

THE CORPORATION OF THE MUNICIPALITY OF KILLARNEY

Committee of Adjustment Meeting
Via Electronic Participation
Location: Municipal Council Chambers
March 10th, 2021
4:15 P.M.

PRESENT: MAYOR: Nancy Wirtz

COUNCILLORS: Barbara Anne Haitse Michael Reider Jim Rook
John Dimitrijevic Robert Campbell

ABSENT: Nil

DISCLOSURE: Nil *[all Council individually polled]*

STAFF: Clerk-Treasurer – Candy Beauvais
Deputy Clerk-Treasurer – Gilles Legault
Administrative Assistant – Angie Nuziale
Tax/UB Clerk – Julie Solomon

MEMBERS OF PUBLIC: 5 *[announced themselves on teleconference]*

GUESTS: Matthew Dumont, Director of Planning
Sudbury East Planning Board
via telephone

The Clerk indicated the meeting was now being recorded.

The Chair Mayor Wirtz called meeting to order at 4:19 P.M. and read the following statement.

On March 19, 2020, Bill 187, *Municipal Emergencies Act, 2020* came into force. This legislation amended the *Municipal Act, 2001* to permit municipalities to amend their procedural bylaws to provide that, during emergencies, members of Councils, local boards, and committees who participate in meetings electronically may be counted for the purposes of determining quorum. Further, on July 21, 2020, the COVID-19 Economic Recovery Act, 2020 was passed to further amend the Municipal Act, 2001 such that a Municipality's procedure by-law may permit Councillors to participate electronically in both open and closed meetings and for those Councillors to be counted in determining quorum when participating electronically. Therefore, the Municipality of Killarney has determined to further amend its procedural bylaw. Accordingly, meetings of the Municipality's Council, local boards, and committees will be conducted via teleconference or via in person meetings. The public will also be able to participate in such meetings in the same manner.

The Chair proceeded to ask Council if there were any declarations of pecuniary interest. Each councillor announced they had no disclosure.

Note: All motions are recorded votes in order to ensure the public is aware of how councillors are voting since they are unable to view the meeting proceedings.

21-001 BY ROBERT CAMPBELL – BARBARA ANNE HAITSE

BE IT RESOLVED THAT he Committee of Adjustment meeting be opened at 4:19 P.M.

Resolution Result	Recorded Vote		
	Council Members	YES	NO
<input checked="" type="checkbox"/> CARRIED	Robert Campbell	X	
<input type="checkbox"/> DEFEATED	John Dimitrijevic	X	
<input type="checkbox"/> TABLED	Barbara Anne Haitse	X	
<input checked="" type="checkbox"/> RECORDED VOTE (SEE RIGHT)	Michael Reider	X	
<input type="checkbox"/> PECUNIARY INTEREST DECLARED	Jim Rook	X	
<input type="checkbox"/> WITHDRAWN	Nancy Wirtz	X	

21-002 BY JIM ROOK – JOHN DIMITRIJEVIC

BE IT RESOLVED THAT the Agenda be accepted as distributed.

Resolution Result	Recorded Vote		
	Council Members	YES	NO
<input checked="" type="checkbox"/> CARRIED	Robert Campbell	X	
<input type="checkbox"/> DEFEATED	John Dimitrijevic	X	
<input type="checkbox"/> TABLED	Barbara Anne Haitse	X	
<input checked="" type="checkbox"/> RECORDED VOTE (SEE RIGHT)	Michael Reider	X	
<input type="checkbox"/> PECUNIARY INTEREST DECLARED	Jim Rook	X	
<input type="checkbox"/> WITHDRAWN	Nancy Wirtz	X	

The Chair stated that this Committee of Adjustment Meeting was scheduled in order to hold a Public Hearing to discuss a proposed Minor Variance:

Application No. A/01/21/KL (Scott Little & Cynthia Westaway)

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 application and provided other information that was relevant to the application.

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 February 24th, 2021 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 application and a key map showing the location of the property.

The Chair then declared this portion of the meeting to be a Public hearing to deal with **Application No. A/01/21/KL (Scott Little & Cynthia Westaway)**. 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 Scott Little and Cynthia Westaway for variances to the Waterfront Residential (WR) of By-law 2014-29, as amended, in order to facilitate the construction of a dwelling unit (cottage) and an accessory structure (sauna/storage) located on Tyson Lake.

	<u>Zone Requirement</u>	<u>Proposed</u>
Section 7.7.2(b)(i). Distance from the Optimal Summer Water Level (any dwelling unit)	5.0 metres	20.0 metres
Sections 7.7.2(b)(ii). Minimum Interior Side Yard (any dwelling unit)	0.60 metres	3.0 metres
Sections 7.7.2(c)(i). Distance from the Optimal Summer Water Level (all accessory buildings)	1.3 metres	20.0 metres

With respect to the Provincial Policy Statement, 2020:

- a) Settlement promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term.
- b) avoiding development and land use patterns which may cause environmental or public health and safety concerns.

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:

- i. The resulting development would be compatible with adjacent uses and in character with the established or planned development in the area;
- ii. Adequate provision is made for vehicular access and off-street parking;
- iii. Adequate buffering, screening and landscaping can be provided; and
- 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.

i. compatibility

The property is water access, the nearest public docking area is approximately 8.5 kilometers at Tyson Lake Marina, on Highway 637. The proposed variance would not have a significant impact on the character of the area or adjacent properties because the subject property abuts one existing waterfront residential lot to the east which has an existing cottage that was built in 1960 and is approximately 10.0 metres from the high-water mark. Also, the subject property is located on a small peninsula which backs on to Crown Land, therefore the proposed cottage and sauna will be allocated within the shoreline development area. The coverage of the shoreline development area, inclusive of the area within 20.0 metres of the Optimal Summer Water Level or the Inner Limit of the Crown Reserve, shall be a **maximum of 25%**. The dwelling unit and accessory structure are to be 9.5 percent of the total shoreline development area for the subject property which is another reason the proposal would not have a negative impact on the shoreline.

ii. parking

The subject lands are water access only. There are sufficient docking facilities at Tyson Lake Marina. Also, the subject property is a lot of record meaning a parcel created by a land patent, the deed to which is registered in the Land Registry office and which lot or parcel of land was legally created prior to the date of passing of this By-law.

iii. buffering

The subject lands are surrounded by crown lands to the north, to the east a waterfront residential lot which has an existing cottage that was built in the 1960's and two sleep cabins along with a land boathouse and has water frontage on Tyson Lake. The subject property is approximately 0.25 hectares in lot area and 97.5 metres of waterfrontage. The site is buffered from mature pine trees and several rock bluffs.

iv. circumstances particular to the site

Staff conducted a site on **February 5th, 2021**. The area where the owners wish to build their cottage is located near the west interior side yard, but most importantly, the cottage is to be built on a rock bluff which is significantly higher than the existing shoreline of the subject property. Due to this constraint, being the existing topography, relief is being requested of 5.0 metres from the optimal summer water level which is appropriate in this case. With respect to the accessory structure, the proposal is approximately 71.0 square metres (deck, sauna, storage) which is significantly larger than what is regulated for a sleep cabin (permitted 46.5 square metres) which is an accessory structure as per the By-law. I understand the shoreline development area, which is the cumulative total area, expressed in square metres, of all buildings or structures permitted within 20.0 metres of the Optimal Summer Water Level, but I also understand the intent and definition of accessory structure which is defined as a building and use that is situated on the same lot. In my opinion, the proposal does not conform with shoreline development area, rather the structure is appropriately defined as an accessory structure. Therefore, further relief is required for the proposed accessory structure from the OSWL. The proposed accessory structure is to be in a small area which is relatively flat on the subject property which is near the existing dock. Again, like the cottage, the proposed building area is the most suitable area for the structure due to the existing topography of the site which is the reason for the proposed location. Lastly, the proximity of the proposed cottage in relation to the interior side yard will not have a negative impact on the neighboring property because those lands are owned by the Crown which means no structures will ever be built on those lands.

With respect to zoning:

The 'Waterfront Residential (WR)' Zone requires a minimum lot area of 0.8 hectares and a minimum lot frontage of 60.0 metres. The subject property meets these requirements.

The lot does not conform to the minimum lot area (0.25 ha), however the lot conforms to the minimum lot frontage (97.5 m) requirements of the WR Zone under Zoning By-law 2014-29, as amended. However, the lot would be deemed to comply to the lot requirements of the Zoning By-law by virtue of Section 6.26 to Zoning By-law 2014-29.

The lot would be legal non-conforming if the lot were in existence prior to May 26th, 2003, which is the case in the instance.

At present, the subject property is vacant, and the owner wishes to construct a seasonal cottage located approximately 5.0 metres from the optimal summer water level (OSWL). Part of the design of the seasonal cottage includes a deck which is oriented to face the waterfront, resulting in a 5.0 metres from OSWL. The applicant is restricted from locating it in compliance with the zoning by-law because of the existing rock bluff on the subject property. With respect to total lot coverage (15% is permitted), the proposed seasonal cottage and sauna will have no negative impact on the lot coverage because the lot is 0.25 hectares in lot area and the proposed seasonal cottage and sauna is approximately 0.015 hectares in area which is approximately 0.06 percent of the lot coverage.

With respect to agency comments:

The Clerk for the Municipality of Killarney has no concerns or objections.

Staff recommends that the variances be approved as they are minor, appropriate in nature, and the intent of both the Official Plan and Zoning By-law are maintained.

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

The applicant was present via teleconference. The representative for the applicant stated the Sudbury East Planning Board summarized the Minor Variance Application perfectly.

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.

21-003 BY MICHAEL REIDER – JIM ROOK

BE IT RESOLVED THAT the Minor Variance Application No. A/01/21/KL (Municipality of Killarney) – Property Roll No. 5136-000-003-08100 – to facilitate the construction of a dwelling unit (cottage) and accessory structure (sauna/storage) is hereby granted;

FURTHER THAT the necessary Notice of Decision be prepared.

Resolution Result	Recorded Vote		
	Council Members	YES	NO
<input checked="" type="checkbox"/> CARRIED	Robert Campbell	X	
<input type="checkbox"/> DEFEATED	John Dimitrijevic	X	
<input type="checkbox"/> TABLED	Barbara Anne Haitse	X	
<input checked="" type="checkbox"/> RECORDED VOTE (SEE RIGHT)	Michael Reider	X	
<input type="checkbox"/> PECUNIARY INTEREST DECLARED	Jim Rook	X	
<input type="checkbox"/> WITHDRAWN	Nancy Wirtz	X	

Therefore, please be advised that there is a 20 day appeal period once the Emergency has ended (to be determined) during which time any person or public body may, not later than 20 days after the day that the giving of written notice as required by Section 45 of the Planning Act is completed, appeal to LPAT by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee prescribed under LPAT. During this appeal period, no building permit may be issued or other work commenced.

The Chair adjourned Minor Variance Application No. A/01/21/KL to be concluded.

21-004 BY BARBARA ANNE HAITSE – ROBERT CAMPBELL

BE IT RESOLVED THAT the Committee of Adjustment meeting held March 10th, 2021 be adjourned at 4:37 P.M.

Resolution Result	Recorded Vote		
	Council Members	YES	NO
<input checked="" type="checkbox"/> CARRIED	Robert Campbell	X	
<input type="checkbox"/> DEFEATED	John Dimitrijevic	X	
<input type="checkbox"/> TABLED	Barbara Anne Haitse	X	
<input checked="" type="checkbox"/> RECORDED VOTE (SEE RIGHT)	Michael Reider	X	
<input type="checkbox"/> PECUNIARY INTEREST DECLARED	Jim Rook	X	
<input type="checkbox"/> WITHDRAWN	Nancy Wirtz	X	

ORIGINAL DOCUMENT SIGNED

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Nancy Wirtz, Chair

ORIGINAL DOCUMENT SIGNED

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Candy Beauvais, Secretary