

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. DS-2024-0059

FOR THE CONSIDERATION OF
COMMITTEE OF ADJUSTMENT

October 7, 2024

SUBJECT: MINOR VARIANCE APPLICATION A14-24
24874 MCCOWAN ROAD
CONCESSION 6 PART LOT 15

1. RECOMMENDATIONS:

- 1) That the Committee of Adjustment receive Report No. DS-2024-0059 prepared by the Development Planning Division, Development Services Department, dated October 7, 2024, respecting Minor Variance Application A14-24, for the property municipally addressed as 24874 McCowan Road; and,
- 2) That in the event no public or Committee concerns are raised at the meeting warranting investigation and a further meeting, Staff recommend the following:
 - a) That the Committee of Adjustment approve Minor Variance Application A14-24 to permit relief from the following sections of Zoning By-law 500:
 - i) Section 28.1: To permit an accessory dwelling or dwelling unit in a detached building (accessory structure), whereas an accessory dwelling or dwelling unit is not permitted;
 - ii) Section 28.4 (e): To permit a rear yard setback of 7.3 metres for an accessory structure, whereas a rear yard setback of 9 metres is required for an accessory structure;
 - iii) Section 28.4 (f): To permit an interior side yard setback on the south side of the property of 6 metres, whereas an interior side yard setback of 9 metres is required for an accessory structure; and
 - iv) Section 2.61: To amend the definition of 'dwelling or dwelling unit, accessory' to 'A detached building containing a self-contained dwelling unit located on a lot containing a single detached dwelling' in order to permit an accessory dwelling unit in an accessory structure, whereas the current definition defines a 'dwelling or dwelling unit, accessory' as a single family dwelling or one dwelling unit in a non-residential building which is used or occupied by persons which have

the administrative or custodial responsibility of the property upon which the accessory dwelling or dwelling unit is erected;

- b) That the Committee of Adjustment approve Minor Variance Application A14-24 to permit relief from the following sections of Zoning By-law 600, which will be implemented at the time Zoning By-law 600 is in force and effect:
- i) Section 4.6: To permit relief from the 30-metre setback to key natural heritage features and natural hydrological features and allow for the abutting zone category (Agricultural Protection) to apply in the development area subject to the recommendations of a satisfactory Environmental Impact Statement (EIS);
 - ii) Section 6.2 (b) (iii): To permit a maximum height of a detached building containing an additional dwelling unit to be 10 metres, whereas a maximum of 7.5 metres is permitted for a detached building containing an accessory dwelling unit;
 - iii) Section 9.4 (e): To permit a rear yard setback of 7.3 metres for an accessory structure, whereas a rear yard setback of 9 metres is required for an accessory structure in the Agricultural Protection zone; and
 - iv) Section 9.4 (f): To permit an interior side yard setback on the south side of the property of 6 metres, whereas an interior side yard setback of 9 metres is required for an accessory structure.
- c) That the approval of Minor Variance Application A14-24 be subject to the following term(s):
- i) That the recommendations of the EIS and the Town's peer reviewer, as set out in the Notice of Fulfilment of Conditions, will be adhered to as terms to this Minor Variance;
 - ii) That the proposed accessory structure be constructed in general conformity with Attachment 2 to Report DS-2024-0059, in accordance with the relief recommended to be approved in Recommendation 2a).
- d) That the approval of Minor Variance Application A14-24 be subject to the following condition(s):
- i) Submission to the Secretary-Treasurer of an EIS addressing the setback relief requested from the natural heritage and hydrologic features;
 - ii) Submission to the Secretary-Treasurer of written confirmation from the Development Planning Division that the EIS, including

recommendations from the Town's peer reviewer, is to the satisfaction of the Development Planning Division;

- iii) Submission to the Secretary-Treasurer of written confirmation from the Development Planning Division that the cost of the peer review of the EIS has been paid in full by the applicant, to the satisfaction of the Development Planning Division;
- iv) Submission to the Secretary-Treasurer of written confirmation from the Development Planning Division that any accessory structures encroaching onto neighbouring properties be relocated or removed, to the satisfaction of the Development Planning Division;
- v) Submission to the Secretary-Treasurer of written confirmation from the Development Engineering Division that all matters identified in Attachment 4 to Report No. DS-2024-0059 have been addressed to the satisfaction of the Development Engineering Division;
- vi) Submission to the Secretary-Treasurer of written confirmation from the Lake Simcoe Region Conservation Authority that all matters identified in Attachment 4 to Report No. DS-2024-0059 have been addressed to their satisfaction;
- vii) That the above-noted conditions be fulfilled within two (2) years of the date of the Notice of Decision.

2. PURPOSE:

The purpose of this report is to provide Staff's analysis concerning Minor Variance Application A14-24, for the property located at 24874 McCowan Road, regarding the construction of an accessory structure with an accessory/additional dwelling unit.

3. BACKGROUND:

Property Description: (refer to Attachments 1 to 3)
24874 McCowan Road
Concession 6 Part Lot 15
Roll #: 114-78550

PROPOSAL

Report DS-2024-0047 regarding this application was brought to the Committee of Adjustment on August 29, 2024. The Committee deferred hearing the application to rectify an address discrepancy related to the public circulation. A further public circulation was issued as noted in subsection 4.1 of this report.

The owner of the subject property is proposing to construct an accessory structure in the rear yard, with an accessory dwelling unit above.

A Minor Variance application has been submitted concerning the proposal, requesting the following relief from Zoning By-law 500:

- i) **Section 28.1:** To permit an accessory dwelling or dwelling unit in a detached building (accessory structure), whereas an accessory dwelling or dwelling unit is not permitted.
- ii) **Section 28.4 (e):** To permit a rear yard setback of 7.3 metres for an accessory structure, whereas a rear yard setback of 9 metres is required for an accessory structure.
- iii) **Section 28.4 (f):** To permit an interior side yard setback on the south side of the property of 6 metres, whereas an interior side yard setback of 9 metres is required for an accessory structure.
- iv) **Section 2.61:** To amend the definition of 'dwelling or dwelling unit, accessory' to 'a detached accessory building containing a self-contained dwelling unit located on a lot containing a single detached dwelling' in order to permit an accessory dwelling unit in a detached accessory structure, whereas the current definition defines a 'dwelling or dwelling unit, accessory' as a single family dwelling or one dwelling unit in a non-residential building which is used or occupied by persons which have the administrative or custodial responsibility of the property upon which the accessory dwelling or dwelling unit is erected.

Additionally, in consideration of Zoning by-law 600, which is currently under appeal before the Ontario Land Tribunal (OLT), a variance to Zoning by-law 600 is requested to be implemented at the time Zoning By-law 600 is in force and effect; the following relief is sought:

- v) **Section 4.6:** To permit relief from the 30-metre setback to key natural heritage features and natural hydrological features and allow for the abutting zone category (Agricultural Protection) to apply in the development area subject to the recommendations of a satisfactory EIS.
- vi) **Section 6.2 (b) (iii):** To permit a maximum height of a detached building containing an additional dwelling unit to be 10 metres, whereas a maximum of 7.5 metres is permitted for a detached building containing an accessory dwelling unit.
- vii) **Section 9.4 (e):** To permit a rear yard setback of 7.3 metres for an accessory structure, whereas a rear yard setback of 9 metres is required for an accessory structure in the Agricultural Protection zone.

- viii) **Section 9.4 (f):** To permit an interior side yard setback on the south side of the property of 6 metres, whereas an interior side yard setback of 9 metres is required for an accessory structure.

A Site Sketch showing the proposal, and the requested relief are included as Attachment 2.

3.1 SUBJECT PROPERTY AND THE SURROUNDING AREA:

The subject property is located at 24874 McCowan Road. A summary of the characteristics of the property is as follows:

General Property Information		
Municipal Address	24874 McCowan Road	
Zoning By-law 500	Rural (RU)	
Zoning By-law 600	Environmental Protection (EP) and Agricultural Protection (AP)	
Frontage	59 Metres	
Area	4779 Square Metres	
Official Plan / Secondary Plan Land Use Designation	Agricultural Protection, Environmental Protection and Greenland System	
Regional Official Plan Land Use Designation	Agricultural Area	
Related Applications	None	
Land Use and Environmental Considerations		
Existing Structures	Single Detached Dwelling and shed	
Proposed Structures	Detached Garage with Accessory/Additional Dwelling Unit	
Heritage Status	Neither listed nor designated	
Regulated by LSRCA	Yes	
Key Natural Heritage Features	None	
Natural Hazards	None	
Servicing		
	Existing	Proposed
Water	Private	Private
Sanitary	Private	Private
Access	Existing driveways	Existing driveways

4. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

4.1 PUBLIC CIRCULATION

In accordance with the provisions of the *Planning Act*, the Notice of Hearing for the subject application was sent by mail on August 16, 2024, to all landowners within

60.0 metres of the subject property for the August 26, 2024 Committee of Adjustment meeting.

Subsequently, it was noted that the circulation included an incomplete address, resulting in a property owner within the 60.0 metres radius not being circulated for the August 26, 2024 hearing. The application was deferred in order to rectify this addressing discrepancy and circulate a new notice of hearing in accordance with the *Planning Act*.

In accordance with the provisions of the *Planning Act*, the Notice of Hearing for the subject application was sent by mail on September 27, 2024, to all landowners within 60.0 metres of the subject property.

As of the date of writing this report, Town Staff have not received any submissions from the general public.

4.2 EXTERNAL AGENCY AND TOWN DEPARTMENT COMMENTS

All Town department and external agency comments for Minor Variance Application A14-24 are outlined below.

The Development Engineering Division has indicated (Attachment 4) that they have no objections and require, as a condition of the minor variance, that the applicant/owner provide a detailed lot grading and drainage plan.

The Lake Simcoe Region Conservation Authority (LSRCA) has indicated (Attachment 4) that they have no objections and require, as a condition of the minor variance, that the applicant/owner pay the LSRCA review fee of \$536.00 in accordance with the LSRCA Fee schedule and obtain a permit from the LSRCA prior to any development or site alteration proposed within the regulated portion of the property.

Georgina Fire Department has indicated that they have no objections and advises the owner that the accessory structure shall comply with the Ontario Building Code.

The Building Division has indicated that they have no objections and advises the owner that a building permit is required for the proposed building and any required new septic system or modifications to the existing system will require a building permit.

The following Town departments / divisions and external agencies have indicated no objections to the Minor Variance:

- Chippewas of Georgina Island First Nation
- Municipal Law Enforcement Division
- Operations and Infrastructure Division
- Tax and Revenue Division

- York Region

A number of external agencies and Town departments / divisions have not provided comments.

5. **ANALYSIS:**

The following evaluation of Minor Variance Application A14-24 is based on the four (4) prescribed tests as set out in Section 45(1) of the *Planning Act*:

i. Is the general intent and purpose of the Official Plan maintained? – Yes

The subject property is designated Agricultural Protection Area, Environmental Protection and Greenlands System in the Town of Georgina's Official Plan. The proposed accessory structure is to be located in the Environmental Protection Area. Existing single detached dwellings and accessory uses, buildings or structures are permitted.

Section 5.3.1.3 of the Official Plan permits minor refinements through an EIS that demonstrates the appropriateness of the refinement to the satisfaction of the Town. Minor refinements will not require an amendment to the Official Plan.

Where the boundary to the Environmental Protection Area designation is refined, the abutting land use designation or designations shall apply. Such refinements may only occur through a Planning process which would include the submission and approval of the required EIS.

Staff are of the opinion that the proposal maintains the general intent and purpose of the Official Plan.

ii. Is the general intent and purpose of the Zoning By-law maintained? – Yes

The subject property is zoned Rural (RU) on Map 5 pg. 2 of Schedule 'A' to Zoning By-law No. 500, as amended. A single family dwelling and accessory structures are permitted in the RU Zone.

Zoning By-law 600 is an update to Zoning By-law 500 for the countryside area. This by-law is currently under appeal before the OLT. Should the Tribunal issue a decision approving Zoning By-law 600, it would come into force and effect as of the date of passing by Council. In consideration of this, variances to Zoning By-law 600 are also included below and will be implemented at the time the zoning by-law is in force and effect.

The Subject Property is zoned Environmental Protection (EP) on Schedule 11 of Zoning By-Law 600, as amended. Permitted uses include legally existing dwellings, existing agricultural uses, conservation uses, daycares within a private

home, home occupation, passive recreational uses, trails and walkways, and short-term rental accommodations.

a. Permitted Uses – Accessory/Additional Dwelling Unit

Section 28.1 of Zoning By-law 500, as amended, restricts the residential uses on this property to dwellings legally existing prior to September 10, 2008, single-family dwellings and temporary accommodation for seasonal farm workers. The applicant is proposing to permit an additional dwelling unit above an accessory structure.

The intent of this section of the Zoning By-law is to ensure that second homes do not get built on rural undersized lots. New provincial legislation encourages municipalities to permit a wide range of housing, this may be partially achieved by permitting an accessory/additional dwelling unit in a detached building.

The applicant is requesting relief of Zoning By-law 600 to provide additional living space for family members in a detached building.

Section 9.1 of Zoning By-law 600, as amended permits accessory/additional dwelling units in a detached building within the Agricultural Protection Zone.

Through an EIS, the applicant may refine the Environmental Protection Zone. The refinement of the Environmental Protection Zone boundary allows for the abutting Agricultural Protection Zone to apply. The applicable setbacks of the Agricultural Protection Zone would the apply subject to the results of the EIS.

Staff are of the opinion that the proposed accessory/additional dwelling unit above the detached garage is an appropriate use as it enables additional living space. The proposed accessory/additional dwelling unit will share the same driveway as the single detached dwelling and there are adequate parking spaces to accommodate additional residents on the subject property. The proposed additional dwelling unit is not anticipated to negatively impact the existing residential use on the subject property or the neighbouring properties and streetscape.

b. Rear Yard Setback

Section 28.4 (e) of Zoning By-law No.500, as amended, requires a rear yard setback of 9 metres. The applicant is requesting relief to allow a minimum rear yard setback of 7.3 metres for the proposed accessory structure.

Section 9.4 (e) of Zoning By-law 600, as amended, requires a rear yard setback of 9 metres. The applicant is requesting relief to allow a minimum rear yard setback of 7.3 metres for the proposed accessory structure.

The intent of the minimum rear yard is to ensure adequate amenity area and compatibility with surrounding lots.

The applicant is requesting this relief in order to have the accessory structure, which will contain a garage and accessory/additional dwelling unit, to be situated at the end of the existing driveway.

Planning staff note the requested relief from the rear yard setback may only be supported if the requested relief from the vegetation protection zone can be supported through satisfactory recommendations of the EIS and peer review of the EIS.

c. Reduction in vegetation protection zone

Section 4.6 of Zoning By-law 600, as amended, requires a 30-metre setback from key natural heritage features and key natural hydrological features. The applicant is requesting relief from the 30-metre setback to refine the boundaries of the Environmental Protection Zone subject to the recommendations of an EIS. The Environmental Protection Zone includes a 30-metre vegetation protection zone, and covers the area where the proposed garage will be located.

The refinement of the Environmental Protection Zone boundary allows for the abutting Agricultural Protection Zone to apply. This refinement may only occur through a Planning process which would include the submission and approval of the required EIS.

Town Staff have determined that minor refinements to the Environmental Protection Zone boundary may be appropriately considered through the minor variance process where there is a requirement for the submission of a scoped EIS.

Staff note that the applicant should include the location of the proposed septic system and well which will service the proposed accessory/additional dwelling unit in the scoped EIS.

Planning staff note the requested relief from the vegetation protection zone may only be supported through satisfactory recommendations of the EIS and the Town's peer reviewer.

d. Height of detached building containing an additional dwelling unit

Section 6.2 (b) (iii) of Zoning By-law 600, as amended, permits a maximum height of a detached building containing an additional dwelling unit to be 7.5 metres. The applicant is requesting relief to allow a maximum height of a detached building containing an additional dwelling unit to be 10 metres.

The general intent of the maximum height of a detached building containing an additional dwelling unit is to ensure consistency and compatibility with surrounding lots with respect to building height and shadow casting and to ensure that the additional dwelling unit remains accessory to the primary structure.

The proposed height of the detached building is less than the existing single detached dwelling (11.86 metres) on the subject property. The applicant is requesting relief in order to have consistency in building heights on the subject property and to enable a detached garage on the ground floor below the additional dwelling unit.

The subject property is surrounded by trees on the rear yard and interior side yard. There are no dwellings located on the neighbouring properties. The proposed height of the detached building with an additional dwelling unit is not anticipated to negatively impact the existing residential use, streetscape, or neighbouring properties.

e. Interior Side Yard Setback

Section 28.4 (f) of Zoning By-law 500, as amended, requires an interior side yard setback of 9 metres. The applicant is requesting relief to allow a minimum interior side yard setback of 6 metres for the proposed accessory structure.

Section 9.4 (f) of Zoning By-law 600, as amended, requires an interior side yard setback of 9 metres for the Agricultural Protection zone. The applicant is requesting relief to allow a minimum interior side yard setback of 6 metres for the proposed accessory structure.

The general intent of the minimum yard requirements is to ensure compatibility with surrounding lots and to provide access for maintenance. The proposed variance would reduce the minimum yard requirements in order to ensure that the accessory structure aligns with the existing driveway.

Staff are of the opinion that the reduced interior side yard setback for the proposed accessory structure will not adversely impact the neighbouring properties as the rear and interior side yards are adjacent to a wooded area.

Planning staff note the requested relief from the rear yard setback may only be supported if the requested relief from the vegetation protection zone can be supported through satisfactory recommendations of the EIS and the peer review of the EIS.

Pending the submission and peer review of the EIS, Staff are satisfied the proposed detached garage with an additional/accessory dwelling unit meets the intent of both by-laws.

iii) Is the Minor Variance desirable for the appropriate development of the property or use of land, building or structure? – Yes

The proposed addition is in keeping with the existing physical character of the neighbourhood as the area generally consists of rural lots, agricultural lots, and properties containing various buildings and uses.

Staff are satisfied that the proposal is desirable for the appropriate development of the subject land and surrounding neighbourhood.

iv) Is the relief sought minor in nature? – Yes

In considering whether the relief sought is minor, Staff notes that this test is not simply a question of numerical value. The principal consideration is that of the potential impact the variance may have, and whether those impacts are minor or acceptable. In light of the above evaluation of the application, Staff are of the opinion that the requested variance is minor in nature.

6. CONCLUSION:

Subject to the recommendations by Staff in Section 1 of this report, Staff are of the opinion that Minor Variance Application A14-24, as it pertains to the construction of a detached garage with an accessory/additional dwelling unit above, meets the four (4) prescribed tests as set out in Section 45(1) of the Planning Act, R.S.O. 1990 and represents good planning.

APPROVALS:

Prepared by:

Monika Sadler
Planner I

Approved By:

Janet Porter, MCIP, RPP
Manager of Development Planning

Attachments:

Attachment 1 – Location Map

Attachment 2 – Site Plan and Drawings

Attachment 3 – Site Photos

Attachment 4 – Comments