



Tuesday, March 24th, 2009

7:00 p.m.

**Lanark Highlands Municipal Office - 75 George Street, Lanark, Ontario
Council Chambers**

- *2:30 p.m. Committee of the Whole*
- *5:30 p.m. Dinner Break*
- *7:00 p.m. Committee of Adjustment*
- *Following Public Meeting: Zoning By-Law Amendments
(File #ZA09-001 & File #ZA09-003)*
- *Following Council*

Chair, Mayor Bob Fletcher

1. CALL TO ORDER

2. INTRODUCTION

- The purpose of this meeting is to hear applications for Minor Variances.
- The Committee is charged with making a decision on each application on the agenda. The decision will be based on both oral and written input received and understandings gained. The four key factors on which decisions are based include:
 - Is the application generally in keeping with the intent of the Township's Official Plan?
 - Is the application generally in keeping with the intent of the Township's Zoning By-Law?
 - Is the application desirable for the appropriate development or use of the site?
 - Is the application minor in nature and scope?
- The Planning Consultant will provide a brief overview of the details of the file. The applicant will then be given an opportunity to explain the need for the variance. Then, any person or public body, in opposition and then in favour, to the application will be heard.
- If a person or public body does not make oral or written submissions at a public meeting, or make written submissions to the Township of Lanark Highlands before the decision is passed, the person or public body may not be added to the hearing of an appeal before the Ontario Municipal Board (OMB) unless, in the opinion of the Board, there are reasonable grounds to do so.

- If you wish to be notified of the decision of the Committee of Adjustment in respect to any of the below listed applications, you must submit a written request to the Secretary-Treasurer of the Committee of Adjustment or you must sign the attendance list provided at today's meeting. This will also entitle you to be advised of a possible Ontario Municipal Board Hearing. Even if you are the successful party, you should request a copy of the decision since the Committee of Adjustment decision may be appealed to the Ontario Municipal Board by the applicant or another member of the public.
- The Secretary/Treasurer must provide notice of the Committee's decision to all those who request a copy within 10 days. Anyone may appeal the decision to the OMB by filing with the Secretary/Treasurer within 20 days of the notice of decision.

3. DISCLOSURE OF PECUNIARY INTEREST & GENERAL NATURE THEREOF

4. APPROVAL OF MINUTES

Suggested Motion:

“THAT, the minutes of the Committee of Adjustment meeting held on Tuesday, September 16th, 2008 be approved as circulated.”

5. APPROVAL OF AGENDA

Suggested Motion:

“THAT, the agenda be adopted as presented.”

6. APPLICATIONS

i) **FILE #:** MV09/001 HOUSTON – *attached, page 5.*

- PLANNER FILE REVIEW
- APPLICANT COMMENTS
- ORAL & WRITTEN SUBMISSIONS
- DECISION OF COMMITTEE

Recommended Decision:

“THAT, in the matter of an application under Section 45(1) of the Planning Act, R.S.O. 1990, c.P13, as amended, that Minor Variance Application #MV09/001 be approved, to allow a variance from the requirements of Section 4.32.6 and Section 6.2 of Zoning By-Law No. 2003-451, for the lands legally described as Concession 3, Part Lot 13, former Township of Lanark, Township of Lanark Highlands and commonly referred to as 115 Dwyer Lane - Roll Number 934-010-19000-0000, to reduce the minimum

yard requirement for a Front Yard with shoreline frontage to 16.88 m (55.38 ft) from the By-Law requirement of 30 m (98.4 ft) and to reduce the minimum lot area per dwelling unit to 0.1 ha (0.25 ac) from the By-Law requirement of 1 ha (2.47 ac) and to reduce the minimum lot frontage to 30.48 m (100 ft) from the By-Law requirement of 60 m (196.8 ft);

AND THAT, the Minor Variance is conditional on the applicant obtaining site plan approval from the Corporation of the Township of Lanark Highlands.”

7. NEW/OTHER BUSINESS

None.

8. ADJOURNMENT

APPLICATIONS

File #: MV09/001

Purpose: Minor Variance to Zoning By-Law No. 2003-451

Applicant: Houston

Location: Part Lot 13, Concession 3, Former Township of Lanark, Township of Lanark Highlands

Dwyer Lane/Clyde River

PURPOSE

To allow for the construction of an addition to an existing cottage within 30 metres of the Clyde River.

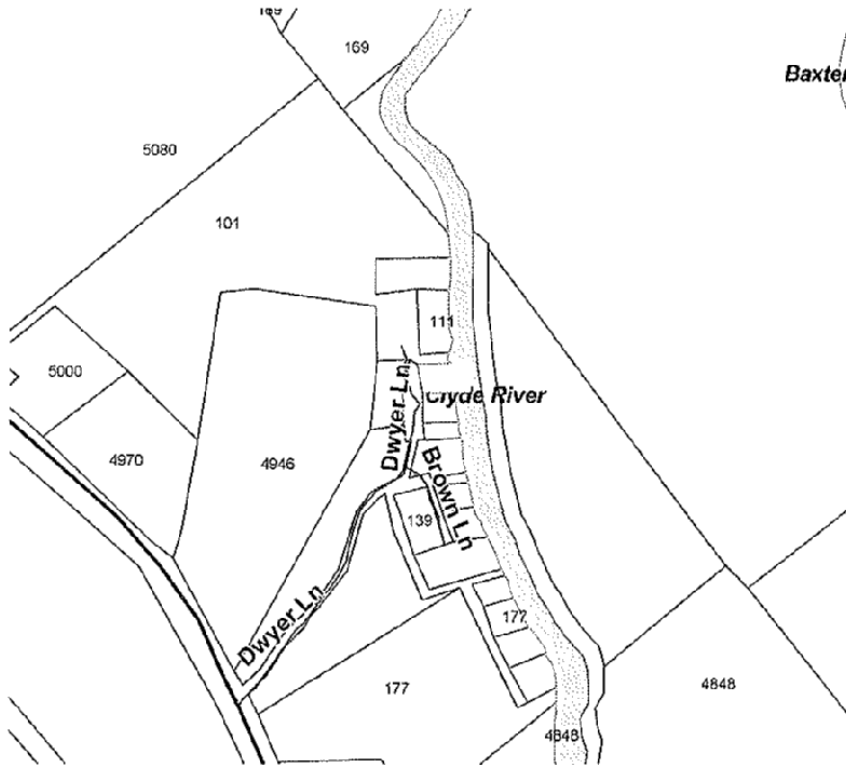
Background

The property is along the shoreline of Clyde River and is accessed by Dwyer Lane, a private roadway not maintained by the municipality. The property is not regulated by the Mississippi Valley Conservation for filling and/or construction activities on lands above the high water mark. No formal flood mapping has been undertaken or approved for the lands subject to this application.

A cottage, a privy and two sheds are currently constructed on the site. The lands are serviced via a holding tank. No change to the existing servicing solution is proposed by means of this application.

The property enjoys approximately 30.48 metres of frontage on both the roadway and the Clyde River, a depth of 32.61 metres and an area of 993 square metres or 0.2 acres. Surrounding land uses are recreational, rural and residential.

The applicant has constructed the small addition prior to gaining any approvals from authorities.



Relief Required

The applicant wishes to gain approval in order to complete his small addition to the existing cottage on the waterfront side of the cottage. The cottage enjoys legal non-conformity at present. Due to the request to increase the footprint on lands which do not meet the frontage, area or setback requirements of the zoning by-law the existing conditions along with the additional relief requested must be evaluated. Relief from the zoning by-law performance standards must be assessed using the four tests outlined in the Planning Act. Section 45 of the Planning Act addresses applications for Minor Variance. The ability of applicants to demonstrate compliance with the four tests is necessary. These tests are:

- Is the proposal desirable and an appropriate land use; and
- Does it meet the general intent of the Official Plan; and
- Does it meet the general intent of the Zoning By-law; and
- Is the proposal minor?

Provincial Policy

The Provincial Policy Statement, PPS provides direction to approval authorities on matters related to development and supports the provincial goal to enhance the quality of life for the citizens of Ontario. All development applications must be consistent with the statement.

Recognition is given throughout the document to the complex inter-relationships among environmental, economic and social factors in land use planning. The lands subject to this application are rural. The PPS permits recreational activities and limited residential development that will not result in the need to expand municipal infrastructure and is appropriately serviced. The proposal will not result in an increase to any municipal services.

The policy also directs authorities to consider development along surface water features as cross-jurisdictional and that the watershed be used as a scale for ecologically meaningful planning. Protection of the water is a priority of the province.

Section 2.1.2 of the Provincial Policy Statement (PPS) directs planning authorities to protect the diversity and connectivity of surface water features and to improve the existing conditions where possible. Although the PPS does not specifically outline setbacks from watercourses, it is generally accepted that new development if set back 30 metres will not adversely impact the waterbody. This proposal is for an addition to an existing long standing cottage which will encroach slightly (0.9 metres) closer to the river for approximately 1/3 the width of the cottage. The lands are sparsely vegetated at present with some mature species along the property boundaries abutting adjacent land owners. The applicant will be required to undertake a site plan control agreement with the Municipality. Part of that agreement will consider the existing vegetation abutting the watercourse and if it would be beneficial to require additional plantings which will result in additional bank stabilization and vegetative overhang to the watercourse. Improvement to the existing conditions and a net gain along the Clyde River can be the result of this evaluative process.

Official Plan

The property is designated Rural on Schedule 'A4' of the Official Plan of the Township of Lanark Highlands. Settlement within the Rural lands is recognized as low density residential development along both the roadways and the waterways of the Township. The plan also anticipates recreational land uses.

As this application is along the Clyde River the policies of lands enjoying waterfrontage must also be reviewed for compliance. The applicant has provided a detailed plan which illustrates the existing and proposed development and vegetated or tree cover. Section 3.6.3 of the Official Plan outlines policies of lands abutting any waterbody within Lanark Highlands. The Plan recognizes that the greatest threat to waterbody health is through re-development of existing undersized lots and parcels of record. It is the objective of the plan to improve existing water quality. The application will be subject to site plan control and will require demonstration that the 15 metre ribbon of life remains intact and that water quality will not be adversely affected. The proposal does not encroach on the ribbon of life and through site plan control the township can require additional planting along the Clyde to improve the ribbon of life and result in a net improvement to the river. Vegetation provides shade, shelter and additional habitat for shoreline species and is a primary component of watercourse health.

The plan shows minimal new development and respects the general principals of protecting any watercourse within the Township.

Zoning By-Law

The property is zoned Rural. A residence is a permitted use within this zone. The existing cottage enjoys legal non-conformity as it would not meet the requirements of the zoning by-law if reviewed under current performance standards. The Houston property is not of sufficient area, does not meet frontage requirements and cannot meet the waterfront setback requirements of the by-law.

The minor variance will recognize existing conditions of area and frontage along with the proposed increased encroachment of 0.9 metres into the required waterfront setback.

Agency Comments

The Lanark Leeds and Grenville Health Unit has no objection to the MV being approved in order to allow for a small addition to an existing seasonal dwelling. The Mississippi Valley Conservation does object to approval of the Minor Variance. Full comments of the MVC are provided in Appendix 1.

Conclusion

The proposal for an addition will not significantly impact the Clyde River nor will it create any potential for sewage contamination within the watershed. It is currently serviced via a holding tank and will continue to be serviced in this manner. The Health Unit has provided direction to the applicant on the appropriate size and other matters within their mandate. The addition is constructed on an existing lot of record where development has previously occurred. The cottage is an expected and permitted land use of the Provincial Policy Statement, Official Plan and Zoning By-law.

The application meets the general intent of both the Official Plan and the Zoning By-law and is a desirable and appropriate land use, will not significantly impact the abutting land holders and provides the opportunity to improve the riparian zone over the long term. As such the application meets the tests of the Planning Act and can be considered minor. Recommendation for approval is appropriate.

The Minor Variance will be subject to site plan control as per Section 10.11.10 of the Township of Lanark Highlands Official Plan. The applicant is aware that site plan control is required but wishes to wait until a decision from the Committee is finalized prior to submission. Comments from the Mississippi Valley Conservation will be incorporated into the site plan control agreement. If approved the Minor Variance will be conditional subject to the approved site plan.

RECOMMENDED DECISION

"That the Committee of Adjustment approve Minor Variance Application MV09/001 to allow relief of Section 4.32.6 of Zoning By-law 2003-451 Setbacks from Waterbodies

from the front yard requirement of 30 metres to 16.88 metres and Section 6.2 of Zoning By-Law 2003 451 that allows an area of 993 square metres rather than 1 ha and frontage of 30.48 metres rather than 60 metres.

- a) This Minor Variance is conditional on the submission of an approved site plan control agreement.

APPENDIX 1

File: P04-11

March 13, 2009

Township of Lanark Highlands

Box 340

Lanark Ontario

K0G 1K0

Re: Application for Minor Variance – MV09/001

Part Lot 13, Concession 3, Township of Lanark Highlands (Lanark)

HOUSTON, James

Mississippi Valley Conservation (MVC) has been circulated the above noted application to conduct a review in terms of MVC Regulations and Provincial Planning Policy for Natural Heritage and Natural Hazard issues. Specifically, the purpose of this review is to assess potential impacts of the proposed development on known natural heritage features on and adjacent to the subject property. These features could include wetlands, wildlife habitat and areas of natural and scientific interest. This review also includes an evaluation of the subject property for natural hazards such as unstable slopes and areas prone to flooding and erosion.

According to the information provided, the minor variance would allow for a reduction in the waterbody/front yard setback from 30 metres to 16.88 metres. This represents an additional encroachment of 0.9 metres compared to the existing structure. As determined during a site visit conducted by MVC staff on March 12, 2009, this addition has already been constructed and we understand it was complete without any of the necessary approvals.

The property has frontage on the Clyde River which is a warm water fishery providing habitat for species such as walleye, northern pike and bass as well as a variety of non sport and forage fish. With the exception of a few trees, the shoreline does not consist of a vegetated buffer.

The Provincial Policy Statement (PPS) indicates that development shall not be permitted within 30 metres of fish habitat unless it has been determined that there will be no additional negative impacts to this natural heritage feature. The recommended 30 metre setback distance for waterfront development is intended to protect the river environment

from the effects of increased nutrients from overland runoff and allow room for a natural vegetation buffer. The natural vegetation buffer prevents shoreline erosion, excess warming of shallow waters and provides wildlife and aquatic habitat. The Clyde River is considered to be fish habitat.

If MVC had been circulated the subject application prior to construction, we would have recommended modifying the proposal so that the addition did not result in a further encroachment towards the waterbody, compared to the existing structure. Prior to construction of the subject addition, the structure was already located within the current standard of 30 metres. And, approval of the subject application would render support of a further reduction to this already substandard setback. We recognize that 0.9 metres is somewhat minor. However, sufficient area exists to have accommodated this additional square footage to the side of the structure rather than towards the water. With all of this in consideration, MVC does not support the subject application.

As a standard recommendation for development within 30 metres of a waterbody, we consistently advocate the establishment of a vegetated buffer along the shoreline to a minimum depth of 3 metres with deeply rooted native vegetation.

Formal flood plain mapping for the subject property does not yet exist. Therefore, the property is currently not regulated by MVC for construction and filling activities above the high water mark of the river. However, the property owner should be advised that in the event that shoreline work is proposed in the future, written permission is required from MVC pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses".

In addition, in accordance with MVC's Level II fish habitat agreement with the Department of Fisheries and Oceans, MVC is responsible for evaluating proposed works as to their impact on fish habitat in our watershed. Therefore, any proposed works in or near the river should be reviewed by MVC to ensure there will be no harmful alteration, disruption or destruction of fish habitat. Authorization under Section 35 of the Fisheries Act 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