

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. DS-2024-0044

**FOR THE CONSIDERATION OF
COMMITTEE OF ADJUSTMENT**

July 29, 2024

**SUBJECT: MINOR VARIANCE APPLICATION A05-24
22847 HIGHWAY 48
CON 8 PT LOT 1**

1. RECOMMENDATIONS:

1. That the Committee of Adjustment receive Report No. DS-2024-0044 prepared by the Development Planning Division, Development Services Department, dated July 29, 2024, respecting Minor Variance Application A05-24, for the property municipally addressed as 22847 Highway 48.
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 A05-24 to permit relief from the following sections of Zoning By-law 500:
 - i) Section 6.1(f): To permit a dwelling with an interior side yard setback of 2m; whereas, a minimum interior side yard of 9 metres, except that an interior side yard may be reduced to 3 metres when the exterior wall facing said yard contains no habitable room windows or where the lot is less than 4,000 sq metres, is permitted.
 - ii) Section 5.11.2 (d): To permit a replacement of a building or structure more than one year from the date that it is demolished or destroyed by fire; whereas, replacement within one year is permitted.
 - iii) Section 5.12: To permit a 3.35 metre high fence with nil front yard and interior side yard setbacks; whereas, adherence to the minimum yard requirements is required for a fence with a maximum height exceeding 2 metres.
 - b) That the Committee of Adjustment approve Minor Variance Application A05-24 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 2.82: To define 'existing' as meaning a dwelling that legally existed prior to May 2023 and which was demolished under building permit GP-2022-121-REV due to a fire; whereas, the definition of

‘existing’ is defined as a building, structure or use existing as of the date of passing of this By-law and which has continued to exist to present.

- ii) Section 5.8: To permit a 3.35 metre high fence with nil front yard and interior side yard setbacks; whereas, adherence to the minimum yard requirements is required for a fence with a maximum height exceeding 2 metres.
- c) That the approval of Minor Variance Application A05-24 be subject to the following term(s):
- i) That the proposed single detached dwelling be constructed in general conformity with Attachment 3 to Report DS-2024-0044, in accordance with the relief recommended to be approved in Recommendation 2 a) and b).
 - ii) That the occupancy permit for the dwelling be granted within 5 years of the passing of this minor variance
 - iii) That only the existing fence, or similarly located replacement, as shown in Attachment 2 to Report DS-2024-0044, be permitted, and that the top most rail should be level and not in line with the grade.
- d) That the approval of Minor Variance Application A05-24 be subject to the following condition(s):
- i) 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-2024-0044 have been addressed to their satisfaction;
 - ii) Submission to the Secretary-Treasurer of written confirmation from the Development Engineering Division that all matters identified in Attachment 4 to Report No. DS-2024-0044 have been addressed to their satisfaction;
 - iii) That the application re-circulation fee be paid to the satisfaction of the Development Planning Division;
 - iv) That any accessory structures encroaching onto neighbouring properties be relocated or removed, to the satisfaction of the Development Planning Division; and,
 - v) That the above noted condition(s) 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 A05-24 for the property located at 22847 Highway 48, regarding the reconstruction of a previously existing dwelling.

3. **BACKGROUND:**

Property Description: (refer to Attachments 1 to 3)
22847 Highway 48
Con 8 Pt Lot 1
Roll #: 115-257

PROPOSAL

The owner of the subject property is proposing to reconstruct a previously existing single detached dwelling, which also did not conform to the interior side yard setback.

A Minor Variance application has been submitted concerning the proposal, requesting the following relief:

- I. Section 6.1(f): To permit a dwelling with an interior side yard of 2 metres; whereas, a minimum interior side yard of 9 metres, except that an interior side yard may be reduced to 3 metres when the exterior wall facing said yard contains no habitable room windows or where the lot is less than 4 000 sq metres, is permitted.
- II. Section 5.11.2 (d): To permit a replacement of a building or structure more than one year from the date that it is demolished or destroyed by fire; whereas, replacement within one year is permitted.
- III. Section 5.12: To permit a 3.35 metre high fence with nil front yard and interior side yard setbacks; whereas, adherence to the minimum yard requirements is required for a fence with a maximum height exceeding 2 metres.

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:

- IV. Section 2.82: to define 'existing' as meaning a dwelling that legally existed prior to May 2023 and which was demolished under building permit GP-2022-121-REV due to a fire; whereas, the definition of 'existing' is defined as a building, structure or use existing as of the date of passing of this By-law and which has continued to exist to present.
- V. Section 5.8: To permit a 3.35 metre high fence with nil front yard and interior side yard setbacks; whereas, adherence to the minimum yard requirements is required for a fence with a maximum height exceeding 2 metres.

A Site Sketch showing the proposal and the requested relief is included as Attachment 3.

3.1 **SUBJECT PROPERTY AND THE SURROUNDING AREA:**

The subject property is located at 22847 Highway 48. A summary of the characteristics of the property is as follows:

General Property Information		
Municipal Address	22847 Highway 48	
Zoning	Rural (RU)	
Frontage	30.48 Metres	
Area	5500 Square Metres	
Official Plan / Secondary Plan Land Use Designation	Environmental Protection Area	
Regional Official Plan Land Use Designation	Agricultural Area	
Related Applications	None	
Land Use and Environmental Considerations		
Existing Structures	Three Accessory Structures	
Proposed Structures	Single Detached Dwelling	
Heritage Status	Neither listed nor designated	
Regulated by LSRCA	Yes	
Key Natural Heritage Features	Wetland, Woodland	
Natural Hazards	Floodland	
Servicing		
	Existing	Proposed
Water	Private	Private
Sanitary	Private	Private
Access	Existing driveway	Existing driveway

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 July 19, 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 A05-24 have been consolidated below.

The Development Engineering Division has indicated (pg 1 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 (pg 2 Attachment 4) that they have no objections and require, as a condition of the minor variance, that the Applicant/Owner obtain a permit from the LSRCA. Staff note that the property has floodland located on the site. As per the LSRCA comments, concerns about flooding will be addressed through the permitting process.

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

- Tax and Revenue Division
- York Region
- Municipal Law Enforcement Division
- Operations and Infrastructure Department
- Georgina Fire Department
- Economic Development Division

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

5. ANALYSIS:

The following evaluation of Minor Variance Application A05-24 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 Environmental Protection in the Official Plan (OP). Staff note that while a portion of the lot appears to potentially be designated Rural Industrial Area on Schedule A2 of the Town's Official Plan, Section 12.2. of the OP notes that it is intended that the boundaries of land use designations on Schedule A2 - Land Use Plan be considered as approximate. They are exact only where bounded by roads, railways, rivers or streams or other similar physical or geographical demarcations. As no there are no physical demarcations separating the Rural Industrial Area and Environmental Protection designation, and given there are no and have not been any industrial activities occurring on the site, Town Staff are of the opinion that the intent of the schedule was to designate this property Environmental Protection.

Existing single detached dwellings and accessory buildings, structures and uses thereto are permitted in the Environmental Protection Designation. Within the Official Plan, existing is defined as legally existing as of the date of the adoption of this Plan by Council and which has continued to exist to present. Staff note that

the property contained a single detached dwelling on the date the Official Plan passed. The structure had been demolished due to a fire the previous year. As the re-construction will be for the same land use and occur on the same location on the property, 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. Staff note that the initial application and circulation did not include the variance for the fence height. As staff had to re-circulate the public notice, a re-circulation fee was charged and must be paid as a condition of the minor variance.

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 the by-law 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 Zoning By-law 600 is in force and effect.

The Subject Property is zoned Environmental Protection (EP) on Schedule 21 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. Side Yard Setback

Section 6.1(f) of Zoning By-law No. 500, as amended, requires a minimum interior side yard setback of 9 metres for a single detached dwelling in the Rural zone, except that an interior side yard may be reduced to 3 metres when the exterior wall facing said yard contains no habitable room windows or where the lot is less than 4,000 sq metres, is permitted. As the proposal includes habitable windows along the interior side yard, and the lot is greater than 4,000 square metres, an interior side yard setback of 9 metres will be required. The Applicant has requested relief to allow a single detached dwelling with a minimum interior side yard setback of 2 metres.

The intent of minimum yard requirements is to ensure compatibility with surrounding lots and to provide areas for access and maintenance. The proposed variance would reduce the minimum interior side yard for the proposed single detached dwelling to match the setback of the previously existing single detached dwelling that was on the property.

Staff are of the opinion that the reduced interior side yard setback of the proposed new single detached dwelling will not adversely impact the neighbouring properties, as the new dwelling will have the same minimum setback as the previously existing dwelling.

b. Replacement of Demolished Building

Section 5.11.2 (d) of Zoning By-law 500, as amended, requires replacement of a building or structure occur within one year from the date that it is demolished or destroyed by fire. The Applicant has requested relief to allow the single detached dwelling to be reconstructed more than a year from when it was demolished or destroyed by fire.

Section 2.82 of Zoning By-Law 600, as amended, defines as a building, structure or use existing as of the date of passing of this By-law and which has continued to exist to present. The Applicant has requested relief to define 'existing' as a dwelling that legally existed prior to May 2023 and which was demolished under building permit GP-2022-121-REV due to a fire.

The intent of these provisions is to permit legally existing uses to continue, even if the location of the structures do not conform to the current zoning provisions. The proposed variance would allow for the reconstruction of a dwelling, which was demolished over a year ago, that did not and would not meet several of the provisions of either by-law. Staff note that the reconstruction does meet the intent of both by-laws, as the applicant intends to reconstruct the previously existing dwelling imminently. Furthermore, if approved, Town Staff have imposed a condition requiring that occupancy be granted within 5 years of the minor variance being granted, to ensure that the intended use and location of the dwelling continues.

Staff are satisfied the proposed reconstruction meets the intent of both by-laws.

c. Fence Requirements

Section 5.12 of Zoning By-law No. 500 and Section 5.8 of Zoning By-law No. 600, as amended, require adherence to the minimum yard requirements for a fence with a maximum height exceeding 2 metres.

The general intent of the fencing setback requirement is to reduce negative impacts on neighbouring properties and to ensure compatibility with surrounding properties. Staff note that the property directly across the street, which would be most affected by the fencing, is currently vacant. The neighbouring properties also contain a variety of land uses including some with fencing in the front yard. Staff further note that any structures on the neighbouring lots are well setback from the fence and are unlikely to be impacted by it. Given this information, Town Staff do not have any concerns that the fence would be incompatible with neighbouring properties.

Staff are of the opinion that the proposed variances maintain the general intent and purpose of both Zoning By-law 500 and 600, as amended.

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

The proposed single detached dwelling is in keeping with the existing physical character of the neighbourhood as the neighbouring properties generally consist of single family dwellings, accessory structures, woodland and wetland, though there are also some industrial uses to the north.

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 note that this test is not simply a question of numerical value. The principal consideration is that of potential impact the variances 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 variances are minor in nature.

6. CONCLUSION:

Subject to the recommendations in Section 1 of this report, Staff are of the opinion that Minor Variance Application A05-24, as it pertains to the proposed addition to the existing single detached dwelling, 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:

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Planner I

Approved By:

Janet Porter, MCIP, RPP
Manager of Development Planning

Attachments:

Attachment 1 – Location Map

Attachment 2 – Site Photos

Attachment 3 – Site Sketch

Attachment 4 – Consolidated Comments