



PLANNING & DEVELOPMENT

57 Napier Street, Goderich, Ontario N7A 1W2 CANADA

Phone: 519.524.8394 Ext. 3 Fax: 519.524.5677 Toll Free: 1.888.524.8394 Ext. 3

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

This report is submitted to Council for the public meeting on May 1st, 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

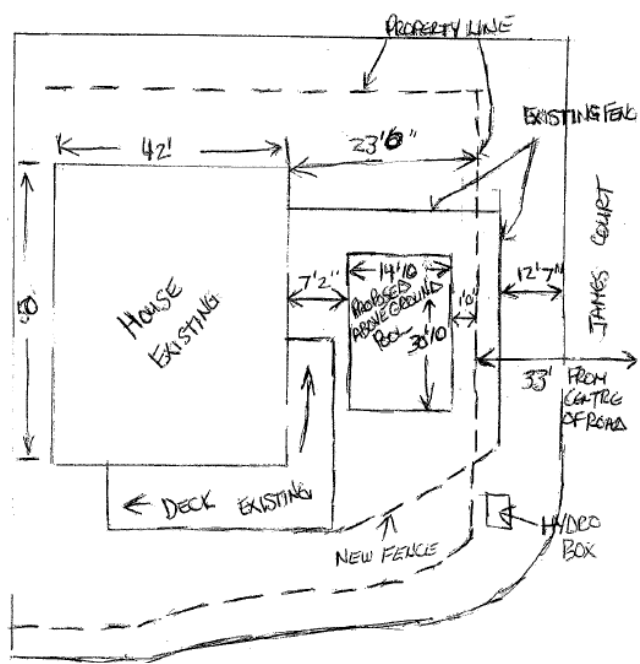


Figure 4. View of subject lands showing existing fence and Township Boulevard



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