Written comments on the applications shall be provided to the undersigned before the hearing of the application at the address above or by email to the Clerk/Planning Manager at [clerkplanning@northfrontenac.ca](mailto:clerkplanning@northfrontenac.ca)

Members of the public are encouraged to submit written comments. Comments shall be made available to any interested person for inspection. If we have not heard from you, we will assume that you have no comments or concerns regarding this matter.

**Public Hearing:** You are entitled to attend this public hearing in person; or through the use of electronic participation to provide comments regarding the proposed development to the Committee. Representation by counsel or an authorized agent is permitted to give evidence about this application.

To register for Electronic Participation, please visit the Township's Website to find the Zoom Meeting link under "Planning Applications Being Considered"; email Brooke Drechsler at [deputyclerk@northfrontenac.ca](mailto:deputyclerk@northfrontenac.ca); or call (613) 479-2231 or 1-800-234-3953 ext. 231.

**Notice of Decision:** If you wish to be notified of the decision of the Committee in respect of the proposed new lot with reduced waterfrontage, you must make a written request to the undersigned.

**Appeal:** If a "specified person" or "public body" (as defined in the Planning Act) that files an appeal of a decision of the Committee of Adjustment in respect to the proposed consent or minor variance does not make written submissions to the Committee before it gives or refuses a provisional consent or approves the minor variance; the Ontario Land Tribunal (OLT) may dismiss the appeal.

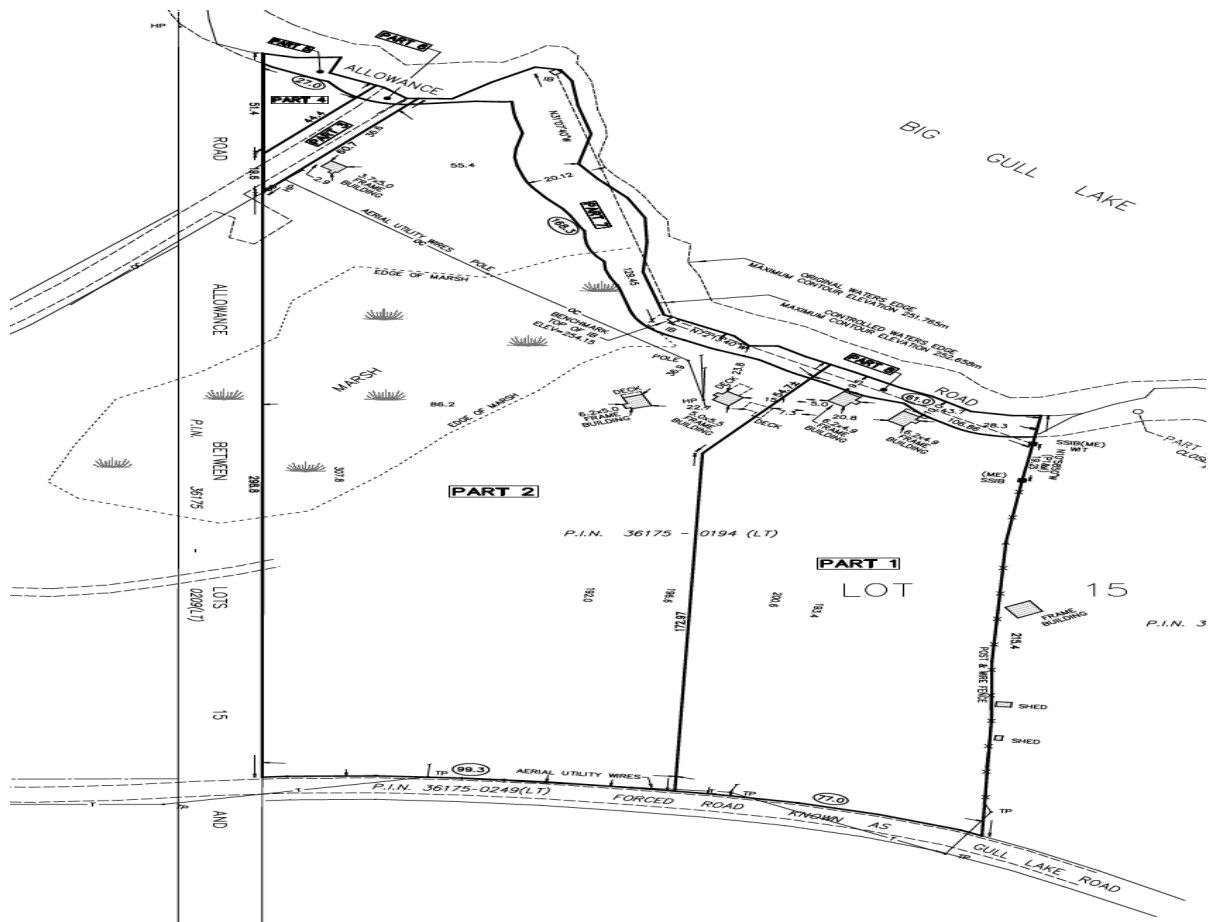
**Additional Information:** Additional information regarding the application is available for by contacting the undersigned during regular business hours, Monday to Friday 9:00 am to 4:00 pm.

**Notice of Collection:** Personal information collected as a result of this public hearing is collected under the authority of the Municipal Act, the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), the Planning Act, and all other relevant legislation, and will be used to assist in making a decision on this matter. All personal information (as defined by MFIPPA), including (but not limited to) names, addresses, opinions and comments collected will be made available for public disclosure to members of the public, at the meeting, through requests, and through the website of the Corporation of the Township of North Frontenac. Questions regarding the collection, use and disclosure of this personal information may be directed to the undersigned.

Dated at Plevna, Ontario this 21<sup>st</sup> day of May 2024.

Tara Mieske, Secretary-Treasurer  
Township of North Frontenac

Email: [clerkplanning@northfrontenac.ca](mailto:clerkplanning@northfrontenac.ca)





## Planning Report

**To:** Members of Committee of Adjustment

**Prepared By:** Jennie Kapusta, Community Planner, County of Frontenac

**Reviewed By:** Sonya Bolton, Manager, Community Planning, County of Frontenac

**Re:** Applications for Consent to Sever for the Creation of One New Rural Lot and Minor Variance for a Reduction in Lot Frontage

**Address:** Gull Lake Road and Thompson Road (vacant)

**Legal Description:** Part Lot 15, Concession 1, Geographic Township of Barrie

**File Numbers:** B08/24 and A04/24 (Thompson)

**Owner:** Ben Thompson and Glen Thompson

**Applicant:** Same as Owner

**Date Prepared:** June 19, 2024

**Date of Public Meeting:** June 24, 2024

**Date of Second Meeting:** July 22, 2024

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### Recommendation:

That the Committee of Adjustment for the Township of North Frontenac approve these applications for consent and minor variance, subject to the conditions outlined in Appendix A of this report.

### Proposal:

Applications for consent to sever for the creation of one new rural lot and minor variance to recognize reduced water frontage for the new lot.

### **Severed Parcel (B08/24)**

The proposed severed parcel will be regularly shaped, approximately 1.52 hectares (3.76 acres) in area and will have a minimum of 61 metres (200 feet) of frontage along the shoreline of Big Gull Lake and a minimum of 77 metres (252.6 feet) along Gull Lake Road. The proposed lot contains two existing frame structures that were at one time used as residential cottages. These structures, however, have fallen into a state of disrepair and the applicant has indicated that both structures are to be removed from the property to permit future residential development.

Planning staff are recommending the inclusion of a condition of provisional consent that all existing structures on the subject property are to be demolished and removed prior to the finalization of the creation of the lot proposed through this consent application.

### **Retained Parcel (B08/24)**

The proposed retained lot will be regular in shape, approximately 3.31 hectares (8.2 acres) in area with approximately 167.3 metres (548.9 feet) of frontage along the shoreline of Big Gull Lake and approximately 100.1 metres (328.4 feet) of frontage along Gull Lake Road. The retained parcel contains three existing frame structures that were at one time used as residential dwellings. These structures, however, similar to those on the proposed severed lot, have fallen into a state of disrepair and the applicant has indicated that these structures are to be removed to facilitate future residential development.

### **Minor Variance (A04/24)**

An application for minor variance has been submitted to recognize the deficiency in water frontage for the proposed severed lot in consent application B08/24.

**Variance 1:** Section 4.4.3 of the zoning by-law requires a minimum lot frontage (water frontage) of 77 metres (252.6 feet). The applicant is proposing a minimum lot frontage of 61 metres (200 feet), a variance request of 16 metres (52.5 feet).

### **Background Information**

These applications were initially before the Committee of Adjustment at the June 24, 2024 meeting. At that time the Committee deferred the applications because of questions and concerns raised by the public that could not be satisfactorily answered during the meeting. At the meeting there were written comments provided to the Committee that had been received the morning of June 24, 2024, and verbal comments were also provided at the public meeting regarding these applications. These submitted comments also referenced a concurrent process that was approved by Township Council. Following the June 24, 2024 Committee meeting, planning staff had a virtual meeting with Township staff, and the applicants to discuss the questions and comments that had been received. Details on these comments and the response from planning staff can be found in the Comments section below.

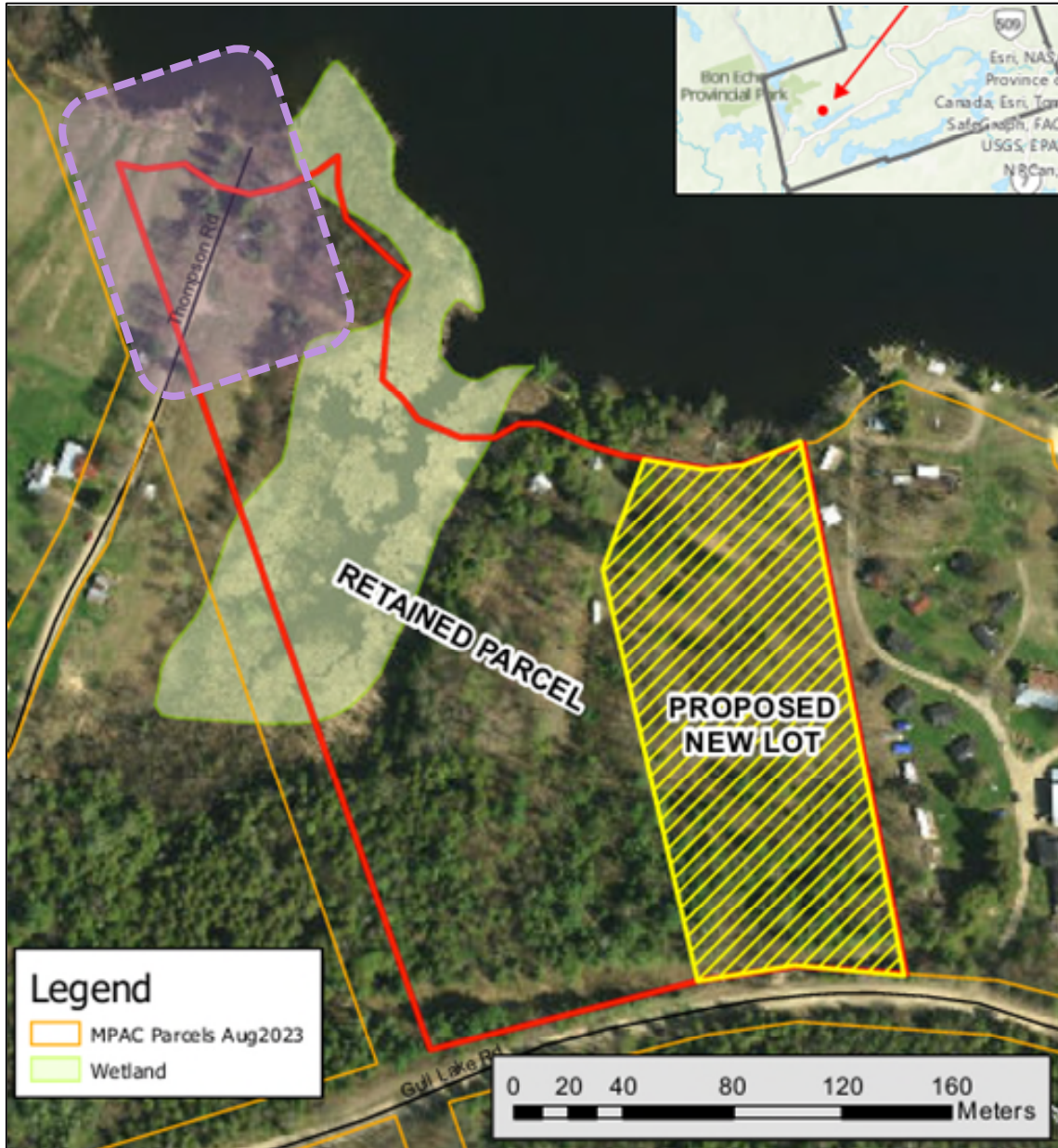
Information Category	Response
Official Plan designation	Waterfront Area and Rural Area
Zoning	Residential Waterfront (RW) and Rural (R)
Current size (area) of subject property	4.83 hectares (11.96 acres)
Existing road frontage and access	177.1 metres (801.5 feet) along Gull Lake Road and approximately 59.3 metres (194.5 feet) along Thompson Road
Waterfrontage	228.3 metres (748.9) feet along Big Gull Lake
Natural heritage features	Big Gull Lake and an MVCA regulated wetland on the retained parcel
Existing development	Five dilapidated frame structures (dwellings) that are to be removed
Surrounding land uses	Similarly sized developed waterfront residential lots along the shoreline of Big Gull Lake. Larger rural parcels inland, developed with rural and agricultural uses as well as naturally vegetated parcels.

**Pre-application Consultation:**

The applicant consulted with Township and planning staff prior to submitting these applications.

**Public Notice**

Notice of the public meeting before the Committee of Adjustment that was held on June 24, 2024 was given in accordance with the requirements of the Planning Act. A notice was placed on the subject property and mailed to all property owners within 60 metres of subject property, 14 days in advance of the meeting.



**Figure 1:** Map showing the proposed severed (yellow hatching) and retained (red outline) parcels, along with the area of the property subject to the land swap (dashed purple outline).

## Comments

### Mississippi Valley Conservation Authority (MVCA)

These applications were circulated to MVCA for review. Comments dated June 12, 2024 indicate no objection to either the proposed consent application or the concurrent minor variance application for reduced water frontage.

MVCA staff noted that sufficient area appears to exist on both parcels to accommodate a building envelope beyond the minimum required 30 metre waterbody/wetland setback. To mitigate potential effects of erosion and surface runoff MVCA recommend:

- A minimum 15 metre vegetated buffer be maintained along the border of the MVCA regulated wetland, and along the shoreline of Big Gull Lake.
- Natural drainage patterns on the site should not be substantially altered, such that additional runoff is directed into the MVCA regulated wetland or into the lake.

### **Septic Approval Authority**

Submitted with the applications were reviews of septic suitability for both the proposed severed and retained parcels. These evaluations dated April 23, 2024 were completed by Ron Nowel (BCIN 10999). The evaluations indicated that both parcels were suitable for the installation of a sewage disposal system and that the sites were flexible regarding the location of the septic systems.

### **Public Comments**

At the time of the writing of the initial planning report, prior to the June 24, 2024 Committee of Adjustment meeting there was an email, dated June 19, 2024, received from a neighbour regarding these applications. This email did not express any concerns with the creation of the new lot or the reduction in water frontage. Rather the questions were with regards to a concurrent but separate situation occurring on the retained parcel involving the Thompson Road access to Big Gull Lake and the Township maintained boat launch.

Thompson Road is a Township maintained road that leads down to a Township maintained public access boat launch and parking area for access to Big Gull Lake. However, a section of the travelled portion of Thompson Road and the parking area and boat ramp are actually located on the property subject to this application (see Figure 1). This situation is known as a forced road. The property owner is in the process of working with Township staff, Township Council and the Township solicitor to facilitate a “land swap”. The Township will obtain ownership of the lands that include the road, boat ramp and parking area, in exchange for a portion of an unopened Township road allowance that abuts the subject property. This land swap will have the effect of creating a new developable lot on the north side of Thompson Road because the two parts of the subject property will be divided by lands that are in separate ownership.

Planning staff would like to note that this land swap is entirely a decision of Township Council and not a matter that can be addressed or changed by the Committee of Adjustment. Further, the land swap does not impact the ability of the property to be severed as requested as the retained parcel exceeds the minimum lot area and frontage requirements with or without these lands being part of the subject property.

At the Council meeting on June 6, 2024, Council passed the following resolution:

**Be It Resolved That** Council receives for information the Public Works Managers and Clerk / Planning Managers Administrative Report entitled "Thompson Road Property Exchange".

**And That** Council approves the exchange of the Lot Road Allowance and Shore Road Allowance northwest of the Thompson Road in exchange for the Thompson Road through Roll #010-020-20200 subject to the road being surveyed to a width of 20 metres (66 feet) across the entire length of the property to access the boat launch area and for the parking area being approximately 9 metres (30 feet) wide beyond the new Road Allowance on the east side and 36 metres (120 feet) long;

**And That** Council approves the exchange of the Lot Road Allowance between Thompson Road and Gull Lake Road and the Shore Road Allowance east of Thompson Road along the entire frontage of the Thompson property for the Thompson Road through Roll #010-020-23200 surveyed 20 metres (66 feet) from the western edge of the road easterly;

**And That** the Chief Administrative Officer is authorized to sign the Land Exchange Agreement;

**And That** Council instructs the Clerk to complete the public notice for the closure and sale of the Road Allowance in accordance with the Sale of Land Policy.

**Carried**

After the publishing of the Committee agenda and prior to the commencement of the meeting, further public comments, dated June 24, 2024, were received regarding these applications, including a legal opinion provided by Steven Follett, a solicitor that had been retained by the Kosziwka Family.

These comments outlined several concerns regarding both the consent and minor variance applications, along with concerns related to the land swap described above. The concerns are described below, along with the responses from planning staff:

- **Concern:** More variances appear to be shown on the submitted sketch than are being considered at the Committee meeting or have been discussed in the planning report, including proposed new structures with a waterbody setback of 20 metres rather than the 30 metres prescribed in the zoning by-law. Further to this, the submitted sketch had been amended from the original to request a greater reduction in water frontage for the proposed lot.

**Response:** The submitted sketch may show potential future development that the applicant had initially considered. During pre-application consultation with Township and planning staff the applicant noted that they intended to demolish the existing frame structures that have fallen into disrepair and replace those with a single new structure on each of the severed and retained parcels. Planning staff noted that should the applicant wish to construct the new structures at the 20 metre setback shown then additional minor variance approval would be required. As a result, the applicant decided to not seek any additional variance

approval and stated an intention to ensure future development meets the provisions of the zoning by-law.

Planning staff would like to note that should the current or any future owner of this property wish to apply for minor variance approval to permit a reduction in any of the zoning provisions, they would be entitled to do so, and that under the *Planning Act*, the Township cannot refuse to accept any application for minor variance.

- **Concern:** The minor variance application does not comply with the Township of North Frontenac Official Plan and disagreement that the minor variance application conforms to the intent of the Official Plan. The Committee of Adjustment should not override the water frontage described in Section 4.10.6.H of the Official Plan.

**Response:** The Council of the Township of North Frontenac has granted the authority to the Committee of Adjustment to make decisions on consent and minor variance applications. As the submitted comments noted, any decision of the Committee should conform to the *purpose and intent* of the Official Plan. This policy of the Official Plan is implemented by inclusion in the zoning by-law as the minimum requirement. The mechanism for applying for a reduction in this minimum requirement is a minor variance application such as that submitted by the applicant. Each request for a minor variance is reviewed on a case-by-case basis.

- **Concern:** A minor variance should be minor, and the requested 20.8 percent reduction is not minor in their opinion. The reduction in frontage would increase the density of development along the shoreline of Big Gull Lake. Further, that approval could set a precedent for future requests when other existing lots have greater water frontage.

**Response:** As seen through various decisions from the Ontario Land Tribunal, the definition of “minor” is not simply a mathematical calculation. The meaning of minor involves a qualitative evaluation, not just a quantitative measurement. Depending on the circumstances a 100 percent reduction in a zoning provision could be considered minor, such as allowing two dwellings to share a common party wall along a lot line. In this case the proposed reduction in waterfrontage for the severed parcel will allow the continued use of the existing cleared shoreline activity area, without the need to further encroach into the wetlands that form most of the shoreline of the retained parcel.

With regards to the density along the shoreline, the reduction in waterfrontage will not impact the ability of the severed and retained parcels to be developed in accordance with all zoning provisions, including meeting the 30 metre setback. Additionally, reducing the number of structures on each parcel from 2 or 3 within 10 metres of the shoreline to 1 at a minimum setback of 30 metres significantly reduces the density of the built form in proximity to Big Gull Lake.

- **Concern:** Misdescription of the Retained Parcel on the consent application form as only Part 2 on the submitted sketch when the legal title shows it comprising of Parts 2,3 and 4.

**Response:** Planning staff understand that the retained parcel currently includes Parts 2, 3 and 4 (see Figure 1), which includes these parts in the retained parcel outline. When evaluating the consent and minor variance applications it was determined that the retained parcel complies with all provisions of the zoning by-law even if the Council approved land swap proceeds as proposed.

- **Concern:** Disagreement with planning staff’s description of who “owns” the lands over which Thompson Road travels, including a discussion of “paper title” and beneficial title and implications of each with regards to forced roads.

**Response:** The planning report explanation of forced roads and land ownership was not intended to be a comprehensive legal explanation of land title. It was intended to be a simple explanation of what a forced road is and what the current situation regarding Thompson Road involves.

- **Concern:** A desire that the Committee of Adjustment require the transfer of Part 3 (which describes Thompson Road) to the Township as a condition of consent approval. It was suggested that doing so would save the Township from the time, effort and cost of responding to a legal claim by the Kosziwka family that they are entitled to half the abutting road allowance under the Township’s own policy. Alternatively, it was requested that the Committee defer a final decision on the consent application until the concerns regarding Thompson Road had been settled.

**Response:** The Committee of Adjustment cannot impose conditions of provisional consent approval on the retained parcel. In certain circumstances and if the applicant agrees, the Committee may be able to include a condition that involves the retained parcel. Any conditions of consent approval need to be appropriate and related to the consent application. It is the opinion of planning staff that the situation involving Thompson Road is unrelated to the proposed new lot creation on the eastern portion of the subject property. Additionally, this is a situation that has been decided by Township Council in consultation with the Township solicitor and is not part of the submitted consent application or a decision the Committee of Adjustment can alter.

- **Concern:** The proposed building shown on the submitted sketch is partly on the road allowance abutting the Kosziwka property. Additionally, that Part 4, even including the entirety of the unopened road allowance would not form a lot that met the minimum lot area provisions, and development therefore could not take place without the approval of another minor variance application.

**Response:** Proposed structures shown on the sketch do not necessarily indicate the final or approved location of these structures. With regards to the minimum

lot size provisions in the zoning by-law for lots in the Residential Waterfront (RW) zone, these provisions would not apply to this parcel. Section 3.24(e) of the Township zoning by-law permits existing undersized and undeveloped lots to be developed provided they can be adequately serviced and have a building envelope that complies with all performance standards in the zoning by-law.

As Thompson Road is a forced trespass road that has been maintained by the Township for many years, the lands located between Thompson Road and the unopened road allowance are considered to be an existing undeveloped lot for the purposes of lot area/frontage calculations.

- **Concern:** A desire for a condition of approval for the consent application that no further minor variance applications be permitted concerning Parts 2 and 4 and any lands that may be added to them in the future.

**Response:** As noted above, any conditions of provisional consent approval must be appropriate and related to the consent application. Additionally, any conditions of consent must be able to be completed prior to the signing of the certificate of official for the creation of the new lot. There is no way for this condition to be fulfilled prior to the creation of the proposed new lot.

Further, the *Planning Act* does not permit a municipality to refuse to accept an application for minor variance approval. If a property owner wants to request a minor variance approval and submits an application, the Township must accept the application provided it contains the required information and the payment of any fees.

## Conformity and Consistency with Policy Planning Documents

Applications for consent are required to be consistent with the Provincial Policy Statement, 2020 and conform to both the County of Frontenac Official Plan and the Township of North Frontenac Official Plan. It is the opinion of planning staff that, subject to the approval of the concurrently submitted minor variance application (number A04/24), the proposed consent is consistent with and conforms to the planning policies of all these documents.

The key policies of each document that are applicable to the subject application are outlined in Appendix B of this report, and the policy issues are addressed in the planning analysis below.

## Township of North Frontenac Zoning By-Law Number 55-19

The subject property is zoned as Rural (R) and Residential Waterfront (RW) in the Township of North Frontenac Zoning By-Law Number 55-19. The Rural Zone permits a wide variety of uses, including residential, agricultural, limited commercial, and limited institutional. The RW zone permits single detached dwellings and a variety of low-impact accessory uses.

The minimum lot area for new residential uses in the Rural and RW zones is 0.8 hectares (2 acres) with a minimum road frontage of 46 metres (150.9 feet), the RW zone also requires a minimum water frontage of 77 metres (252.6 feet). The proposed severed parcel exceeds the minimum lot size requirements of the Zoning By-Law for residential uses in the Rural and RW zones and complies with the minimum required 46 metres of road frontage. A concurrent minor variance application (A04/24) has been submitted to recognize the deficiency in water frontage for the severed parcel. The retained parcel exceeds the minimum lot size and frontages for residential uses in the Rural and RW zones.

This proposal meets all other requirements of the zoning by-law and subject to approval of the concurrently submitted minor variance application (A04/24), staff are satisfied that the request meets the intent of the zoning by-law.

## **Planning Analysis and Considerations**

These applications were reviewed against the policies of the Provincial Policy Statement, the County of Frontenac Official Plan, and the Township of North Frontenac Official Plan. The analysis below summarizes all relevant policies by theme. A list of all land-use planning policies relevant to this application can be found in Appendix B of this report.

### **Rural and Waterfront Character**

The proposed severed and retained parcels will have frontage on Gull Lake Road, a fully maintained Township road in addition to frontage on Big Gull Lake. The proposed lot meets the zoning by-law requirements for lot area and road frontage for residential development in the Rural and RW zones but not the water frontage requirements. The retained parcel exceeds the zoning requirements for residential uses in the Rural and RW zones.

The reduction in water frontage for the new lot is proposed due to the presence of the regulated wetland that encompasses much of the shoreline of the retained parcel. Reducing the water frontage of the proposed lot to 61 metres from 77 metres will allow both the severed and retained parcels to utilize the existing shoreline activity areas and access to Big Gull Lake without the need to encroach into or negatively impact the wetland. The reduction in water frontage will not impact the ability of the proposed lot to be developed or the ability of the lot to gain safe access from Price Road.

The anticipated residential development of this proposed lot is in keeping with the existing rural character of the area and will leverage the existing rural servicing, with no expansion required.

Planning staff are of the opinion that this consent application has the potential to allow for development that is locally appropriate, builds upon rural character, and leverages existing rural services and amenities.

## **Sewage Disposal System Services**

As noted in the Comments section above, provided with this application was a review of septic suitability from a certified septic installer confirming that both the proposed lot and the retained parcel are suitable for the installation of septic systems.

## **Natural Heritage and Natural Hazards**

The subject property is located along Big Gull Lake. As noted in the Comments section above there is an MVCA regulated wetland within the retained parcel along the shoreline of the lake and no natural hazard concerns were identified on the proposed lot.

There were no human made hazards identified on or in proximity to the proposed severed parcels. Impacts to significant natural heritage features are not anticipated as a result of the subject application.

## **Minimum Distance Separation (MDS)**

No livestock facilities, aggregate extraction operations, or landfills were identified within the applicable screening areas surrounding the subject property. Therefore, no further studies are required prior to the approval of this application.

## **Road Widening**

Section 5.3.3 of the Official Plan states that the minimum width for a year-round or seasonally maintained township road is 20 metres (66 feet). According to information available to County Planning staff it appears that the Property Identification Number (PIN) that describes Gull Lake Road along the frontage of the proposed severed parcel complies with the minimum 20 metre width. As a result, planning staff are not recommending a road widening condition as a part of the approval for this proposed new lot.

## **Minor Variance**

Under Section 45(1) of the Planning Act a minor variance application must meet all of the four tests of minor variance. The four tests are:

1. Is the application minor?
2. Is the application desirable for the appropriate development of the lands in question?
3. Does the application conform to the general intent and purpose of the Zoning By-law?
4. Does the application conform to the general intent and purpose of the Official Plan?

Planning staff are of the opinion that the proposed minor variance to recognize the deficiency in water frontage for the lot to be created through consent application B08/24 meets the four tests of minor variance for the following reasons:

**Is the application minor?**

The application is minor because the reduction in water frontage will not impact the ability of either the proposed lot or the retained parcel to be developed in accordance with the provisions of the Township zoning by-law. The proposed reduction in water frontage for the severed parcel will allow the continued use of the existing cleared shoreline activity area, without the need to further encroach into the wetlands that form most of the shoreline of the retained parcel.

**Is the application desirable for the appropriate development of the lands in question?**

The reduction in water frontage is appropriate for the development of the lands in question because it will facilitate the creation of a new lot that is in keeping with the existing waterfront character of the area. A significant portion of the water frontage for the retained lot is an MVCA regulated wetland. The reduction in water frontage will permit the retained parcel to use the existing cleared activity area and access Big Gull Lake without the need to encroach into or impact the wetland.

**Does the application conform to the general intent and purpose of the Zoning By-law?**

Aside from the reduced water frontage, the proposed lot and the retained parcel meet all other provisions of the Zoning By-law including a buildable area that meets the required setbacks from both lot lines and identified natural features (Big Gull Lake and the MVCA regulated wetland). Planning staff are of the opinion that the reduction in water frontage conforms to the intent and purpose of the Zoning By-law.

**Does the application conform to the general intent and purpose of the Official Plan?**

Waterfront Area policies are intended to govern development within 150 metres (500 feet) of waterbodies and on islands with the intent of protecting water quality, shoreline amenities and natural habitat areas.

Planning staff are of the opinion that the reduced water frontage for the proposed lot will not impact the waterfront and rural character of the region, nor will it impact the ability of the lot to be serviced.

**Conclusion**

Planning staff are of the opinion that a plan of subdivision is not required for the orderly development of the municipality in this instance and that the proposed minor variance meets the four tests noted above. The proposed consent and minor variance are

consistent with and conform to the required policies and provisions of the province, the County of Frontenac and the Township of North Frontenac.

Subject to any comments that may be received at the public meeting, it is recommended that the Committee of Adjustment approve consent application number B08/24 and minor variance application number A04/24, subject to the conditions outlined in Appendix A of this report.

## **Attachments**

Appendix A: Draft Conditions of Approval

Appendix B: Relevant Planning Policy and Legislation

## Appendix A: Draft Conditions of Approval

**Note:** Conditions are a decision of the Committee of Adjustment; the conditions below are recommended. The final approved conditions will be included in the signed decision.

### Recommended Conditions for Consent Application B08/24

#### Expiry Period

1. Conditions imposed must be met within two years of the date of the Notice of Decision, as required by Section 53(41) of the Planning Act, RSO 1990, as amended. If conditions are not fulfilled as prescribed within two years, the application shall be deemed to be refused. Provided that all conditions are satisfied, the Certificate of Official is to be presented to the Secretary-Treasurer, Committee of Adjustment for certification under Section 53(42) of the Planning Act, R.S.O. 1990 as amended, within two years of mailing of this Notice of Decision.
2. The Certificate of Official must be registered within two years from the issuance of the Certificate as required under Section 53(43) of the Planning Act, R.S.O. 1990, as amended. A copy of the registered transfer certificate shall be provided to the Secretary-Treasurer, Committee of Adjustment to complete the file.

#### Severed Lands

3. The land to be severed by Consent Application number B08/24 shall be for the creation of one new lot approximately 1.52 hectares (3.76 acres) in area and will have a minimum of 61 metres (200 feet) of frontage along the shoreline of Big Gull Lake and a minimum of 77 metres (252.6 feet) along Gull Lake Road.

#### Survey/Reference Plan or Registerable Description

4. An acceptable reference plan or legal description of the severed lands in duplicate [Registry Act, s.81, Land Titles Act, s. 150], the deed or instrument conveying the severed lands, and the Certificate of Official shall be submitted to the Secretary-Treasurer for review and consent endorsement within a period of two years [Planning Act, s. 53(41)] after the date of Decision [Planning Act, ss. 53(17) and 53(24)].
5. The applicant or his/her solicitor shall prepare and submit to The Corporation of the Township of North Frontenac, a transfer or such other required form of document necessary to implement the consent, including Form 1, Form 2, Form 3, or Form 4, as applicable, prescribed by Ontario Regulation 197-96, for endorsement by the Secretary-Treasurer of the Committee of Adjustments for the municipality. This transfer or other legal document shall be provided to the municipality within a period of two years after Notice of Decision was given under subsection 53(15) or 53(24) of the *Planning Act*.

6. The surveyor or owner shall submit the draft Reference Plan electronically, or in paper form, for review and approval by planning staff prior to depositing the Reference Plan with the Land Registry Office.
7. That the description of the parcel being severed, and the names of the Transferor and Transferee are included on the schedule attached to the deed of the land.

### **Existing Structures**

8. Prior to the signing of the Certificate of Official for the lot to be created through consent application B08/24 all existing structures shall be demolished and removed from the subject property.

### **Municipal Requirements**

9. Minor variance application A04/24 for a reduction in the minimum required water frontage for the creation of a new lot must be approved prior to the signing of the Certificate of Official for the lot to be created through consent application B08/24.
10. That the Applicant(s) shall ensure an entrance is installed from Gull Lake Road to the lot proposed through Consent Application B08/24.
11. That the Applicant(s) shall purchase and install a civic address sign as per Municipal Requirements.
12. Payment of the balance of any outstanding taxes and local improvement charges shall be made to the Township Treasurer. This includes all taxes levied as of the date of the signing of the certificate of official.
13. That the applicant shall provide payment to the Township of North Frontenac for a cash-in-lieu of parkland fee, pursuant to Sections 51(1) and 53(13) of the Planning Act, and in accordance with By-Law Number 34-19, in the amount of five percent (5%) of the appraised value of the land which is subject to this Consent application. The applicant shall provide a letter of opinion of value from a qualified appraiser or real estate professional (with comparable properties), or a professional appraisal completed to determine the value of the land as of the day before the provisional consent was given. The maximum payment amount shall be \$1,000.
14. In the event that there are abandoned wells located on the severed parcel, they be sealed in accordance with the requirements of the Ministry of the Environment.
15. Where a violation of the Township of Central Frontenac Zoning By-Law is evident, the appropriate minor variance or re-zoning be obtained to the satisfaction of the Municipality.
16. That confirmation is filed with the application file that conditions have been fulfilled to the municipality's satisfaction.

## **Recommended Conditions for Application A04/24**

### **Applicability**

1. That the minor variance granted through application A04/24 is only for:
  - a. A reduction in waterfrontage for the lot to be created through Consent Application B08/24. This lot shall have a minimum waterfrontage of 61 metres (200 feet) along the shoreline of Big Gull Lake.
2. This minor variance does not include permission for a reduction in any other required zoning provisions for any future development that may occur on the property.

## **Appendix B: Relevant Planning Policy and Legislation**

### **Planning Act**

Section 53(1) of the Planning Act allows for the division of land by consent, provided that the approval authority is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. When determining whether to grant a provisional consent, a municipality is required by Section 53(12) of the Planning Act to have regard for the matters listed in Section 51(24) of the Planning Act.

Section 51(24) of the Planning Act includes a list of criteria that need to be addressed when subdividing land, which includes: conformity with the Official Plan; suitability of the land for the proposed development; adequacy of, and connections to, public roads; dimensions and shapes of lots; conservation of natural resources and flood control; and adequacy of utilities and municipal services.

### **Provincial Policy Statement (2020)**

The Provincial Policy Statement (PPS) provides direction on matters of Provincial interest related to land use planning and development. The PPS promotes efficient land use and development patterns that support strong, liveable, and healthy communities, protect the environment and public health and safety, and facilitate economic growth. Under Section 3 of the Planning Act, all municipal decisions regarding planning applications “shall be consistent with” applicable provincial policy.

When assessing consent applications on rural lands, planning authorities must comply with Section 1.1.5.1 of the PPS, which requires the approval authority to apply the relevant policies of the following sections:

- Section 1: Building Strong Healthy Communities of the PPS promotes the building of healthy communities and includes policies about avoiding development and land use patterns which may cause environmental or public health and safety concerns.
- Section 2: Wise Use and Management of Resources of the PPS contains policies that encourage the protection of natural heritage, water, agricultural land, mineral and aggregate resources, and cultural heritage and archaeological resources for their economic, environmental, and social benefits.
- Section 3: Protecting Public Health and Safety of the PPS contains policies intended to reduce the potential for public cost or risk to Ontario’s residents from natural or human-made hazards. Conservation Authorities have provincially delegated responsibilities to represent Provincial interests regarding natural hazards under Section 3.1 of the PPS.

The following policies are applicable to this application:

- Avoiding development and land use patterns which may cause environmental or public health and safety concerns (Section 1.1.1.c).
- Permitted uses on rural lands include residential development that is locally appropriate (Section 1.1.5.2.c).
- Supporting healthy, integrated and viable rural areas by building upon rural character and leveraging rural amenities and assets (Section 1.1.4.1.a).
- Promoting development that is compatible with the rural landscape and can be sustained by rural service levels (Section 1.1.5.4).
- New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae. (Section 1.1.5.8).
- Individual on-site water and sewage services may be used provided that site conditions are suitable for the long term provision of such services with no negative impacts (Section 1.6.6.4).
- Natural features and areas shall be protected for the long term (Section 2.1.1).
- Development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards (Section 3).

### **County of Frontenac Official Plan (2016)**

The County of Frontenac Official Plan is a framework for guiding development in the County through the management and protection of the natural environment and by providing direction and influence on growth patterns. It is focused on the six themes of economic sustainability, growth management, community building, housing and social services, heritage and culture, and environmental sustainability.

The following policies are applicable to this application:

- Section 3.3, Rural Lands, provides policies for all lands outside of the settlement areas. The Plan recognizes that rural lands are used as an alternative location for those preferring a rural lifestyle. Low density residential development, as well as rural-related commercial, industrial, recreational and institutional development, is permitted.
- Section 4.2, Servicing, includes policies for the use of private on-site water and sewage services, provided that site conditions are suitable for the long-term provision of such services with no negative impacts.

- Section 7, Environmental Sustainability, sets out policies for environmental sustainability and the protection of the natural heritage system and the ecological functions it provides.

### **Township of North Frontenac Official Plan (2017)**

The property is designated as Waterfront Area and Rural Area in the Township of North Frontenac's Official Plan (2017). Waterfront Area policies are intended to govern development within 150 metres (500 feet) of waterbodies and on islands with the intent of protecting water quality, shoreline amenities and natural habitat areas. It is Council's intent that the water quality of all waterbodies in the Municipality will be maintained at their present level or enhanced. New development must be considered in light of its impact on the environmental quality of any lake or river.

The intent of the policies in the Rural Area designation are to maintain rural character and ensure that properties may be adequately serviced. Within the Rural Area the plan provides for a supply of land for a diversity of traditional and evolving rural uses including: rural residential, rural co-operative, recreational oriented uses and rural commercial and industrial uses. It is Council's intent that the water quality of all waterbodies in the Municipality will be maintained at their present level or enhanced. New development must be considered in light of its impact on the environmental quality of any lake or river.

- The lot(s) to be severed and to be retained must meet the requirements of the Zoning By-law. (Section 3.15.2.D)
- Residential development may occur on individually created lots or by Plan of Subdivision. (Section 4.3.2.A)
- Lot sizes for rural residential development or waterfront residential development shall be no less than 0.8 ha (2 acres). (Section 4.3.2.A)
- Residential development shall be adequately serviced with on-site water and sewage disposal services (Section 4.3.2.B)
- Residential development will be permitted where it has frontage on and direct access to year-round maintained roads, preferably the existing network of roads, or on private lanes, either of which must meet municipal standards for road construction (Section 3.15.2.H & 4.3.2.C)
- All residential development is subject to the natural and human made hazards requirements of this plan (Section 4.3.2.I)
- Limiting the density of buildings and structures in the Waterfront Area is an important part in protecting the character of the lakes and rivers in North Frontenac. Many factors affect waterfront character such as the number of structures, setbacks, shoreline vegetative buffers, height, size and form of buildings, size and location of shoreline structures, and the historic development

of a particular lake or river. A strong vision through the policies in this Plan to limit density related to these factors is fundamental (Section 4.10.3.D).

- Land based buildings and structures (unless otherwise specified in the Plan) shall be located a minimum of 30 metres (100 feet) from the normal or controlled high water mark of a waterbody (Section 4.10.3.J).
- Waterfront Area Lot Size – The following shall constitute minimum lot requirements, unless otherwise specified: a lot area of 0.8 hectares (2 acres); and, a water frontage of 77 metres (250 feet) (Section 4.10.6.H).
- Section 4.10.5 Objectives sets out the objectives of the Waterfront Area including character, access and servicing, natural areas, and development. Limiting the density of buildings and structures in the Waterfront Area is an important part of protecting the character of waterbodies in North Frontenac. The Official Plan also speaks to the preservation and protection of the appearance of the shoreline in a natural vegetated state shall be encouraged.
- The objective listed in Section 4.10.5 (O) is to support redevelopment opportunities of waterfront properties while maintaining the character of the waterfront area.
- Section 4.10.6 (A) states that where development occurs in the Waterfront Area, it should enhance and protect, where possible, those qualities that contribute to character.
- Section 4.10.6 (B) states that natural form should dominate the character of the Waterfront. Natural shorelines may visually screen development viewed from the water and buffer uses
- Section 4.10.6 (D) states that where development occurs in the Waterfront, it should complement the natural and built form and should enhance and protect those qualities that contribute to character.
- Section 4.10.8 (A)(vi) allows existing lots of record and lots in existing and approved Plans of Subdivision to be developed under strict conditions where a proponent can demonstrate there will be no impacts on lake water.
- Section 4.10.8 (A)(xi) states that applications for Minor Variances to the Zoning setbacks established for at capacity lake trout lakes may be required to be supported by an Environmental Impact Assessment prepared in accordance with this Plan depending on the extent and impact of the proposal
- It is a policy of Council to protect and manage the identified wetlands as ecosystems which are important as habitat for a variety of plant and animal species, for water quality, flood control and water storage and recharge areas and for their value for passive recreation (Section 4.12.2.B)



6648 Road 506 Plevna, Ontario K0H 2M0  
[www.northfrontenac.ca](http://www.northfrontenac.ca)

**Notice of Public Hearing**  
**Application for Minor Variance**  
Clause 45(1) of the Planning Act  
Section 3, O.Reg. 200/96

**File No.: #A07/24**

**Subject Land: Part of Lot 29, Concession 2, Geographic Township of Palmerston  
(1076 Goudge Drive)**

**Applicant(s): Giles Leo**

**Take Notice:** The Township of North Frontenac Committee of Adjustment will hold a public meeting on **July 22, 2024, at 1:00 p.m.** to discuss and hear comments regarding the above-noted application under the authority of Section 45 of the Planning Act, R.S.O. 1990 as amended. The meeting will be held in person at the Municipal Office in Council Chambers, 6648 Road 506, Plevna, Ontario; and through Electronic Participation.

**Purpose and Effect under Section 45(1):**

The Applicants are applying for relief from Sections 3.1.1 and 3.1.4 of By-law #55-19, the Zoning By-law. Section 3.1.1 (c) and Section 3.1.4 (c) provides that all structures shall be setback from the high-water mark of all waterbodies a minimum of 30 metres.

The Applicants are proposing to construct a sleep cabin with a building area of 10 square metres. The proposed setback of the structure is approximately 34 feet from the high-water mark of Palmerston Lake.

**Submissions:** Written comments on this application, shall be provided to the undersigned before the hearing of the application at the address above or by email to the Clerk at [clerkplanning@northfrontenac.ca](mailto:clerkplanning@northfrontenac.ca)

Members of the public are encouraged to submit written comments. Comments shall be made available to any interested person for inspection at the hearing. If we have not heard from you, we will assume that you have no comments or concerns regarding this matter.

**Public Hearing:** You are entitled to attend this public hearing in person; or by electronic participation. Representation by counsel or an authorized agent is permitted to give evidence about this application.

To register for Electronic Participation, please visit the Township's Website to find the Zoom Meeting link under "Planning Applications Being Considered"; email Brooke Drechsler at [deputyclerk@northfrontenac.ca](mailto:deputyclerk@northfrontenac.ca); or call (613) 479-2231 or 1-800-234-3953 ext. 231.

**Additional Information:** Additional information regarding the application is available by contacting the undersigned during regular business hours, Monday to Friday 9:00 am to 4:00 pm.

**Notice of Decision:** If you wish to be notified of the decision of the Committee in respect of the proposed planning application, you must make a written request to the undersigned.

**Appeal:** If a "specified person" or "public body" as defined in the Planning Act files an appeal of a decision of the Committee of Adjustment in respect of the proposed planning application has not made a written submission or provide comments to the Committee before a decision is made, the Ontario Land Tribunal may dismiss the appeal.

**Notice of Collection:** Personal information collected as a result of this public hearing is collected under the authority of the Municipal Act, the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), the Planning Act, and all other relevant legislation, and will be used to assist in making a decision on this matter. All personal

information (as defined by MFIPPA), including (but not limited to) names, addresses, opinions, and comments collected will be made available for public disclosure to members of the public, at the meeting, through requests, and through the website of the Corporation of the Township of North Frontenac. Questions regarding the collection, use and disclosure of this personal information may be directed to the undersigned.

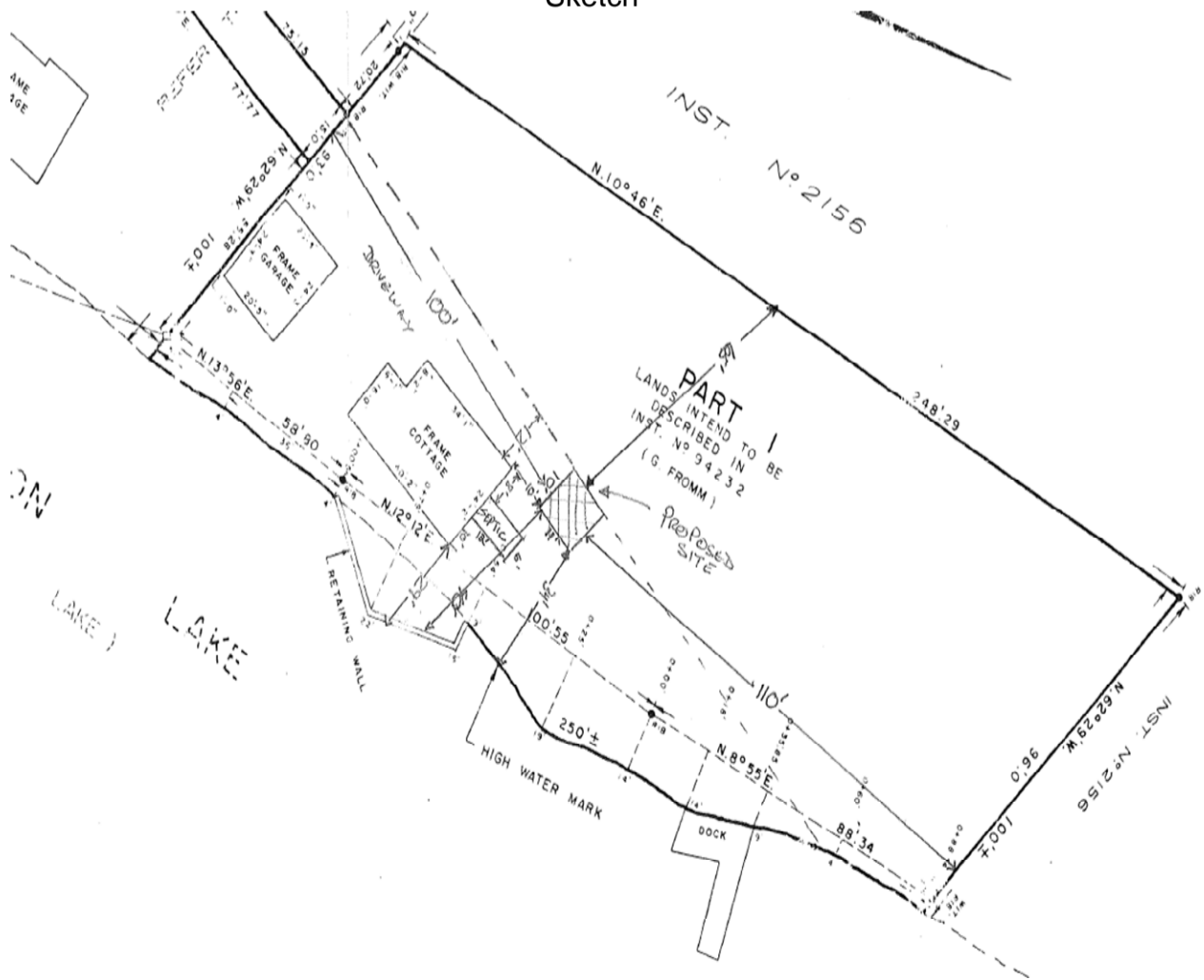
Dated at Plevna, Ontario this 14<sup>th</sup> day of June 2024.

Tara Mieske, Clerk/Planning Manager  
Township of North Frontenac  
Email: [clerkplanning@northfrontenac.ca](mailto:clerkplanning@northfrontenac.ca)

### Key Map



### Sketch





## Planning Report

**To:** Members of Committee of Adjustment

**Prepared By:** Dmitry Kurylovich, Project Manager/Senior Planner, County of Frontenac

**Reviewed By:** Sonya Bolton, Manager, Community Planning, County of Frontenac

**Re:** **Application for Minor Variance to the Waterbody Setback to Permit the Construction of an Accessory Structure**

**Address:** 1076 Goudge Drive

**Legal Description:** Part Lot 29, Concession 2; Part 1 on Registered Plan 13R-1077  
Geographic Township of Palmerston

**File Number:** A07/24 (Leo)

**Owner(s):** Giles Leo

**Applicant(s):** Same as Owners

**Date Prepared:** July 12, 2024

**Date of Public Meeting:** July 22, 2024

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### **Recommendation:**

That the Committee of Adjustment for the Township of North Frontenac receive comments from the public, and subject to any issues being raised at the public meeting, approve the application subject to the conditions outlined in Appendix A of this report.

### **Proposal:**

This application proposes to construct a 10 square metre (107 square foot) sleep cabin located approximately 12 metres (40 feet) from the estimated highwater mark of Palmerston Lake.

The proposed development requires the following variances:

**Variance:** Section 3.14(c), 3.27(e) requires all structures to be located a minimum of 30 meters (98.4 feet) from the high water mark of a waterbody. This application seeks to reduce the required setback to 12 metres (40 feet). This represents a variance of 18 metres (59.1 feet).

### Existing Development

- A one storey dwelling with an approximate footprint of 89 square metres (957 square feet), located approximately 8 metres (26 feet) from the highwater mark of Palmerston Lake.
- A one storey garage with an approximate footprint of 44 square metres (473 square feet), located approximately 8 metres (26 feet) from the highwater mark of Palmerston Lake.
- An existing sewage disposal system.

### Background Information

The purpose of this application is to resolve an existing compliance matter which proposes to relocate the already-constructed sleep cabin that was placed on the property prior to receiving proper planning approvals. Since the sleep cabin does not meet the minimum size requirement for requiring a building permit, the applicant was not aware of the minimum waterbody setback requirements for any structure regardless of size as required by the Township Zoning By-law.

The subject property is severely constrained by a steep slope that descends to the water. The only building envelope available on the property is within the flat spot that exists on the southeastern extent of the property, near the edge of the lake. MPAC records indicate that the existing dwelling and garage were constructed in 1956.

Information Category	Response
Official Plan designation	Hamlet, Waterfront Area, Western lot line falls within the Palmerston Lake Area of Natural and Scientific Interest (ANSI).
Zoning	Hamlet
Current size (area) of subject property	0.236 hectares (0.58 acres)

Information Category	Response
Existing road frontage and access	Accessed from Goudge Drive (Township owned road)
Waterfront	<p>Approximately 75 metres (246 feet) on Palmerston Lake.</p> <p>Palmerston Lake is designated as Lake Trout Lake – Not at Capacity</p>
Natural heritage features	Shoreline of Lake
Surrounding land uses	The lot is bordered by a larger waterfront property to the southwest and surrounded by a larger waterfront property to the west and north. Palmerston Lake is located to the east.

**Pre-application Consultation:**

The property owner consulted with Township, County, and Mississippi Valley Conservation Authority (MVCA) planning staff prior to the submission of this application in summer of 2023.

MVCA noted that the area chosen for the proposed sleep cabin was located at the foot of a tall and steep slope which met the criteria of being a possible hazard as defined by the regulations under the Conservation Authorities Act. As such, the applicant was required to undertake a slope stability study to investigate the stability of the slope prior to any development.

The applicant and their geotechnical engineer worked with the MVCA engineering review team to appropriately scope the application.

**Public Notice**

Notice of the public meeting before the Committee of Adjustment was given in accordance with the requirements of the Planning Act. A notice was placed on the subject property and mailed to all property owners within 60 metres of subject property, 10 days in advance of the public meeting.

## Comments

### Mississippi Valley Conservation Authority (MVCA)

MVCA reviewed the Geotechnical Slope Review (prepared by Cambium, dated February 28, 2024) and did not identify any concerns or provide any substantial comments.

Additional comments were received on July 11, 2024. MVCA did not oppose to the application subject to the following conditions:

- In accordance with the provisions of the relevant Municipal Zoning By-law, the existing vegetation along the shoreline shall be retained, with the exception of the allowable clearing for water access. This effort will help to mitigate the effects of erosion on the shoreline. We also recommend that the vegetation on the slope be retained in its entirety, in order to mitigate erosion and impacts on the stability of the slope.
- Natural drainage patterns on the site shall not be substantially altered such that additional drainage is directed towards the waterbody.
- All recommendations in the Geotechnical Slope Review (Cambium, February 28, 2024), shall be adhered to.

### Public Comments

An adjacent neighbour expressed support of the application to County staff during a site visit on June 27, 2024.

One nearby landowner sent a letter of objection on July 9, 2024. Their comments are summarized below:

**There is a trend of owners ignoring zoning requirements then submitting a retroactive minor variance to correct the non-compliance.**

**Planner Response:** When a violation of a Zoning By-law becomes evident, the legally established first step of rectifying the non-compliance issues is to allow the applicant to submit a minor variance application. The Township does not have the authority to take this right away.

**The Zoning By-law doesn't specify a 30m setback 'when possible' - it specifies 30m minimum. If the property doesn't accommodate a bunkie due to the size of the lot and or topography - then it shouldn't be permitted.**

**Planner Response:** The wording of the Zoning By-law is not intended to be, nor should it be flexible. The proper path to determine whether a use or structure that does not meet the provisions of the by-law is through the minor variance process. The minor

variance process exists for the purpose of allowing some flexibility especially in situations where a lot cannot accommodate the rigidity of the Zoning By-law.

Property owners have the right to apply for minor variances.

**The measurements on the application form are not correct**

**Planner response:** There is discrepancy between the site plan and the application form that was submitted with the application. However, the measurements discussed in this report have been verified on-site by the planner on file.

**The application does not propose a minor reduction to the setback.**

**Planner response:** As established by numerous decisions from the Ontario Land Tribunal, the concept of ‘minor’ goes beyond the numerical difference between the standard (setback) that is required by the Zoning By-law and what is being proposed by the applicant. One important consideration is the context of the property and if the lot was developed prior to the zoning by-law coming into effect.

**Adding bunkies will place more strain on the septic system because the addition of the bunkie increases the number of bedrooms and living space.**

**Planner response:** This logic also applies in the context of large families that use small cottages with septic systems that are sized based on the number of fixtures and bedrooms in an existing dwelling. Planning staff generally agree with these comments however it is also staff’s understanding that an un-serviced sleep cabin and number of site users regardless of septic system size does not contribute to the septic system capacity calculation as required by the Ontario Building Code. As such, the Township has taken the position that un-serviced buildings do not require an evaluation of the sewage system.

It should also be noted that this cottage is used seasonally and not year-round, therefore the year-round impact of the sewage system on the lake is reduced.

**Conformity and Consistency with Policy Planning Documents**

Applications for minor variance are required to be consistent with the Provincial Policy Statement, 2020 and conform to both the County of Frontenac Official Plan and the Township of North Frontenac Official Plan. It is the opinion of planning staff that the proposed expansion is consistent with and conforms to the planning policies of all these documents.

The key policies of each document that are applicable to the subject application are outlined in Appendix B of this report, and the policy issues are addressed in the planning analysis below.

## **North Frontenac Zoning By-Law Number 55-19**

The subject property is zoned Hamlet (H) in the Township of North Frontenac Zoning By-Law Number 55-19. The H Zone permits a variety of uses including single detached dwellings and accessory structures.

Section 3.27 of the Zoning By-law requires all new structures or buildings to be located more than 30 metres (98 feet) from the highwater mark of a waterbody. This application seeks to reduce the required setback to 12 metres (40 feet). This represents a variance of 18 metres (59.1 feet).

The intent of the 30 metre (98.4 foot) waterbody setback is to provide a vegetative buffer between a development envelope and shoreline for the purpose of maintaining aquatic habitat, run-off filtration, and reducing visual impacts of development on the waterfront character of the area.

Since the property was created prior to the current waterbody setback requirements and due to the slope of the property, there are no other suitable locations for development that will be outside of the waterbody setback. In the opinion of County planning staff, the proposed location maximizes the waterbody setback as much as practically possible and is the only suitable space for the placement of an additional structure on the entire lot.

The total lot coverage for all existing structures and the proposed building will fall below the maximum 15% permitted by the Zoning By-law.

County planning staff are therefore of the opinion that the proposed application complies with the purpose and intent of the zoning by-law.

### **Planning Analysis and Considerations**

This application was reviewed against the policies of the Provincial Policy Statement, the County of Frontenac Official Plan, and the Township of North Frontenac Official Plan. The analysis below summarizes all relevant policies by theme. A list of all land-use planning policies relevant to this application is found in Appendix B of this report.

#### **Waterfront Character**

The proposed accessory structure will be located at the rear of the existing buildings will be somewhat screened by the vegetation. County planning staff do not anticipate any major impacts on the visual character of the waterbody because of this application.

#### **Sewage Disposal System Services**

The proposed development appears to be adequately separated from the nearby septic system as shown on the applicant's Site Plan and as observed by planning staff during

a June 27<sup>th</sup> site visit. Planning staff do not anticipate any impact on the existing sewage disposal system.

### **Natural Heritage**

The subject property is located adjacent to Palmerston Lake which is identified as a not-at-capacity Lake Trout Lake and the Palmerston Lake Area of Natural and Scientific Interest (ANSI).

Although the Township Official Plan does not recognize the Palmerston Lake ANSI as being provincially significant, policies found in Section 4.12.2(E) do not permit development in lands adjacent to an ANSI unless it has been demonstrated through the preparation of an Impact Assessment that there will be no negative impacts on the ecological functions of the feature.

County planning staff are of the opinion that the proposed development does not require an Impact Assessment because the proposed development is minor and will be in an established development cluster that is located outside of the identified ANSI. Furthermore, the proposed development will require no significant site alteration and no vegetation removal. As such, County planning staff do not anticipate any negative impacts on the ANSI and are therefore of the opinion that an Impact Assessment offers little practical value to the proposal.

Palmerston Lake is a not-at-capacity Lake Trout Lake. Section 4.10.8 (B) states that Lake Trout Waters that are not at capacity can support additional shoreline development, provided that special precautions are taken to ensure that contamination from phosphorus is minimized.

The proposed building is not going to be serviced, so there will be no additional plumbing fixtures feeding into the existing sewage disposal system. No vegetation is proposed to be removed to accommodate the proposed development.

The proposed building will also be located in the existing development cluster and in proximity to all other structures on the property. Locating structures near one another is a best practice as it has the potential to limit unnecessary vegetation removal and site alteration.

County planning staff are of the opinion that the quality of Palmerston Lake and the Palmerston Lake ANSI will not be impacted by the proposed development.

### **Minimum Distance Separation**

No livestock facilities, aggregate extraction operations, or landfills were identified within the applicable screening areas surrounding the subject property.

## Natural Hazards

The entire property and surrounding area are characterized by a slope that descends toward the water. As illustrated by the contour lines seen in Figure 1, the area proposed for development is the flattest portion of the property.



Figure 1. One-metre elevation contour map of the subject property with the proposed development location outlined in red. Larger spacing between contour lines indicate flatter terrain.

To support the application, the applicant submitted a Geotechnical Slope review, prepared by Cambium on February 28, 2024. MVCA reviewed the report and did not identify any concerns with the proposal or findings of the study.

## Minor Variance

Under Section 45(1) of the *Planning Act* a minor variance application must meet all of the four tests of minor variance. The four tests are:

1. Is the application minor?
2. Is the application desirable for the appropriate development of the lands in question?
3. Does the application conform to the general intent and purpose of the Zoning By-law?
4. Does the application conform to the general intent and purpose of the Official Plan?

Planning staff are of the opinion that the proposed minor variance to permit a reduction to the waterbody setback and setback to the private lane meet the four tests of minor variance for the following reasons:

**Is the application minor?**

County planning staff are of the opinion that the proposed waterbody setback reduction is minor in the context of the constrained nature of the property. Given the slope on the property the developable portion of the property is at most 22 metres (72 feet) wide as measured from the edge of Palmerston Lake, meaning that meeting the minimum 30 metres (98 feet) waterbody setback is impossible without excavating the slope.

Based on County staff observations, elevation map, discussions with the property owner, and findings of the slope stability study, the location chosen for the sleep cabin is the most practical. The proposed location maximizes the setback from the water to the greatest extent possible while not impacting slope integrity.

**Is the application desirable for the appropriate development of the lands in question?**

County planning staff are of the opinion that the proposed development is desirable and appropriate for the subject property.

The existing dwelling is modest in size and offers limited expansion space. The area proposed for development is mostly flat and will require little to no site alteration to support the structure. The proposed building will be clustered in proximity to the existing dwellings and will not be hooked up to the existing sewage disposal system.

Overall, the proposed development will allow the property owner to meet the needs of their family while minimizing site alteration (slope excavation and vegetation removal).

**Does the application conform to the general intent and purpose of the Zoning By-law?**

County planning staff are of the opinion that the proposed development conforms to the general intent and purpose of the Zoning By-law.

The purpose of the 30 metre (98 foot) waterbody setback for any new structure is to ensure that the shoreline and waterbody is adequately protected and impacts from development are mitigated by a vegetation buffer that helps to filter run off, provide habitat for aquatic species, and minimize visual impact of development.

It is important to consider that the existing lot was developed prior to the current zoning by-law coming into effect which has resulted in all existing development to be located within the required 30 metre (98 foot) waterbody setback.

The proposed development meets the intent of the Zoning By-law because it maximizes the distance from the water while minimizing all other site alteration and visual impacts on the lake. The development will not result in any shoreline vegetation to be removed and will not be connected to the sewage system. The total footprint of the existing and proposed structures falls below the maximum permitted lot coverage of the Zoning By-law.

**Does the application conform to the general intent and purpose of the Official Plan?**

County planning staff are of the opinion that the proposed development conforms to the general intent and purpose of the Township Official Plan.

The intent of the Waterfront Area policies of the Township Official Plan are to ensure that development can occur without a significant impact on shoreline quality, shoreline character, and health of the waterbody. The Official Plan also requires the Township to carefully consider development on Lake Trout lakes to ensure new development will not result in additional phosphorus and nitrogen loading which have a negative impact on lake quality. Palmerston Lake is identified as a Not-at-Capacity Lake Trout Lake.

County planning staff are of the understanding that nitrogen and phosphorus typically originate from sewage disposal systems. The structure proposed in this application will not be connected to the sewage disposal system, will not impact any sewage system components, and will be located away from the edge of the water as far as practically possible. The development will not result in shoreline vegetation removal which provides a visual and ecological buffer between all development on this property and the waterbody.

The intent of the ANSI policies found in 4.12.2(E) are to ensure that areas that exhibit unique natural and scientific values are not impacted by development located within the ANSI or within 120 metres (393.7 feet) of the edge of the identified ANSI feature. Although the proposed development is located within 120 metres (393.7 feet) of the ANSI, the proposed location is within an established building cluster, will not require vegetation removal, or significant site alteration. As such, County planning staff do not anticipate any impact on the ANSI feature because of this application.

The Official Plan also directs development away from natural hazards such as steep slopes and areas prone to erosion. The applicant has demonstrated through the submission of a Geotechnical Slope Review that the proposed development will not be impacted by erosion hazards and will not have a negative impact on slope stability.

## **Recommendation**

Subject to any additional comments received prior to, or during, the Committee of Adjustment meeting, it is recommended that the Committee of Adjustment approve application A07/24, as per the plans submitted with the application, and with the recommended conditions attached in Appendix A.

## **Attachments**

Attachment 1 - Key Map

Attachment 2 – Applicant Site Plan

## **Appendix A: Draft Conditions of Approval**

**Note:** Conditions are a decision of the Committee of Adjustment; the conditions below are recommended. The final approved conditions will be included in the signed decision.

### **Recommended Conditions for Application A07/24 (Leo)**

#### **Applicability**

1. That the Minor Variance granted through application A07/24 is only to construct a new a 10 square metre (107 square foot) sleep cabin located approximately 12 metres (40 feet) from to estimated highwater mark of Palmerston Lake.
2. This Minor Variance does not include a reduction in the required setbacks along the entire width/length and depth of the property or for any future structures.
3. Application number A07/24 is applicable only to the Township of North Frontenac's Zoning By-Law Number 55-19, as amended, and not to any subsequent zoning by-laws.

#### **No Adverse Impacts**

4. The owner/applicant shall ensure that there are no adverse impacts on neighbouring properties as a result of the approved proposal, nor shall there be any increased runoff or grade changes to the property as a result of any excavation or downspout orientation.

#### **Building Permits**

5. A building permit is required for all demolition and construction on the property. There shall be no additional development, or demolition of existing structures, on the property without approval from the Township of North Frontenac.
6. The owner/applicant shall provide to the Building Department a copy of the decision of the Committee of Adjustment, together with a copy of any approved drawings. The drawings submitted with the building permit application must, in the opinion of the Township, conform to the general intent and description of any approved drawings, including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. Additional variances may be required should further zoning deficiencies be identified through the Building Permit application process.

#### **Construction Method**

7. Should any excavation of native soil be required, 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 shall remain in place and in good working order until all disturbed areas have been stabilized and re-vegetated.

8. All excavated material and accumulated sediment along sediment control measures shall be disposed of more than 30 metres (98 feet) of the waterbody. Excess soil or fill shall not be placed in any low area and shall not interfere with any seasonal or permanent wetlands or watercourse.
9. Natural drainage patterns on the site shall not be substantially altered such that additional run-off is directed towards the lake, or onto neighboring properties. In order to achieve this, eaves troughing shall be installed on the additions and outlet away from the lake, to a leach pit or well-vegetated area to maximize infiltration.

### **Conservation Authority**

10. In accordance with the provisions of the relevant Municipal Zoning By-law, the existing vegetation along the shoreline shall be retained, with the exception of the allowable clearing for water access. This effort will help to mitigate the effects of erosion on the shoreline.
11. The vegetation along the slope shall be retained in its entirety to mitigate erosion and impacts on the stability of the slope.
12. Natural drainage patterns on the site shall not be substantially altered such that additional drainage is directed towards the waterbody.
13. All recommendations in the Geotechnical Slope Review (Cambium, February 28, 2024), shall be adhered to.

## Appendix B: Relevant Planning Policy

### Provincial Policy Statement (2020)

The Provincial Policy Statement (PPS) provides direction on matters of Provincial interest related to land use planning and development. The PPS promotes efficient land use and development patterns that support strong, liveable and healthy communities, protect the environment and public health and safety, and facilitate economic growth. Under Section 3 of the Planning Act, all municipal decisions regarding planning applications “shall be consistent with” applicable provincial policy.

When assessing consent applications on rural lands, planning authorities must comply with Section 1.1.5.1 of the PPS, which requires the approval authority to apply the relevant policies of the following sections:

- Section 1: Building Strong Healthy Communities of the PPS promotes the building of healthy communities and includes policies about avoiding development and land use patterns which may cause environmental or public health and safety concerns.
- Section 2: Wise Use and Management of Resources of the PPS contains policies that encourage the protection of natural heritage, water, agricultural land, mineral and aggregate resources, and cultural heritage and archaeological resources for their economic, environmental and social benefits.
- Section 3: Protecting Public Health and Safety of the PPS contains policies intended to reduce the potential for public cost or risk to Ontario’s residents from natural or human-made hazards. Conservation Authorities have provincially delegated responsibilities to represent Provincial interests regarding natural hazards under Section 3.1 of the PPS.

The following policies are applicable to this application:

- Avoiding development and land use patterns which may cause environmental or public health and safety concerns (Section 1.1.1.c).
- Permitted uses on rural lands include residential development that is locally appropriate (Section 1.1.5.2.c).
- Supporting healthy, integrated and viable rural areas by building upon rural character and leveraging rural amenities and assets (Section 1.1.4.1.a).
- Promoting development that is compatible with the rural landscape and can be sustained by rural service levels (Section 1.1.5.4).
- Natural features and areas shall be protected for the long term (Section 2.1.1).

- Development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards (Section 3).

### **County of Frontenac Official Plan (2016)**

The County of Frontenac Official Plan is a framework for guiding development in the County through the management and protection of the natural environment and by providing direction and influence on growth patterns. It is focused on the six themes of economic sustainability, growth management, community building, housing and social services, heritage and culture, and environmental sustainability.

The following policies are applicable to this application:

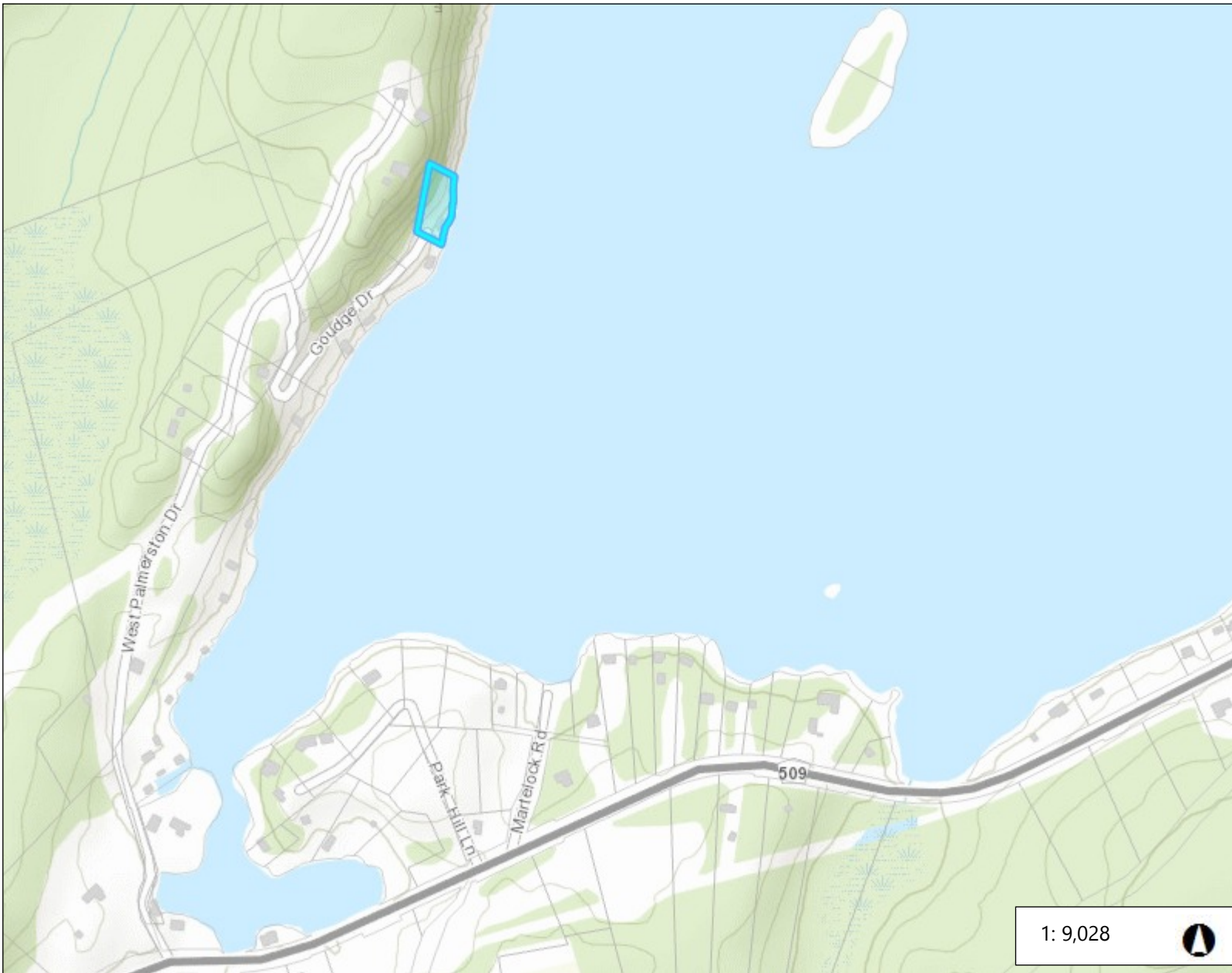
- Section 3.3, Rural Lands, provides policies for all lands outside of the settlement areas. The Plan recognizes that rural lands are used as an alternative location for those preferring a rural lifestyle. Low density residential development, as well as rural-related commercial, industrial, recreational and institutional development, is permitted.
- Section 4.2, Servicing, includes policies for the use of private on-site water and sewage services, provided that site conditions are suitable for the long-term provision of such services with no negative impacts.
- Section 7, Environmental Sustainability, sets out policies for environmental sustainability and the protection of the natural heritage system and the ecological functions it provides.

### **Township of North Frontenac Official Plan (2017)**

The property is designated as Waterfront Area in the Township of North Frontenac's Official Plan (2017). Waterfront Area policies are intended to govern development within 150 metres (500 feet) of waterbodies and on islands with the intent of protecting water quality, shoreline amenities and natural habitat areas. It is Council's intent that the water quality of all waterbodies in the Municipality will be maintained at their present level or enhanced. New development must be considered in light of its impact on the environmental quality of any lake or river.

- Section 2.3.8 direct all new development away from areas of natural and human hazard. This includes steep slopes and erosion hazards.
- Section 4.10.5 Objectives sets out the objectives of the Waterfront Area including character, access and servicing, natural areas, and development. Limiting the density of buildings and structures in the Waterfront Area is an important part of protecting the character of waterbodies in North Frontenac. The Official Plan also speaks to the preservation and protection of the appearance of the shoreline in a natural vegetated state shall be encouraged.

- The objective listed in Section 4.10.5 (O) is to support redevelopment opportunities of waterfront properties while maintaining the character of the waterfront area.
- Section 4.10.6 (A) states that where development occurs in the Waterfront Area, it should enhance and protect, where possible, those qualities that contribute to character.
- Section 4.10.6 (B) states that natural form should dominate the character of the Waterfront. Natural shorelines may visually screen development viewed from the water and buffer uses.
- Section 4.10.6 (D) states that where development occurs in the Waterfront, it should complement the natural and built form and should enhance and protect those qualities that contribute to character.
- Section 4.10.8 (A)(vi) allows existing lots of record and lots in existing and approved Plans of Subdivision to be developed under strict conditions where a proponent can demonstrate there will be no impacts on lake water.
- Section 4.12.2(E) states that development proposed in or within 120 metres (393 feet) of an identified ANSI must first be supported by an Impact Assessment to ensure that the ANSI will not be impacted.



Legend

- Assessment Parcels
- Citations

1: 9,028



0.5 0 0.23 0.5 Kilometers

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Includes Material © 2019 of the Queen's Printer for Ontario. All Rights Reserved.

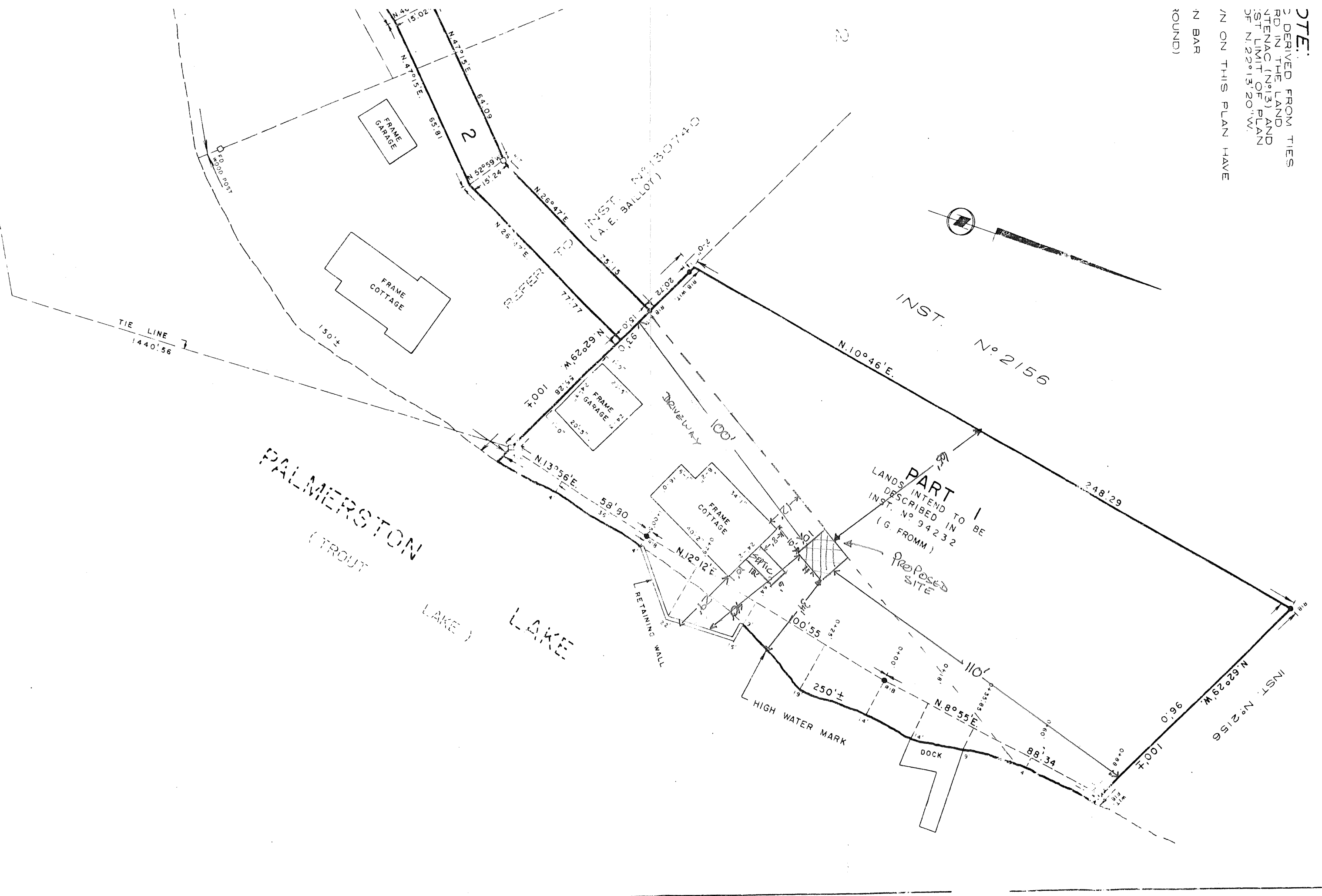
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes

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**PART I**  
 LANDS INTEND TO BE  
 DESCRIBED IN  
 INST. N° 94232  
 (G. FROMM)  
 Proposed SITE

**PALMERSTON LAKE (TROUT LAKE)**

TIE LINE  
 1440'56"



Environmental

Geotechnical

Building Sciences

Construction Quality Verification

**Telephone**

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**Website**

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**Locations**

Peterborough  
Kingston  
Barrie  
Whitby  
Ottawa

**Laboratory**

Peterborough



February 28, 2024

Shannon and Giles Leo  
1076 Goudge Drive  
Ompah, ON  
K0H 2J0

**Re: Geotechnical Slope Review – Proposed Bunkhouse Relocation – 1076 Goudge Drive, Ompah, Ontario**  
**Cambium Reference: 18515-001**

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Dear Mr. and Mrs. Leo,

Cambium Inc. (Cambium) was retained by Shannon and Giles Leo (The Client) to complete a geotechnical review of the existing slope located on the west side of 1076 Goudge Drive, Ompah, Ontario (Site).

This letter report provides the results of a Site review where Cambium observed the existing slope conditions and determined the slope stability rating in accordance with the Ontario Ministry of Natural Resources Technical Guide – River and Stream Systems: Erosion Hazard Limit (MNR Technical Guide).

Cambium notes that geotechnical design recommendations for the construction of the bunkhouse are outside of the scope of work of this report.

**PROJECT DESCRIPTION**

It is understood that the Client intends to move the existing bunkhouse further from the waters edge to protect it from high water level events associated with the adjacent Palmerston Lake. Based on information provided by the Client, it is understood that the bunkhouse has a footprint of approximately 3.0 x 3.5 m and is proposed to be relocated adjacent to the bottom of the existing slope located along the west property boundary. The proposed new bunkhouse location is located approximately 15 meters from closest shoreline, and approximately 3 meters from the west elevation of the existing cottage building.

**SITE DESCRIPTION**

The Site is located at the north end of Goudge Drive in Ompah, Ontario. The Site is bounded by Palmerston Lake along the north and east boundaries, neighbouring cottages to the south, and a large bedrock outcrop/slope to the



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Ottawa**Laboratory**

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February 28, 2024

west. The lands in the immediate vicinity of the Site are generally heavily forested and consist of mature trees, wild undergrowth, and bedrock outcrops.

The topography of the Site is generally flat with a gradual slope downwards in a northerly direction towards the shoreline. The east perimeter of the Site is complete with a retaining wall along a portion of the shoreline.

## VISUAL SLOPE INSPECTION

Cambium conducted the visual slope inspection on November 28, 2023. The inspection included walking the slope as well as making general observations of the existing surficial conditions at the Site. In addition, hand dug test pits were advanced at the toe of the slope as well as at strategic locations along the slope face.

The toe of the slope runs along the west portion of the property with a large plateau area located adjacent to the toe of the slope where the existing cottage, storage buildings, and bunkhouse were constructed.

The slope face in the vicinity of the proposed new bunkhouse location extends from the plateau area up to a large bedrock cliff/ledge with a vertical height of greater than 3.0 m. As such, for the purpose of this report, Cambium considers the bottom of this bedrock cliff/ledge as the top of slope. The inclination of the slope face (i.e., bottom of the bedrock cliff/ledge to the large plateau area) in the vicinity of the proposed new bunkhouse location was observed to be steeper than 2 Horizontal (H) to 1 Vertical (V) with a slope height of between 5 and 10 m.

The surface of the slope face was observed to predominantly consist of a combination of exposed bedrock outcrops and thin deposits of organic material. The organic material thickness was confirmed via hand dug test pits and where inspected, ranged from approximately 150 to 200 mm along the slope face, with approximately 300 mm noted on the plateau at the base of the slope. The organic material was noted to contain a healthy root system from the surrounding mature trees and wild undergrowth and was difficult to advance through.



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February 28, 2024

No active erosion was noted along the slope toe or face. No evidence of drainage or seepage associated with instability was noted and water course features were not observed. There are no previous signs of landslide activity.

## SLOPE STABILITY RATING

To assess the current stability of the slope, Cambium completed a Slope Stability Rating Chart to determine the potential for slope instability. Based Section 4.3.2 of the MNR Technical Guide, the existing slope was assigned a rating value of 20, indicating a **low potential** for slope instability. For slopes with a low potential for instability, investigation requirements include a visual slope review to be completed by a qualified geotechnical engineer complete with a letter report. A copy of the completed Slope Stability Rating Chart is included in Appendix A.

## DISCUSSION AND RECOMMENDATIONS

Based on the results of the geotechnical slope review, Cambium assumes that the factor of safety of the subject slope in its existing configuration is greater than 1.5 (Active: habitable or occupied structures near slope; residential, commercial, and industrial buildings, retaining walls, storage/warehousing of non-hazardous substances). As such, the proposed location for the bunkhouse is considered to be suitable and the placement of the bunkhouse is not anticipated to have an impact on the stability of the slope nor is the bunkhouse anticipated to be impacted by slope instability.

During the relocation of the bunkhouse, disturbance of the existing trees and vegetation cover within the slope should be avoided. No bedrock removal is to be completed without the guidance of a qualified geotechnical engineer. Any changes to the current slope condition are to be repaired to the same or better condition as prior to construction occurring.

Cambium recommends that the bunkhouse be mechanically connected to the bedrock via rock anchors to prevent any potential future sliding. As previously mentioned geotechnical design recommendations for the bunkhouse foundations are outside the scope of work for this report.



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**Laboratory**  
Peterborough

February 28, 2024

### LIMITATIONS AND REVIEW

The contents of this letter of opinion are subject to the following limitations:

- The fieldwork and reporting conducted by Cambium, including all conclusions and recommendations related to slope stability at the Site, pertain to the proposed bunkhouse relocation only.
- This investigation constitutes a slope stability study; however, it is merely intended to assist the Mississippi Valley Conservation Authority (MVCA). It is understood that the approval and/or any minimum set back requirements will be established by the MVCA.
- It is noted that the representative sections assessed in this report were developed with measurements obtained using hand equipment, and no formal topographic survey of the slope and related areas was provided to Cambium. As such, the actual slope dimensions may potentially vary slightly from what is described above; however, Cambium has taken a conservative approach in measuring the dimensions of the slopes.

### CLOSING

We trust that the information contained in this report meets your current needs. If you have any questions or comments regarding this document, please do not hesitate to contact the undersigned at (613) 690-2767.

Best regards,

Cambium Inc.



DocuSigned by:  
*W. Tabaczuk*  
4802CD4C401C4E7...

Wesley Tabaczuk, P.Eng. 2024-02-29  
Senior Project Manager -  
Geotechnical  
WT/rg

DocuSigned by:  
*Rob Gethin*  
E2EEE82F32D347D...

Rob Gethin, P.Eng.  
Group Manager - Geotechnical

Encl. Slope Stability Rating Chart  
Photo Appendix

P:\18500 to 18599\18515-001 Leo - GEO - 1076 Goudge Dr, Ompah\Deliverables\REPORT - GEO\Final\18515-001 LTR Geo Slope Review 1076 Goudge Dr, Ompah, ON.docx





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**CAMBIUM QUALIFICATIONS AND LIMITATIONS**Limited Warranty

In performing work on behalf of a client, Cambium relies on its client to provide instructions on the scope of its retainer and, on that basis, Cambium determines the precise nature of the work to be performed. Cambium undertakes all work in accordance with applicable accepted industry practices and standards. Unless required under local laws, other than as expressly stated herein, no other warranties or conditions, either expressed or implied, are made regarding the services, work or reports provided.

Reliance on Materials and Information

The findings and results presented in reports prepared by Cambium are based on the materials and information provided by the client to Cambium and on the facts, conditions and circumstances encountered by Cambium during the performance of the work requested by the client. In formulating its findings and results into a report, Cambium assumes that the information and materials provided by the client or obtained by Cambium from the client or otherwise are factual, accurate and represent a true depiction of the circumstances that exist. Cambium relies on its client to inform Cambium if there are changes to any such information and materials. Cambium does not review, analyze or attempt to verify the accuracy or completeness of the information or materials provided, or circumstances encountered, other than in accordance with applicable accepted industry practice. Cambium will not be responsible for matters arising from incomplete, incorrect or misleading information or from facts or circumstances that are not fully disclosed to or that are concealed from Cambium during the provision of services, work or reports.

Facts, conditions, information and circumstances may vary with time and locations and Cambium's work is based on a review of such matters as they existed at the particular time and location indicated in its reports. No assurance is made by Cambium that the facts, conditions, information, circumstances or any underlying assumptions made by Cambium in connection with the work performed will not change after the work is completed and a report is submitted. If any such changes occur or additional information is obtained, Cambium should be advised and requested to consider if the changes or additional information affect its findings or results.

When preparing reports, Cambium considers applicable legislation, regulations, governmental guidelines and policies to the extent they are within its knowledge, but Cambium is not qualified to advise with respect to legal matters. The presentation of information regarding applicable legislation, regulations, governmental guidelines and policies is for information only and is not intended to and should not be interpreted as constituting a legal opinion concerning the work completed or conditions outlined in a report. All legal matters should be reviewed and considered by an appropriately qualified legal practitioner.

Site Assessments

A site assessment is created using data and information collected during the investigation of a site and based on conditions encountered at the time and particular locations at which fieldwork is conducted. The information, sample results and data collected represent the conditions only at the specific times at which and at those specific locations from which the information, samples and data were obtained and the information, sample results and data may vary at other locations and times. To the extent that Cambium's work or report considers any locations or times other than those from which information, sample results and data was specifically received, the work or report is based on a reasonable extrapolation from such information, sample results and data but the actual conditions encountered may vary from those extrapolations.

Only conditions at the site and locations chosen for study by the client are evaluated; no adjacent or other properties are evaluated unless specifically requested by the client. Any physical or other aspects of the site chosen for study by the client, or any other matter not specifically addressed in a report prepared by Cambium, are beyond the scope of the work performed by Cambium and such matters have not been investigated or addressed.

Reliance

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Potential liability to the client arising out of the report is limited to the amount of Cambium's professional liability insurance coverage. Cambium shall only be liable for direct damages to the extent caused by Cambium's negligence and/or breach of contract. Cambium shall not be liable for consequential damages.

Personal Liability

The client expressly agrees that Cambium employees shall have no personal liability to the client with respect to a claim, whether in contract, tort and/or other cause of action in law. Furthermore, the client agrees that it will bring no proceedings nor take any action in any court of law against Cambium employees in their personal capacity.



**TABLE 4.2 - SLOPE STABILITY RATING CHART**

Site Location: 1076 Goudge Dr, Ompah, ON

File No. 18515-001

Property Owner: Shannon and Giles Leo

Inspection Date: November 28, 2023

Inspected By: Wesley Tabaczuk

Weather: Overcast, -5 C

**1. SLOPE INCLINATION****degrees****horiz. : vert.**

a) 18 or less	3 : 1 or flatter	0
b) 18 - 26	2 : 1 to more than 3 : 1	6
c) more than 26	steeper than 2 : 1	16

**2. SOIL STRATIGRAPHY**

a) Shale, Limestone, Granite (Bedrock)	0
b) Sand, Gravel	6
c) Glacial Till	9
d) Clay, Silt	12
e) Fill	16
f) Leda Clay	24

**3. SEEPAGE FROM SLOPE FACE**

a) None or Near bottom only	0
b) Near mid-slope only	6
c) Near crest only or, From several levels	12

**4. SLOPE HEIGHT**

a) 2 m or less	0
b) 2.1 to 5 m	2
c) 5.1 to 10 m	4
d) more than 10 m	8

**5. VEGETATION COVER ON SLOPE FACE**

a) Well vegetated; heavy shrubs or forested with mature trees	0
b) Light vegetation; Mostly grass, weeds, occasional trees, shrubs	4
c) No vegetation, bare	8

**6. TABLE LAND DRAINAGE**

a) Table land flat, no apparent drainage over slope	0
b) Minor drainage over slope, no active erosion	2
c) Drainage over slope, active erosion, gullies	4

**7. PROXIMITY OF WATERCOURSE TO SLOPE TOE**

a) 15 metres or more from slope toe	0
b) Less than 15 metres from slope toe	6

**8. PREVIOUS LANDSLIDE ACTIVITY**

a) No	0
b) Yes	6

**SLOPE INSTABILITY RATING VALUES INVESTIGATION RATING SUMMARY****TOTAL 20**



February 27, 2024

1076 Goudge Dr, Ompah, Ontario  
Shannon and Giles Leo  
Cambium Reference: 18515-001

Environmental

Geotechnical

Building Sciences

Construction  
Monitoring

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Peterborough



**Photo 1**

**Existing Bunkhouse to be Relocated (provided by Client)**



**Photo 2**

**Proposed New Bunkhouse Location**





February 27, 2024

1076 Goudge Dr, Ompah, Ontario  
Shannon and Giles Leo  
Cambium Reference: 18515-001

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**Photo 3**  
**Existing Toe of Slope Adjacent to Proposed Bunkhouse Location**



**Photo 4**  
**Existing Slope Face and Bedrock Cliff/Ledge Adjacent to Proposed Bunkhouse Location**



<b>To:</b>	Diane Reid, Environmental Planner
<b>From:</b>	Jane Cho, Water Resources Engineering Intern
<b>RE:</b>	Slope Stability Study Review of the Pre-Consultation Application for 1076 Goudge Drive, Township of North Frontenac
<b>MVCA File No.:</b>	PNFPC-16
<b>Munic. Ref. ID.:</b>	
<b>Date:</b>	May 1, 2024

Mississippi Valley Conservation Authority (MVCA) was circulated the following report regarding the above Pre-Consultation application:

- Geotechnical Slope Review – Proposed Bunkhouse Relocation – 1076 Goudge Drive, Ompath, Ontario, prepared by Cambium, dated February 28, 2024

This review included the slope stability assessment completed by Cambium to assess the proposed relocation of the existing bunkhouse. It is understood that the existing bunkhouse is proposed to be relocated approximately 15 metres from closest shoreline to the bottom of the existing slope with a large plateau area along the west property boundary.

It is reported that the topography of the site is generally flat with a gradual slope downwards in a northerly direction towards the shoreline. The slope face of the proposed new bunkhouse location extends from the plateau area up to a large bedrock cliff/edge. The inclination of the slope face was observed to be steeper than 2 Horizontal to 1 Vertical with a slope height of between 5 and 10 m. The surface of the slope face predominantly consists of exposed bedrock outcrops and thin deposit of organic material, with approximately 150 to 200 mm along the slope face and 300 mm on the plateau at the base of the slope.

The results of the assessment indicate that the proposed bunkhouse location is considered to be suitable and the placement of the bunkhouse is not anticipated to have an impact on the stability of the slope nor is the bunkhouse anticipated to be impacted by slope instability.

MVCA has no further comments.

Should any questions arise, please contact the undersigned.

Jane Cho  
Water Resources Engineering Intern



24-NF-MV

July 11, 2024

Tara Mieske  
Secretary-Treasurer  
Township of North Frontenac  
P.O. Box 97  
Plevna, Ontario K0H 2M0

Dear Ms. Mieske:

**Re: Minor Variance Application– A07/24  
Part Lot 29, Con 2, Township of North Frontenac (Palmerston)  
1076 Goudge Dr  
LEO**

---

Mississippi Valley Conservation Authority (MVCA) has been circulated the above noted application to conduct a review in terms of MVCA Regulations and Provincial Planning Policy for Natural Hazard issues. The scope of the natural hazards review includes flooding, erosion, wetlands, unstable slopes and unstable soils.

#### **PROPOSAL**

According to the Notice, *the Zoning By-law; Section 3.1.1 (c) and Section 3.1.4 (c) provides that all structures shall be setback from the high-water mark of all waterbodies a minimum of 30 metres. The Applicants are proposing to construct a sleep cabin with a building area of 10 square metres. The proposed setback of the structure is approximately 34 feet from the high-water mark of Palmerston Lake.*

#### **PROPERTY CHARACTERISTICS**

The subject property has frontage on Palmerston Lake. The proposed bunkie is located at the toe of a high, steep slope that exists towards the rear of the subject lot.

#### **REVIEW**

##### **Natural Hazards (Advisory)**

The objective of MVCA's natural hazards review is to ensure that the control of *flooding* and *erosion* are not impacted by development. This includes the flood plain and impacts to wetlands, watercourses, slope stability, and unstable soils. For the subject property, the **lake and slope** are relevant to MVCA's advisory review.

### ***Erosion Hazard (Slopes)***

It is provincial policy that: *Development shall generally be directed to areas outside of hazardous lands adjacent to a stream and small inland lake systems which are impacted by flooding and/or erosion hazards* (Provincial Policy Statement 2020, Section 3.1.1.b). The document entitled *Understanding Natural Hazards* (Ministry of Natural Resources, 2001) was prepared as a guide to identify and provide direction and methods to address these hazards. As per the guide, *Erosion Hazards* include slopes which have the potential for erosion and/or instability due to their steepness and height i.e. steeper than 3:1 and higher than 3m. In order to assess a safe development setback from potential *Erosion Hazards*, a *Slope Stability Assessment* is required, at the expense of the proponent.

It was previously determined that the slope leading to the lake on the subject property meets the criteria of a potential *Erosion Hazard*. Therefore, the following report was provided with the subject application: *Geotechnical Slope Review* (Cambium, February 28, 2024). This report has been reviewed by MVCA's Engineering Department, to determine if Provincial Guidance was followed in its preparation. Based on our review, Provincial Guidance was followed to arrive at the authors conclusion that the *proposed location for the bunkhouse is considered to be suitable and the placement of the bunkhouse is not anticipated to have an impact on the stability of the slope nor is the bunkhouse anticipated to be impacted by slope instability*. Therefore, we have no further comments in this regard.

### ***Waterbody***

The subject property has frontage on Palmerston Lake.

MVCA considers both direct and indirect impacts to waterbodies/watercourses, within the context of flooding and erosion. Impacts are not anticipated if minimum waterbody setback requirements (as stipulated by the municipality), and mitigation measures designed to prevent erosion are adhered to. Overland flow and surface runoff, wave and ice movement are commonly associated with shoreline erosion. In order to mitigate these effects, MVCA recommends meeting minimum waterbody setback requirements and the retention of vegetated buffers. Naturalized shorelines with an abundance of vegetation provide erosion protection by assisting with the mitigation of surface runoff. In addition, the root system of vegetation binds the soil, to further mitigate erosion.

### **MVCA Ontario Regulation 41/24 (Regulatory)**

Pursuant to ONTARIO REGULATION 41/24, *Prohibited Activities, Exemptions and Permits*, written permission is required from MVCA prior to any alterations to the shoreline of Palmerston Lake.

Any potential alterations to the shoreline of the lake require written permission from MVCA. MVCA is not aware of any intent to alter the shoreline, as part of the subject application.

### **RECOMMENDATIONS & CONCLUSIONS**

1. In accordance with the provisions of the relevant Municipal Zoning By-law, the existing vegetation along the shoreline shall be retained, with the exception of the allowable clearing for water access. This effort will help to mitigate the effects of erosion on the shoreline. We also recommend that the vegetation on the slope be retained in its entirety, in order to mitigate erosion and impacts on the stability of the slope.
2. Natural drainage patterns on the site shall not be substantially altered such that additional drainage is directed towards the waterbody.

3. All recommendations in the *Geotechnical Slope Review* (Cambium, February 28, 2024), shall be adhered to.

#### **NOTES**

A review for Species at Risk was not conducted. We suggest contacting the Ministry of the Environment, Conservation and Parks should you require a review in this regard.

The applicant should be advised that, pursuant to ONTARIO REGULATION 41/24, *Prohibited Activities, Exemptions and Permits*, written permission is required from MVCA prior to any alterations to the shoreline of the lake.

We advise consultation with Fisheries and Oceans Canada (DFO) [Projects near water \(dfo-mpo.gc.ca\)](https://dfo-mpo.gc.ca) prior to conducting any work within the lake, in order to assess potential impacts to fish habitat. Authorization from DFO may be required for such work.

Should any questions arise please do not hesitate to call. Please advise us of the Committee's decision in this matter.

Yours truly,



Diane Reid  
Environmental Planner

**To:** Committee of Adjustment  
**From:** Brooke Drechsler, Deputy Clerk/Assistant to the Planning Manager  
**Approved by:**  
**Date of Meeting:** 22 Jul 2024  
**Re:** 2024 Ontario Association of Committee of Adjustment (OACA) Conference

### Recommendation:

**Be It Resolved That** the Committee receives for information the Deputy Clerk/Assistant to the Planning Manager's Administrative Report entitled "2024 Ontario Association of Committee of Adjustment (OACA) Conference"

### Background:

The 2024 Ontario Association of Committee of Adjustment (OACA) Conference was held June 2-5, 2024 in Windsor.

### Researched By:

Brooke Drechsler, ACST, Deputy Clerk/Assistant to the Planning Manager

### Comments:

#### **Gananoque's Experience in Implementing the Community Planning Permit System**

As per Section 70.2 of the Planning Act, a municipality may establish a Development Permit System through the adoption of a By-law to control land use development. In 2010, the Town of Gananoque implemented a Community Planning Permit System (CPPS) which combined the Zoning By-law Amendment process, Site Plan Control and Minor Variance applications into one permitting system.

Section 70.2 of the Planning Act and Ontario Regulation 608/06 outlines what may be included in the Development Permit By-law, such as delegation of approval authority to staff, procedures for appeal to the Tribunal, required agreements and exempt areas of the municipality. A statement must be included in the Official Plan to incorporate a permitting system. The system can be applied specifically to an area of interest to the municipality (i.e. shoreline) or to the overall municipality.

A CPPS creates a streamlined application system, with one application covering one or all areas for Site Plan Control, Minor Variance or Zoning Amendment. The system also works within a shorter time frame, as a decision on a complete application is required within 45 days. The criteria when considering an application is similar to other planning applications:

- is this consistent with the PPS?
- does this conform to the OP?
- what is the impact on the neighbourhood/compatibility?
- is this an appropriate development or use of land/buildings?

A benefit to a CPPS is the potential reduction in appeals to LPAT, as decisions are only appealable by the applicant.

The Town of Gananoque created three classes of permits:

Class I: Staff reviews and makes decision

Class II: A report is prepared for the Planning Advisory Committee to review and provide a decision.

Class III: Staff provides Notice of the Application. Following the circulation, a report is prepared for the Planning Advisory Committee to review and provide a recommendation. The application and recommendation are provided to Council for consideration.

The application process is similar to what is currently in place. However, each class has different requirements for circulation and public notice. It should be noted an application can be elevated if agency/public comments indicate an outstanding issue.

### **Ask an Expert: Lawyer Edition**

#### **1. Legal Requirement for Wet Signatures**

There is a provision for an affidavit to be submitted with the application as per the Planning Act. However an application can be accepted with an electronic signature and a commissioned original signature. By allowing electronic signatures, a municipality removes potential road blocks for applicants.

#### **2. Consents on Private Roads**

Staff should look to the Official Plan to determine if consents on private roads are desirable. The width, location and grade of the private road should be considered.

#### **3. Section 45(2) - Request for Permission**

This section permits the expansion of a legal non-conforming structures using two test:

- is it desirable?
- what is the impact?

Over time, the use and intensity of a property can evolve. Reasonable flexibility should be considered when reviewing proposed development. However, the burden of proof should fall on the applicant to prove the legal non-conforming status through photos of previous use and tax records.

#### **4. Continuation of Use**

There is no clear line to define where/when use is no longer there; you have to look at the intent. This can result in subjective interpretation. The onus is on the property owner to prove the use has been continuous.

#### **5. Are Committees bound by previous decisions?**

A Committee is not bound by precedent. However, consistency is key as well as the appearance of procedural fairness. Similar applications will be of interest to applicants. It is up to the Committee to decide if their decision making will be based on past decisions. Tribunal decisions carry more weight but are not binding. The Committee must have regard for these decisions. A Court decision is binding and must be followed.

#### **6. Road Widenings**

Is a solicitor's undertaking required prior to the partial discharge to get a Certificate of Official? A solicitor has no control over timing of the discharge. An undertaking puts a municipality in a difficult position and leaves it powerless if the discharge is not complete.

## 7. Recess of Committee

A Committee is a quasi judicial body and not subject to the "Open Meeting" rule. They are entitled to deliberate in private if they choose.

### **Legal Non-Conforming Uses: What you need to know**

A legal non-conforming use does not allow Zoning By-laws to be applied retroactively. While the use may have been lawfully established at the time, it does not comply with current Zoning By-law provisions. The legal non-conforming status permits the use to remain with the intent that it will eventually disappear.

Section 34 (10) of the Planning Act allows municipalities to pass Zoning By-laws permitting the expansion or enlargement of a legal non-conforming use; however this does not apply to new structures not in existence when the Zoning By-law was passed.

The Committee has significant authority under Section 45 (2) with respect to legal non-conforming uses. Key questions to be considered are:

- Was the land/building being "lawfully used" for a purpose now prohibited by the By-law?
- Was the use established on the day the By-law was passed? The onus is on the owner to prove this through photos, affidavits, building permits, etc.
- Has the use been continuous? Was there a lapse in use? Was the use discontinued due to damage? Again, the onus falls on the owner to prove this.
- Did the owner provide evidence with an intent to continue the use?

Property owners have a right to evolve and expand a legal non-conforming use; but it cannot cause "undue adverse impacts" on the surrounding neighbourhood.

### **Chairing a TLAB Hearing: The "New" Kid on the Block - Pitfalls and Pratfalls**

The Toronto Local Appeal Body (TLAB) was formed in 2016 and held its first hearing in 2017. It is a quasi judicial, independent tribunal with the same judicial powers as the former Ontario Land Tribunal. They have a limited scope of jurisdiction, only hearing appeals for variances and consents. Toronto is the first Ontario municipality to implement a Local Planning Appeal Body under powers granted through the Planning and Conservation Land Statute Law Amendment Act 2006.

As part of the appeal process, TLAB treats applications as if they had not been considered before, the doctrine of "De Novo" hearings. An appeal of a variance is typically scheduled for a one day hearing; consent applications are typically assigned two days. One panel member presides over each hearing. Any disclosures must be provided upfront to ensure everyone is aware of the issues. Mediation between the parties is encouraged, as it provides an avenue for the parties to discuss the issues; identify impacts of the application; and provide clarification.

Bill 23 *More Homes Built Faster Act, 2022* changed the overall caseload numbers, as well as the public's access to the appeals process through the elimination of third party appeals.

### **Natural Hazards and Emergency Management: The Role of the Planner**

The Ontario Auditor General's report indicated gaps in certain communities with regards to Emergency Planning; First Nations groups located within flood plains; outdated Natural Hazard guides for the province to update; and lack of capacity in unincorporated territories with more support needed.

The types of declared emergencies in Ontario include:

Natural Hazards - erosion, forest fires, freezing rain, snow storms/blizzards and tornados

Failure of Critical Community Capacity - building/structural collapse, critical infrastructure failures and water emergencies

Human Caused - explosions, hazardous materials incident, transportation emergencies

Ontario's Flooding Strategy was released in 2020 and identified a gap in information to be reviewed to assist communities. By strengthening Land Use policies regarding development in flood plains; this may improve the resilience of infrastructure to accommodate large volumes of water.

Research has shown an increase in the prevalence of tornados in Eastern Ontario and Southwestern Quebec.; however there has been a decrease in the Prairies. When these weather events can be more accurately predicted, adaption strategies can be implemented such as Building Code updates to support resilience (i.e. hurricane straps). The Provincial Policy Statement 2020 provides that "planning authorities should coordinate emergency management and other economic, environmental and social planning considerations to support efficient and resilient communities". An Official Plan should include definitions for resilience, sustainability and climate readiness.

Land Use Planners can have a direct impact on the prevention and mitigation stage of emergency management through appropriate site development on hazardous lands and incorporation of emergency management in land use planning policies.

### **Ask an Expert: Secretary-Treasurer Edition**

#### Removing a Condition

Section 53 (23) of the Planning Act allows for the Committee to change a condition for consent; however the Act does not refer to the removal of a condition of a Minor Variance. It is important to consult with the department or agency who requested the condition to ensure the removal of the condition is satisfactory.

#### Cancellation Certificate

A Cancellation Certificate only applies to an unstipulated consent.

A fee can be requested for a Cancellation Certificate. There is no requirement under the Planning Act for a formal application. A letter requesting the cancellation, survey of the subject property and copy of the deed would be acceptable.

#### Conditions of a Minor Variance

The wording of the conditions should be included in the Notice of Decision, as well as information regarding the process moving forward to complete the conditions. A tracking process to monitor applications and completion of conditions should be implemented by staff.

#### Reminder Letters

Should applicants be sent letters advising the consent approval will lapse if conditions are not completed? The Planning Act does not mandate letters; however a municipality may chose to send them.

#### Refund of Minor Variance/Consent Application Fees

A municipality can create a fee refund policy for the withdrawal of an application. Some municipalities use a sliding scale based on when the withdrawal request is submitted. For example, if the application has not been formally circulated, the applicant may receive 75% of the fee. However, if the application is almost ready to be considered by the Committee, the applicant may only be entitled to a small portion of the fee.

The withdrawal request should be submitted in writing and provided to the Committee for consideration (if application had been formally circulated).

### Relationship between Planning Staff and Committee Members

If there is a disagreement between planning staff and Committee Members during a meeting, it is important the Chair is reviewing procedural guidelines to maintain the integrity of the meeting. It is helpful if the Chair and Secretary/Treasurer have a good working relationship and communicate well, as this can be beneficial if the discussion regarding an application becomes contentious.

### **Importance of Indigenous Consultation and Accommodation in the Land Use Planning Process and how it can be improved**

The Provincial Policy Statement Part IV gives clear direction as to how to consult and engage with Indigenous groups "build relationships through meaningful engagement with Indigenous Communities to facilitate knowledge sharing in planning processes and inform decision making". Planning authorities should have regard for and co-ordinate planning activities with First Nations; give them an opportunity to review supporting information and materials; provide notice of meetings; and acknowledge they have the right to appeal a decision as the Planning Act defines First Nations as a public body.

A municipality should consider the following reasons to engage Indigenous Communities beyond legislative requirements:

- Create Efficiencies
- Improvement to Regional Planning
- Build Relationships lasting through election cycles

Early engagement may be seen as slowing the planning process down however it's important to identify land use conflicts early in the process. For example, a development may be proposed in an area with existing burial sites. An appropriate land use designation would acknowledge the area to reduce potential disturbance or future development.

It is important to look at ways to improve relationships such as:

1. Establish an Indigenous Relations Liaison
2. Know the Treaties/First Nations within the area
3. Identify opportunities to expand/enhance protection of culturally significant or environmental sensitive areas
4. Understand proper protocols for holding and using information from First Nations

### **Planning in the Public Interest: What to Expect in 2024 and Beyond**

Changes to the Provincial Policy Statement are happening quickly. Land Use planners are adapting to new pressures (i.e. shortened timelines, increased building goals); however there is a shortage of planners in Ontario.

The Ontario Professional Planners Institute provide the following recommendations with respect to Bill 185 *Cutting Red Tape to Build More Homes Act, 2024*:

- Eliminate Parking Minimums near Major Transit Areas - unlock more housing and encourage walkable communities
- Create a "Use It or Lose It" framework - reallocate servicing capacity if approved development has not moved forward within specified timeline (if servicing required elsewhere)

- Provincial Framework for Additional Residential Units - develop guidelines for different settings (i.e. urban, suburban) for ARUs in place of an 'as-of-right' policy
- Remove Upper Tier Planning - upper tier planning roles with regard to growth management should be retained; however development approvals could be downloaded to municipalities
- Limited Third Party Appeals - a blanket legislation limiting appeal rights could have unintended consequences as some appeals may be beneficial. The focus should be providing guidelines to limit meritless appeals
- Removing Fee Refund & Municipal Pre-Application Process - limiting discussions regarding planning applications could result in unnecessary appeals on what constitutes a "complete" application

The proposed Provincial amendments to the PPS highlight the difference between merging plans and removing vital sections of a plan. While one document may appear to be more efficient, it isn't necessarily more effective. When so much is removed from a significant document, there is a greater risk of multiple interpretations of the policies.

Upcoming OACA Seminar and Conference

The next OACA Seminar will be held September 26-27, 2024 in Barrie at the Horseshoe Resort.

The 2025 OACA will be held May 11-14 in Blue Mountain at the Blue Mountain Resort.

**Financial Impact:**

2024 OACA Conference

Registration Fee	\$913.30
Accommodations	\$581.72
Parking	Included with Room Cost
Food Expense	Included with Conference Cost
<b>Mileage</b>	
Per Dieum	\$300
Total	

# Upcoming Events

## 2024 Seminar - - Barrie

**Date** **September 26-27, 2024**

**Venue:** [Horseshoe Resort](#)  
1101 Horseshoe Valley Road West, Barrie, Ontario, L4M 4Y8



## 2025 Conference - Blue Mountains

**Date** **May 11-14, 2025**

**Venue:** [Blue Mountain Resort](#)  
190 Gord Canning Drive, Blue Mountains, Ontario, L9Y 1C2

