

# THE CORPORATION OF THE MUNICIPALITY OF KILLARNEY

## Committee of Adjustment

### Veteran's Memorial Hall

June 27, 2019

5:30 P.M.

**PRESENT: MAYOR:** Virginia Rook

**COUNCILLORS:** Barbara Anne Haitse Nancy Wirtz  
Jim Rook John Dimitrijevic

**ABSENT: COUNCILLOR:** Michael Reider

**DISCLOSURE:** Councillor Dimitrijevic declared a pecuniary interest regarding Minor Variance Application #B SEPB File No. A/08/19 KL Roll No. 5136 000 004 05810 0000

**STAFF:** Clerk-Treasurer – Candy Beauvais  
Deputy Clerk-Treasurer – Gilles Legault  
Administrative Assistant – Angie Nuziale

**GUESTS:** Director of Planning – Matthew Dumont  
Sudbury East Planning Board

**MEMBERS OF PUBLIC:** 1

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**19-009 BY JOHN DIMITRIJEVIC – JIM ROOK**

**BE IT RESOLVED THAT** the Committee of Adjustment meeting be opened at 5:47 P.M.

**CARRIED**

**19-010 BY JOHN DIMITRIJEVIC – JIM ROOK**

**BE IT RESOLVED THAT** the Agenda be accepted as distributed.

**CARRIED**

The Chair, Nancy Wirtz stated that this Committee of Adjustment Meeting was scheduled in order to hold a Public Hearing to discuss three proposed Minor Variances:

1. Application No. A/07/19 KL (David Yule)
2. Application No. A/08/19 KL (Neonita Sarmiento)
3. Application No. A/09/19/KL (James Robb)

The Committee of Adjustment is holding a Public Hearing to decide whether or not to approve a Minor Variance Application. The Committee will be presented with the details and background to the minor variance application and will receive comments from the public and agencies before a committee decision is made.

The Chair briefly summarized the procedure to be utilized for the Hearing. The Director of Planning for the Sudbury East Planning Board, Mr. Matthew Dumont, advised the Committee as to when, how, and to whom Notice of Public Hearing was circulated.

Mr. Dumont advised the purpose and effect of the minor variance applications and provided other information that was relevant to the applications.

The Director then stated that the Notice of the Public Hearings were posted in the Municipal Office and were sent by Mail to the assessed owners within 60 metres of the properties subject to the Minor Variance Application, and to those persons and agencies likely to have an interest in the applications. The notices were sent on June 17<sup>th</sup>, 2019 being over ten (10) days prior to this evening’s meeting.

Included with each Notice was an explanation of the purpose and effect of the minor variance applications and a key map showing the location of each property.

The Chair then declared this portion of the meeting to be a Public Hearing to deal with **Application No. A/07/19/KL (David Yule)**. Mr. Dumont advised of the purpose and effect of the minor variance application, provided additional information that was relevant, and summarized the correspondence received to date regarding the application as follows:

An application has been received from David Yule for a variance to the Rural Zone (RU) of By-Law 2014-29, as amended, in order to facilitate the construction of a seasonal cottage.

Section 7.22.2 (b) iii	20.0 metres	10.5 metres
Distance from the		
Optimal Summer Water Level (any dwelling unit)		

With respect to the Official Plan policies, Section 4.5.1 of the Official Plan states that minor variances must consider the four tests as outline in Section 45(1) of the Planning Act, R.S.O. 1990, Chapter P.13, which states that a variance from the Zoning By-Law should:

- i) The resulting development would be compatible with adjacent uses and in character with the established or planned development in the area. The property is an island, the nearest privately-owned property is greater than 200 metres and the subject property is 17 kilometres away from the Key River Marina. The proposed variance would not have a significant impact on the character of the area or adjacent properties.
- ii) Adequate provision is made for vehicular access and off-street parking. The subject lands are water access only. Key River Marina provides adequate provision of off-street parking, public boat docking facilities and garbage disposal for development that is to be accessible by water.
- iii) Adequate buffering, screening and landscaping can be provided. Staff conducted a site visit on May 23<sup>rd</sup>, 2019. The island was wiped out by a forest fire (Parry Sound Fire 33), however, a small portion of the island was saved, and remains well vegetated and dense with mature pine and birch trees.
- iv) The application deals with circumstances particular to the site in which design of the building and structure in conformity with the by-law is not feasible or possible. The existing seasonal cottage and sleep cabin was lost due to the forest fire and the property owners wish to construct the new cottage and a sleep cabin in the approximate location where a small portion of the island was not wiped out by the fire and remains well vegetated.

With respect to zoning, the ‘Rural (RU)’ Zone requires a minimum lot area of 5.0 hectares and a minimum lot frontage of 100.0 metres. The subject lands have an area of approximately 0.68 hectares and a lot frontage of approximately 200.0 metres. The lot would be deemed to comply with the provisions of the by-law by virtue of Section 6.26.

The applicants sketch indicates that the sleep cabin is setback further from the minimum setback for the seasonal cottage, therefore relief is not being requested for the 18.0 metres setback from the Optimal Summer Water Level (OSWL) because the seasonal cottage has a proposed setback of 10.5 metres.

No comments were received through agency circulation or from the public.

The application can be supported from a planning perspective provided that the attached conditions area fulfilled with respect to the minor variance.

The Chair invited any presentations from the applicant that he/she may want to make.

The applicant was not present.

The Chair invited questions and comments from members of the public and the committee.

Questions and comments regarding the application were answered by Mr. Dumont.

The Chair then asked the Secretary to read the resolution and the Chair then called for the vote.

**19-011 BY JOHN DIMITRIJEVIC – BARBARA ANNE HAITSE**

**BE IT RESOLVED THAT** the Minor Variance Application No. A/07/19/KL (Municipality of Killarney) – Property Roll No. 5136 000 013 02200 – to construct a dwelling unit (single-detached dwelling) 11 metres from the optimal summer water level instead of the required 20 metres be approved and that the necessary Notice of Decision be prepared.

**CARRIED**

The Chair advised that there is a 20-day appeal period during which time any person or public body may appeal to the LPAT. During this appeal period, no building permit may be issued or other work commenced.

The Chair then declared the Public Hearing regarding Minor Variance Application No. A/07/19 KL to be concluded.

The Chair then declared this portion of the meeting to be a Public Hearing to deal with **Application No. A/08/19/KL (Neonita Sarmiento)**. Mr. Dumont advised of the purpose and effect of the minor variance application, provided additional information that was relevant, and summarized the correspondence received to date regarding the application as follows:

An application has been received from Neonita Sarminto for a variance to the Waterfront Residential Zone (WR) of By-Law 2014-29, as amended, in order to facilitate the construction of a proposed dwelling. The following variance is requested:

Section 7.7 (b) i	20.0 metres	12 metres
Distance from the		
Optimal Summer Water Level (any dwelling unit)		

With respect to the Official Plan Section 4.2.5 provides direction for reviewing applications for minor variance as outlined in Section 1 of this report. Further that when evaluating desirability, the resulting waterfront residential development would be compatible with the adjacent waterfront residential development and will have vehicular access from Ham Lake Road East, as well as sufficient room for parking. The site-specific circumstances will be discussed in Section 5 of the Planning Report.

With respect to zoning, the building location on the subject lands is restricted by a number of factors including the shoreline frontage of Ham Lake being at the northerly end of the property and the location of Ham Lake Road East which traverses roughly through the centre of the north portion of the property. Because of these site-specific circumstances, the applicant has requested a variance to facilitate the construction of a dwelling in proximity to the shoreline of Ham Lake, decreased setback to the optimal summer water level.

With regard to the requested reduced distance from the optimal summer water level, the waterfront residential zone requires a setback of 20.0 metres. The applicant has requested a setback of 12.0 metres because of limited suitable building location. The lands setback further from the lake are lower lying and are also closer to Ham Lake Road East (a private road). The Planning Board is not aware of any history of flooding on Ham Lake and feel that a 12.0 metre setback would be supportable given that the proposed building location will be on a slightly more elevated portion of land.

No comments were received through agency circulation or from the public.

The application can be supported from a planning perspective provided that the attached conditions area fulfilled with respect to the minor variance.

The Chair invited any presentations from the applicant that he/she may want to make.

The applicant was not present.

The Chair invited questions and comments from members of the public and the committee.

There were no questions or comments regarding the application.

The Chair then asked the Secretary to read the resolution and the Chair then called for the vote.

**19-012 BY JIM ROOK – BARBARA ANNE HAITSE**

**BE IT RESOLVED THAT** the Minor Variance Application No. A/08/19/KL (Municipality of Killarney) – Property Roll No. 5136 000 004 05810 – to construct a dwelling unit (single-detached dwelling) 12 metres from the optimal summer water level instead of the required 20 metres be approved and that the necessary Notice of Decision be prepared.

Councillor Dimitrijevic declared a conflict and abstained from voting on this motion.

**CARRIED**

The Chair advised that there is a 20-day appeal period during which time any person or public body may appeal to the LPAT. During this appeal period, no building permit may be issued or other work commenced.

The Chair then declared the Public Hearing regarding Minor Variance Application No. A/08/19 KL to be concluded.

The Chair then declared this portion of the meeting to be a Public Hearing to deal with **Application No. A/09/19/KL (James Robb)**. Mr. Dumont advised of the purpose and effect of the minor variance application, provided additional information that was relevant, and summarized the correspondence received to date regarding the application as follows:

An application has been received from James Robb for variance(s) to the Waterfront Residential Zone (WR) of By-Law 2014-29, as amended, in order to facilitate the construction of a new seasonal cottage, to recognize an existing accessory structure (storage shed), and to facilitate the conversion of an existing sleep cabin into a storage shed. The following variances are requested:

Section 7.2.2 (b) i	20.0 metres	9.1 metres
Distance from the		
Optimal Summer Water Level		
(any dwelling unit)		

Section 7.2.2 (c) i Distance from the Optimal Summer Water Level (all accessory buildings)	20.0 metres	4.25 metres
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Section 7.2.2 (c) i Distance from the Optimal Summer Water Level (all accessory buildings)	20.0 metres	8.25 metres
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With respect to the Official Plan;

**i. Compatibility**

The property is an island, the nearest privately-owned property is 1 kilometre away. The proposed variances would not have a significant impact on the character of the area or adjacent properties.

**ii. Parking**

The subject lands are water access only. There are sufficient docking facilities on the subject lands.

**iii. Buffering**

The subject lands are surrounded by crown lands, the nearest privately-owned property is 1 kilometre away.

**iv. Circumstances particular to the site**

Staff did attend the site on May 13<sup>th</sup>, 2019. The island has a steep rocky terrain and the property owners wish to construct a new cottage in the approximate location (relatively flat) identified on the aerial photography which will be located within the Optimal Summer Water Level (OSWL) setback. At the same time, the property owner wishes to convert the existing seasonal cottage to a sleep cabin which is consistent with the provisions outlined in Section 6.46 of the Zoning By-Law 2014-29, therefore no further relief from the By-Law is required. Additionally, a sleep cabin is located on the subject property which is to be converted to a storage shed. The property owners will be using the existing footprint of the sleep cabin, however due to the change in use, once converted to a storage shed, the structure is located within the OWSL. Lastly, a storage shed exists on the subject property which is located within the OWSL and will be recognized.

With respect to zoning, a reduced setback from the optimal summer water level to permit a setback of 10.5 metres instead of the required 20.0 metres for the proposed new seasonal cottage. The existing seasonal cottage is to be converted to a sleep cabin. The zoning by-law restricts the size of sleep cabins and does not permit kitchen facilities primarily to ensure that such structures are not converted to a second dwelling on the property.

Given the remote location, that it is an existing structure and that the applicants will be removing the kitchen facilities, staff are satisfied that the structure will be used for sleep cabin purposes only. A condition of the approval will be that appropriate building permits are obtained and that the kitchen facilities be removed to the satisfaction of the Chief Building Official.

The Chair invited any presentations from the applicant that he/she may want to make.

The applicant was not present.

The Chair invited questions and comments from members of the public and the committee.

Questions and comments regarding the application were answered by Mr. Dumont.

The Chair then asked the Secretary to read the resolution and the Chair then called for the vote.

**19-013 BY JOHN DIMITRIJEVIC - JIM ROOK**

**BE IT RESOLVED THAT** the Minor Variance Application No. A/09/19/KL (Municipality of Killarney) – Property Roll No. 5136 000 009 09500 – to construct a dwelling unit (single-detached dwelling) 9.1 metres from the optimal summer water level instead of the required 20 metres; to request a setback from the optimal summer water level of 4.25 metres instead of the required 20 metres to facilitate the conversion of an existing sleep cabin to an accessory structure (storage shed A); and to request a setback from the optimal summer water level of 8.25 metres instead of the required 20 metres to recognize an existing accessory structure (storage shed B) be approved and that the necessary Notice of Decision be prepared.

**CARRIED**

The Chair advised that there is a 20-day appeal period during which time any person or public body may appeal to the LPAT. During this appeal period, no building permit may be issued or other work commenced.

The Chair then declared the Public Hearing regarding Minor Variance Application No. A/09/19 KL to be concluded.

**19-014 BY JOHN DIMITRIJEVIC - JIM ROOK**

**BE IT RESOLVED THAT** the Committee of Adjustment Hearing held June 27<sup>th</sup>, 2019 be adjourned at 6:19 P.M.

**CARRIED**

*ORIGINAL DOCUMENT SIGNED*

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*Nancy Wirtz, Chair*

*ORIGINAL DOCUMENT SIGNED*

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*Candy Beauvais, Secretary*