

**THE TOWNSHIP OF NORTH HURON  
COMMITTEE OF ADJUSTMENT AGENDA**



**Date:** Monday, May 1, 2017  
**Time:** 7:00 p.m.  
**Location:** HELD IN THE TOWNSHIP COUNCIL CHAMBERS

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**Pages**

- 1. Call to Order**
- 2. Disclosure of Pecuniary Interest**
- 3. Accept of Amend Agenda**  
*THAT the Committee of Adjustment hereby accepts the agenda for the May 1, 2017 hearing as presented.*
- 4. Committee of Adjustment - Authority**  
The Council of the Corporation of the Township of North Huron enacted By-law No. 2-2013 authorizing the appointment of the full Council to form the Committee of Adjustment.  
  
Hence, it is by the authority of By-law No. 2-2013 and The Planning Act, R.S.O. 1990, as amended, that his Committee of Adjustment shall perform its responsibilities.
- 5. Appoint Secretary-Treasurer**  
The Council of the Corporation of the Township of North Huron hereby enacts the By-law authorizing the appointment of the Clerk as Committee of Adjustment Secretary-Treasurer.
- 6. Statement of Precedent**  
“That any decision reached by this Committee tonight can not be used to set a precedent.”
- 7. New Business**  
File A01-2017 Minor Variance Application  
Plan 451 Lot 12, Wingham Ward, North Huron (449 Carling Terrace)  
Applicant/Owners: Ken and Shelly De Vries

7.1	<p>Purpose and Description</p> <p>The purpose of this application is to seek relief from Zoning By-law 82-2008 for the Township of North Huron. The subject property is designated Residential in the North Huron Official Plan and zoned R1-3- Residential Low Density Special Zone in the North Huron Zoning By-law.</p> <p>The applicant is proposing to construct an above-ground swimming pool on their lot. The provisions set out in the North Huron Zoning By-law General Provisions for an accessory structure state that an accessory structure is to be located in the rear or interior side yard of a property and shall not be located closer to a street than the setback for the main building. This application is requesting a variance for the exterior side yard applicable to the setback from the street for the main building. In the R1 Zone, the exterior side yard setback is a minimum of 6 metres (19 feet 6 inches) from the street. The proposed Minor Variance seeks relief for 5.7 metres for the exterior yard setback required to satisfy Section 3.3.4 of the General Provisions for Accessory Structures section of the Zoning By-law, as the applicant proposes to construct the pool at a setback of 0.3 metres (1 foot) from the exterior side lot line.</p>	
7.2	<p>Comments of the Huron County Planner</p> <p>See attached report from Laura Young, Huron County Planner.</p>	5
7.3	<p>Comments of the Applicant and/or Agent</p>	
7.4	<p>Comments of Others</p> <p>North Huron staff and commenting agencies were circulated with information on this application. Comments received from North Huron Public Works identified that the location of the existing fence is on Township property and for the fence to remain, an Encroachment Agreement is required to be entered into between the applicant and the Township. An Agreement is a recommended condition of this report. Comments received from the Risk Management Official determined that there are no apparent land use activities associated with threats to source water protection or prohibited uses. No comments were received from the public circulated on this application; comments may arise at the public meeting.</p>	
7.5	<p>Committee of Adjustment Members' Questions and/or Comments</p>	
7.6	<p>Recommendation of the Huron County Planning &amp; Development Department</p> <p>Approval (with conditions) is recommended as outlined in the report from Laura Young, Huron County Planner.</p>	

7.7

Recommendation to Council from the Committee of Adjustment

WITH the effect of public and agency comments on the decision of Council as per \*\*Choose number (1-8) and letter(s) (A or B) from the chart for received comments\*\*

Effect of Public and Agency Comments on Decision of Council to the Planning application (Pursuant to Sections 17, 22, 34, 35, 45, 51 and 53 of the Planning Act, RSO, 1990, as amended)

	A. Effect of Public Comments on Decision of Council	B. Effect of Agency Comments on Decision of Council (e.g. Planning, Public Works, Health Unit)
1. Council agrees with effects of input as contained in the planning report	Council concurs with the planning report regarding the effect of public and agency comments on the decision.	Council concurs with the planning report regarding the effect of public and agency comments on the decision.
2. No comments received	No public comments were received on this application so there was no effect on the decision.	No agency comments were received on this application so there was no effect on the decision.
3. Supportive comments received	Public comments were received in support of the application, the effect of which resulted in a decision to approve the application.	Agency comments were received in support of the application, the effect of which resulted in a decision to approve the application.
4. Concerns raised were addressed through conditions to approval or changes to mapping or text amendment	Public comments were received on the issue(s) of _____. The comments were address through (conditions to approval/changes to the mapping or text of the amendment).	Comments were received from agencies on the issue(s) of _____. The comments were address through (conditions to approval/changes to the mapping or text of the amendment).
5. Concerns raised did not influence the decision	Public comments were received on the issue(s) of _____. Comments were thoroughly considered but the effect did not influence the decision of Council to (approve/deny) the application.	Comments were received from agencies identifying the issue(s) of _____. Comments were thoroughly considered but the effect did not influence the decision of Council to (approve/deny) the application.
6. Concerns raised did influence the decision	Public comments were received on the issue(s) of _____, the effect of which influenced the decision of Council to (approve/deny) the application.	Comments were received from agencies identifying the issue(s) of _____. Comments were thoroughly considered but the effect did not influence the decision of Council to (approve/deny) the application.
7. Comments received in support and opposition to the application	Options from above 1A/3A/4A/5A/6A	Options from above 1B/3B/4B/5B/6B
8. Other	Additional wording deemed appropriate by Council	Additional wording deemed appropriate by Council

*THAT the Committee of Adjustment hereby recommends to North Huron Council that the Minor Variance A01-2017 as it applies to Plan 451 Lot 12, Wingham Ward, North Huron (449 Carling Terrace), Applicant/Owners: Ken and Shelly De Vries; be approved with the following conditions:*

- 1. The pool be located within the footprint contained on the sketch that accompanied the application;*
- 2. The pool maintains a distance of 1 metre from the fence;*
- 3. The fence is either removed to the satisfaction of the Chief Building Official or an Encroachment Agreement is entered into with the Township of North Huron; and*
- 4. The variance approval is valid for a period of 18 months from the date of the Committee's decision.*

## **8. Ruling of the Committee of Adjustment**

### **Minor Variance Procedure Following Public Meeting**

The Secretary-Treasurer sends within 10 days a certified copy of the decision indicating the last day of Appealing to the Ontario Municipal Board (OMB) to:

- (a) The Applicant.
- (b) The Minister of Municipal Affairs & Housing, if requested.
- (c) Each person who appeared in person or by counsel at the Hearing and who filed with the Secretary-Treasurer a written request for Notice of the Decision.

### **IF NO APPEAL LODGED:**

After the 20 day objection period has expired and no Appeal has been lodged, the decision of the Committee of Adjustment is final and binding.

The Secretary-Treasurer shall notify the applicant.

### **IF A NOTICE OF APPEAL IS LODGED:**

If within 20 days of the Committee of Adjustment making a decision, an Appeal is lodged with the Secretary-Treasurer outlining the reasons for such an Appeal and said Appeal is accompanied by the required fee of \$300.00, the Committee of Adjustment no longer retains jurisdiction over the application.

If a proper Appeal is lodged the Secretary-Treasurer is required to provide proper Notice to the Ontario Municipal Board (OMB).

## **9. Adjournment**

*THAT there being no further business before the Committee of Adjustment, the Public Hearing be hereby Adjourned at ... pm.*



## PLANNING & DEVELOPMENT

57 Napier Street, Goderich, Ontario N7A 1W2 CANADA

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[www.huroncounty.ca](http://www.huroncounty.ca)

### Minor Variance Report to North Huron Committee of Adjustment

**From:** Laura Young, Planner

**Date:** 26 April 2017

**RE: File A01-2017 Minor Variance Application Report**  
**Plan 451 Lot 12, Wingham Ward, North Huron (449 Carling Terrace)**

**Applicant/Owners:** Ken and Shelly De Vries

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This report is submitted to Council for the public meeting on May 1<sup>st</sup>, 2017.

**Recommendation:** That the Minor Variance A01-2017 be:

- approved
- ✓ **approved with conditions (included)**
- deferred
- denied

#### Purpose

The purpose of this application is to seek relief from Zoning By-law 82-2008 for the Township of North Huron. The subject property is designated Residential in the North Huron Official Plan and zoned R1-3- Residential Low Density Special Zone in the North Huron Zoning By-law.

The applicant is proposing to construct an above-ground swimming pool on their lot. The provisions set out in the North Huron Zoning By-law General Provisions for an accessory structure state that an accessory structure is to be located in the rear or interior side yard of a property and shall not be located closer to a street than the setback for the main building. This application is requesting a variance for the exterior side yard applicable to the setback from the street for the main building. In the R1 Zone, the exterior side yard setback is a minimum of 6 metres (19 feet 6 inches) from the street. The proposed Minor Variance seeks relief for 5.7 metres for the exterior yard setback required to satisfy Section 3.3.4 of the General Provisions for Accessory Structures section of the Zoning By-law, as the applicant proposes to construct the pool at a setback of 0.3 metres (1 foot) from the exterior side lot line.

#### Staff, Agency and Public Comments

This report has been prepared in advance of the public meeting. North Huron staff and commenting agencies were circulated with information on this application. Comments received from North Huron Public Works identified that the location of the existing fence is on Township property and for the fence to remain, an Encroachment Agreement is required to be entered into between the applicant and the Township. An Agreement is a recommended condition of this report. Comments received from the Risk Management Official determined that there are no apparent land use activities associated with threats to source water protection or prohibited uses. No comments were received from the public circulated on this application; comments may arise at the public meeting.

**Figure 1.** 2015 aerial view of subject lands showing property

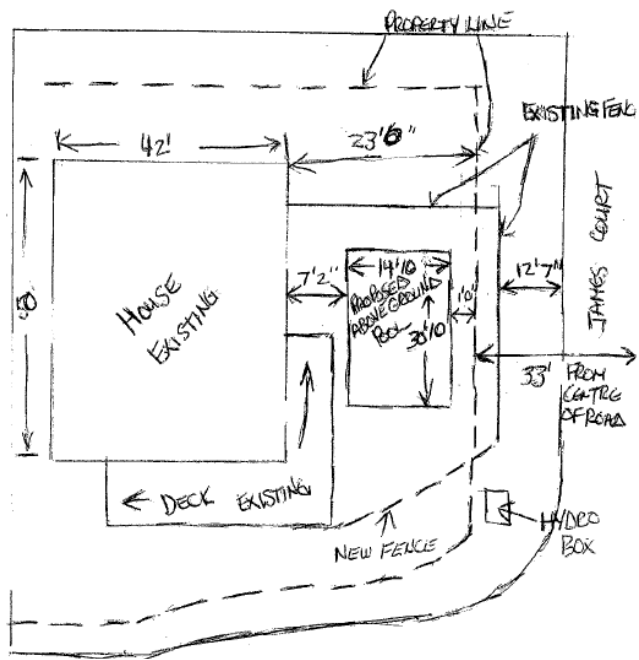


**Figure 2.** View of subject lands from James Court





**Figure 3.** Sketch submitted with Minor Variance Application A01-2017 showing setbacks from property line and existing fence



**Figure 4.** View of subject lands showing existing fence and Township Boulevard



## Review

Each minor variance application must satisfy four tests set out under Section 45 of the Planning Act (1990), as amended. This minor variance application:

- ✓ *Meets the intent of the North Huron Official Plan*  
The subject lands are designated Residential in the North Huron Official Plan. The proposed construction of a pool is an accessory use for a permitted house in a Residential designation and is compatible with the surrounding neighbourhood uses.
- ✓ *Meets the intent of the Township of North Huron Zoning By-law*  
A swimming pool is a permitted use in a Residential zone as an accessory structure. The intent of setbacks in the Zoning By-law are to allow for site maneuverability and access; reducing the exterior side yard

setback from 6 metres to 0.3 metres to permit the pool to be located in the exterior side yard takes the existing rear and interior yards into consideration and the recommended condition of maintaining 1 metre between the pool and the fence will provide access around the pool without obstruction. Section 3.39 of Zoning By-law requires the height of a swimming pool fence to be a minimum of 1.52 metres and in accordance with the Swimming Pool By-law for North Huron. The pool must be enclosed by a fence and would not be permitted without a satisfactory fence around it. The proposed construction of the pool does not affect the existing exterior side yard visual due to the existing fence and is an appropriate accessory use for an R1 zoned property.

✓ *Is desirable for the appropriate development of the lands in question*

There is no expected negative impact from the proposed pool construction on the sight triangle or visual of the property because of the existing fence limiting the visibility of the exterior side yard. A recommended condition is that the fence is either removed (to the satisfaction of the Chief Building Official) or an Encroachment Agreement is established between the applicants and North Huron Township. The Agreement would allow the fence to remain where it is located and continue to provide sufficient distance between it and the pool. A recommended condition is that the pool is maintained at a distance of 1 metre away from the fence. This is maintained if the fence remains where it is currently located, on the Township boulevard, or if the fence is removed and placed on the property line; then a metre would be required to be established between it and the pool for access.

✓ *Is minor in nature*

In this case the relief sought for the new pool is a reduction of the required exterior side yard setback from 6 metres to 0.3 metres. The requested variance is minor in nature and appropriate for the scale of the property because of the unique position of the existing fence being located on the Township boulevard. The requested variance is to locate the pool 0.3 metres from the exterior property line however if an Encroachment Agreement is entered into between the applicants and the Township and the fence remains where it currently is, it provides additional distance beyond the subject property line for access around the proposed pool. If the fence is relocated to the property line, the recommended condition to maintain 1 metre of distance from the pool to the relocated fence will create a setback greater than the requested variance.

## **Conclusion**

The relief being sought would allow for the construction of an appropriate accessory structure for a house permitted in the Residential designation by the North Huron Official Plan, and the application meets the intent of the North Huron Zoning By-law, is minor in nature, and is considered desirable. As the variance requested satisfies all four tests outlined in the Planning Act (1990), as amended, the proposed variance is recommended for approval with the following conditions:

1. The pool be located within the footprint contained on the sketch that accompanied the application;
2. The pool maintains a distance of 1 metre from the fence;
3. The fence is either removed to the satisfaction of the Chief Building Official or an Encroachment Agreement is entered into with the Township of North Huron; and
4. The variance approval is valid for a period of 18 months from the date of the Committee's decision.

Please note this report is prepared without the benefit of input from the public as may be obtained through the hearing. The Committee should carefully consider any comments and/or concerns expressed at the hearing prior to making their decision on this application.

## **Original Signed By**

Laura Young, Planner



# Minor Variance Application

*Committee of Adjustment*  
*May 1, 2017*



# Minor Variance A01-2017

*Owner/Applicants: Ken and Shelly De Vries*

*Plan 451 Lot 12*

*449 Carling Terrace*

*Wingham, North Huron Township*



Zoning: R1-3- Residential Low Density

Designated: Residential

Proposing to construct an above ground pool

Required Exterior Yard Setback: 6 metres

Proposed Exterior Yard Setback: 0.3 metres (1 foot)

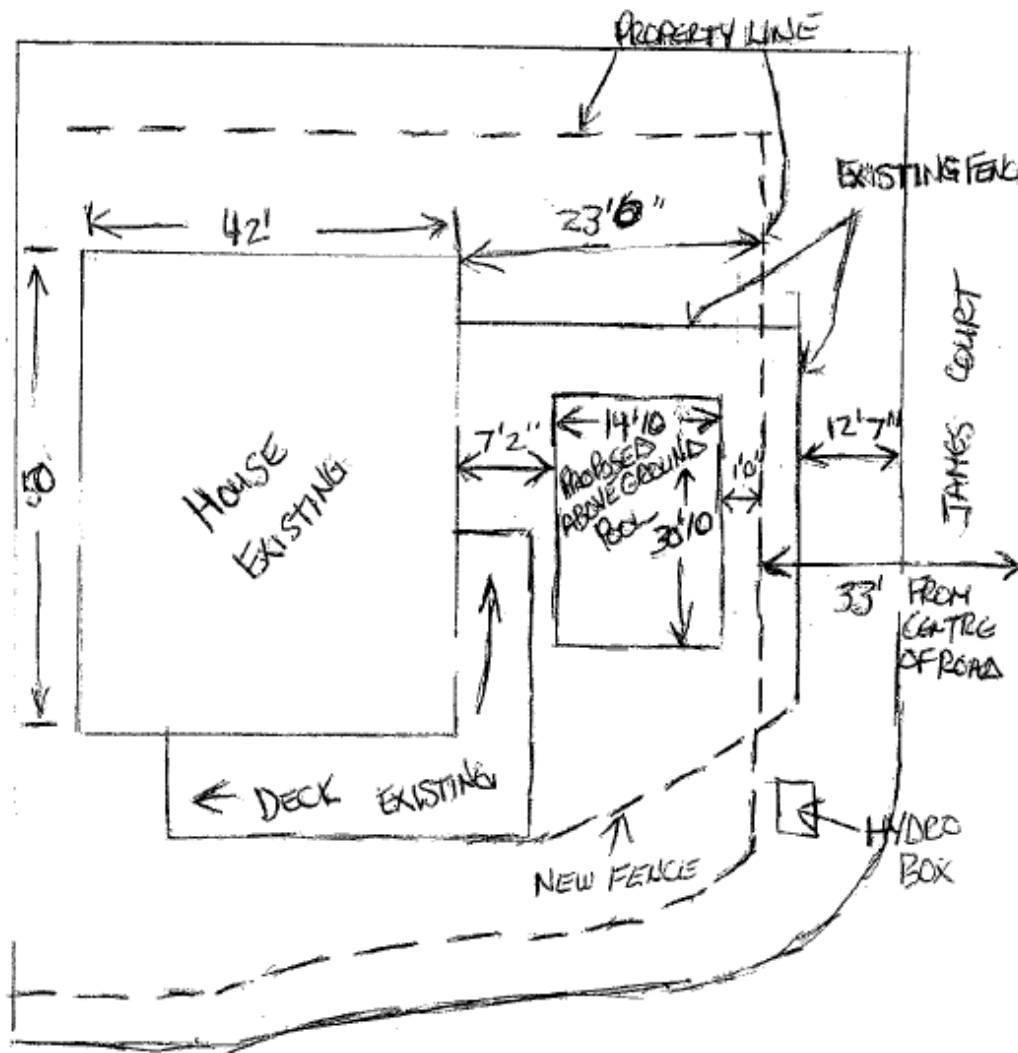
Minor Variance seeks relief for 5.7 metres

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## Subject Property



2015 Aerial Photo



Proposed Site Layout





## Subject Property





## Subject Property



# Applicable Policies

Application satisfies the 4 tests of a Minor Variance:

- *Meets the intent of the North Huron Official Plan*
- *Meets the intent of the Township of North Huron Zoning By-law*
- *Is desirable for the appropriate development of the lands in question*
- *Is minor in nature*

This application is recommended for approval with the following conditions

# Recommended Conditions

1. The pool be located within the footprint contained on the sketch that accompanied the application;
2. The pool maintains a distance of 1 metre from the fence;
3. The fence is either removed to the satisfaction of the Chief Building Official or an Encroachment Agreement is entered into with the Township of North Huron; and
4. The variance approval is valid for a period of 18 months from the date of the Committee's decision.

	<b>A. Effect of Public Comments on Decision of Council</b>	<b>B. Effect of Agency Comments on Decision of Council (e.g. Planning, Public Works, Health Unit)</b>
1. Council agrees with effects of input as contained in the planning report	Council concurs with the planning report regarding the effect of public and agency comments on the decision.	
2. No comments received	No public comments were received on this application so there was no effect on the decision.	No agency comments were received on this application so there was no effect on the decision.
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8. Other	Additional wording deemed	Additional wording deemed