



**Corporation of the Municipality of South Huron**  
**Minutes-Committee of Adjustment**

**Monday, August 10, 2020, 5:00 p.m.**

**Remote Electronic Meeting South Huron Council Chambers**

**Live Video Feed - <https://www.southhuron.ca/en/government/agendas-and-minutes.aspx>**

Members Present:        Ted Oke, Chair  
                                 Aaron Neeb, Member  
                                 Dianne Faubert, Member

Staff Present:            Craig Metzger, Senior Planner  
                                 Justin Finkbeiner, Administrative Assistant  
                                 Alex Wolfe, Deputy Secretary-Treasurer  
                                 Rebekah Msuya-Collison, Secretary-Treasurer

Others Present:         Rick McCarty, Mike Ondrejicka, Brad Robinson, Jake Romphf, Matt  
                                 Runge, John Wuerth, Jeremy Geoffrey, Jason Geoffrey, Pat O'Rourke

1.     Call to Order

**Motion:** COA#006-2020

**Moved:** A. Neeb

**Seconded:** T. Oke

**That South Huron Committee of Adjustment hereby convenes at 5:00 p.m.**

**Disposition: Carried (2 to 0)**

2.     Disclosure of Pecuniary Interest and General Nature Thereof

None.

3.     Approval of Minutes

**Motion:** COA#007-2020

**Moved:** A. Neeb

**Seconded:** T. Oke

**That South Huron Committee of Adjustment approve the May 19, 2020 minutes as printed and circulated.**

**Disposition: Carried (2 to 0)**

5:01 p.m. Pat O'Rourke turned his camera on and back off again.

4. Purpose of Meeting

The Secretary-Treasurer noted that the purpose of this Public Meeting of the South Huron Committee of Adjustment is to allow the presentation of three applications for a Minor Variance and to allow interested members of the public the opportunity to ask questions or offer comments with regard to these applications.

Written comments must be submitted to the Secretary-Treasurer of the Committee.

Should any members of the public like to be notified in writing of the Committee of Adjustment's decision on the application they are to contact the Secretary-Treasurer directly and provide their name and mailing address to be added to the registry. This will also entitle the person to be advised of a possible Local Planning Appeal Tribunal hearing in the event the decision on this application is appealed.

5. Minor Variance #D13-MV01-2020 - Geoffrey

5.1 Application

The Secretary Treasurer noted that the Notice for this minor variance application was dated July 15, 2020 was sent by regular mail on July 15, 2020 to property owners within 60m (200 feet) of the subject property and to agencies requiring notice. Correspondence from ABCA was received following the publishing of the agenda and has been uploaded under additional documents to the agenda. No other correspondence has been received by any members of the public receiving notice.

5.2 C. Metzger, Huron County Senior Planner - Report

Planner Metzger presented an overview and noted that the purpose of the application is to reduce the minimum required lot frontage for the retained parcel resulting from a proposed severance to create a new industrial lot (consent application C16-2020). The specific variance requested is to vary Section 29.3 to reduce the minimum required lot frontage from 25 metres to 20 metres

Planner Metzger reviewed the four tests for minor variance and noted that the Ausable Bayfield Conservation Authority comments concluded that the severance does not serve to fragment the hazard and therefore does not have a natural hazard or natural heritage concern with the requested

severance. Planner Metzger recommended that the application for minor variance be approved with no conditions.

### 5.3 Written Comments Received

The Secretary-Treasurer confirmed that written correspondence was received from Ausable Bayfield Conservation Authority. No other written correspondence from public or agency was received.

### 5.4 Comments - Committee - Public in Attendance

There were no comments from the public in attendance. There were no comments from the Committee.

## 6. Decision

The Secretary-Treasurer noted that the decision for this application will be emailed to the committee members and asked the committee members to reply to the email stating "I agree" or "I disagree". The emailed responses will be attached to the decision sheet. The Committee reviewed the application and comments to be provided in the decision.

**Motion:** COA#008-2020

**Moved:** A. Neeb

**Seconded:** T. Oke

**That the Minor Variance D13-MV01-2020 Geoffrey be approved as per the attached decision sheet.**

**Disposition: Carried (2 to 0)**

## 7. Minor Variance #D13-MV05-2020 - McCarty

### 7.1 Application

The Secretary-Treasurer noted that the notice for minor variance application MV05-2020 McCarty dated July 10, 2020 was sent by regular mail on July 10, 2020 to property owners within 60m (200 feet) of the subject property and to agencies requiring notice. She advised the Committee that correspondence has been received from Leroy Hoffman, and George & Louise Ross with summary of comments provided in the planner's report.

### 7.2 C. Metzger, Huron County Senior Planner - Report

Planner Metzger presented an overview and noted that the purpose of the application is to reduce the minimum required interior side yard to permit an attached garage addition onto the existing residence. The specific

variance requested is to vary Section 19.4 to reduce the minimum interior side yard from 1.8 metres to 1.2 metres.

5:15 p.m. Member Faubert joined the meeting.

Planner Metzger reviewed the four tests for minor variance and noted that the surface water concerns can be addressed through conditions to the minor variance approval that the water from the downspouts on the garage be directed away from this neighbouring property and that a lot grading and drainage plan be prepared. The grading and drainage plan would form part of the building permit for the addition.

Planner Metzger recommended that the application for minor variance be approved subject to the following conditions:

1. the structure be located within the footprint contained on the sketch that accompanied the application;
2. the structure be as outlined in the elevation drawings that accompanied the application;
3. the water from the downspouts on the garage be directed away from the neighbouring property to the south;
4. a lot grading and drainage plan be submitted; and
5. the variance approval is valid for a period of 18 months from the date of the Committee's decision.

### 7.3 Written Comments Received

7.3.1 Leroy Hoffman - concern

7.3.2 George & Louise Ross - no issues

### 7.4 Comments - Committee - Public in Attendance

There were no comments from the public. Chair Oke asked whether a grading and drainage plan was a typical item associated with a variance decision. Planner Metzger added that it is more common when development is close to the property line and there has been a history of issues with surface drainage.

## 8. Decision

The Secretary-Treasurer noted that the decision for this application will be emailed to the committee members and asked the committee members to reply to the email stating "I agree" or "I disagree". The emailed responses will be

attached to the decision sheet. The Committee reviewed the application and comments to be provided in the decision.

**Motion:** COA#009-2020

**Moved:** A. Neeb

**Seconded:** D. Faubert

**That the Minor Variance D13-MV05-2020 McCarty be approved as per the attached decision sheet.**

**Disposition: Carried (3 to 0)**

9. Minor Variance #D13-MV06-2020 - Robinson

9.1 Application

The Secretary Treasurer noted that notice for minor variance application MV06-2020 Robinson dated July 10, 2020 was sent by regular mail on July 10, 2020 to property owners within 60m (200 feet) of the subject property and to agencies requiring notice. She advised the Committee that correspondence from Ausable Bayfield Conservation authority has been received and that there were no written comments provided by any members of the public receiving notice.

9.2 C. Metzger, Huron County Senior Planner - Report

Planner Metzger presented an overview and noted that the purpose of the application is to reduce the top of bank setback to the Ausable River for a proposed new residential single detached dwelling and an accessory pool and shed. The specific variances requested are:

- a) vary Section 3.38 to reduce the top of bank setback from the Ausable River for a single detached dwelling from 30 metres to 20 metres.
- b) Vary Section 3.38 to reduce the top of bank setback from the Ausable River for accessory buildings (a pool and shed) from 30 metres to 13.8 metres.

Planner Metzger reviewed the four tests for minor variance and noted that the Ausable Bayfield Conservation Authority have concerns related to the hazard in terms of bank. Planner Metzger noted that the house variance is minor and appropriate and the decreased setback will allow the front of the house to be in line with neighbours. He added that there are concerns with the 13.8m setback for the pool and shed and comments received that there is still a natural hazard concern and does not meet intent of zoning by-law and official plan and does not meet the four tests for the minor

variance. Planner Metzger recommends that 20 meters be approved subject to the following conditions:

1. the top of bank setback for the pool and shed be a minimum of 20 metres;
2. all structures be located within the footprint contained on the sketch that accompanied the application;
3. the house be built as per the elevation drawings that accompanied the application; and
4. the variance approval is valid for a period of 18 months from the date of the Committee's decision.

Planner Metzger noted that because there are two variances there may be need to amend the conditions given that the applicant wants to start building the house.

### 9.3 Written Comments Received

#### 9.3.1 Ausable Bayfield Conservation Authority

Written comments were received from Ausable Bayfield Conservation Authority. There were no other comments received at the time of the meeting.

### 9.4 Comments - Committee - Public in Attendance

5:21 p.m. Mike Ondrejicka of the public attending turned on his camera for comments

5:28 p.m. Brad Robinson, applicant for the Minor Variance, turned on his camera for comments.

5:36 p.m. Matt Runge of the public attending turned on his camera for comments.

Brad Robinson, Applicant noted he is working with owners of the property at trying to figure out how to get pool to work on the property. He noted that the correspondence Ausable Bayfield Conservation (ABCA) referred to Ontario Regulation 147/06 and asked if ABCA has jurisdiction for stable top of bank plus 15m why they are commenting on up to 20m. He noted that the regulations notes that there must be a similar point on the opposite side and that by elevation the top of bank on the south side would be in the middle of Exeter. He added that they are trying to navigate the thinking of the setback. He doesn't feel that the development is not putting any pressure on the hill or issues on the river. He added that the municipal by-law notes that a pool and accessory buildings can be within 1.2m of property line but they are not considering that option as the

property drops off towards the river and goes way back. They are trying to figure out a happy medium.

Chair Oke asked if Planner Metzger would like to respond. Planner Metzger clarified that the regulation that ABCA enforces through their permit process for development within their regulated area is separate from their zoning and minor variance comments. They are not providing comment on their regulated area but they are providing natural hazard comments on behalf of their planning application review function.

Chair Oke noted that according to Mr. Robinson the ABCA regulated area is 15m from top of bank. Planner Metzger noted that the 15m referenced is from toe of slope (3 to 1 slope) and 15m from stable top of slope and there is an erosion access allowance. He added that ABCA is not commenting on this application, they are commenting on what they see is the hazardous area.

Chair Oke asked if the pool was at 15m would ABCA be a commenting agency as opposed to a regulatory agency. Planner Metzger responded no because zoning measures from top of bank and ABCA is commenting on stable top of bank and the stable top of bank is different and he believes is further to the north, somewhere in the lawn.

Mr. Robinson noted that the house can be moved and deck shrunk to move within that 15 meters but he doesn't understand what about the development would affect the top of bank. He has spoken to a couple of engineers and if they can get approval from the municipality as long as ABCA also approves without going through another minor variance for the pool he would be satisfied. He added that this decision will also set the selling features for the whole parcel of land.

Chair Oke noted that Council is hoping to review the zoning in this area. Planner Metzger noted that work is currently underway and comments received from the ABCA are similar to this 20m setback from most of lots along on the south side of Hazelton, but not supporting anything less than that. Planner Metzger noted that the 3 to 1 slope can be steeper depending on soil conditions but as a general point ABCA is satisfied that 20 m is as small as they are willing to recommend at this point. He added that this is a continuing discussions with ABCA that will be brought forward to Council for consideration for that entire neighbourhood.

Mr. Ondrejicka, developer said that the problem is that as you move eastward, the last 2 lots become constrained to build upon as the river migrates north. He added that 15m which is what the regulation says will

work on all the properties and there are 7 more lots to be built and this solution is workable. He added he is not sure where ABCA gets their 20 m from and he feels it is extremely conservative and creates problems not only for this development but for those going eastward. He added that it is not a riverbank but a hill beyond the riverbank and no comparable point on the south side and treating the hill above the trail as the riverbank and rules are restrictive. He added there is no indication that river bank has ever moved and it is 37 feet above the bridge at Highway 4. If we could get to 15m he feels everything would work. He added that ABCA approved the subdivision agreement in 2017 prior to new zoning by-law and the change makes it very difficult to deal with the change in numbers.

Member Neeb noted Special meeting and the committee discussed possible deferral of the decision for the pool and the shed. Planner Metzger advised that the Committee could approve the house setback and defer the pool and shed but will need to ensure that conditions attached to approval for the house variance do not restrict the shed and pool. If the committee wants to proceed with that decision he would suggest leaving the conditions from the report off with the exception of the variance approval for 18 months to provide flexibility and deal with the pool and shed variance at the Committee's next meeting.

Mr. Robinson noted this is not preferable and if there is a pool in the backyard it changes the functionality and the owner may end up spending money that they normally wouldn't have to.

Chair Oke spoke of deferral until the Committee gets further information and clarification from the conservation authority on what they can regulate and what they can just comment on.

Mr. Robinson said that they just want at least to move forward with just the house approval. Chair Oke noted that the Committee does not want the owner to have to move the house if there was a way that something can be done and the requested setback from pool and shed is allowed.

Mr. Robinson asked whether the Committee could approve the pool and shed subject to ABCA approval then another Minor Variance would not be needed. Planner Metzger responded that ABCA would be commenting on the area outside their regulated authority but noted that as not sure where ABCA line falls, the Committee could attach a condition that the location of the pool and shed be subject to the approval with ABCA.

Mr. Runge said that he sees a lot of these applications and ABCA would have to grant a permit anyways. Next steps they may need to do geo-technical studies and prove stable top of slope but if deferred, then still



would have to come back for another minor variance. ABCA will want reports to support the application but in his opinion from a zoning perspective it is more of a housekeeping matter.

10. Decision

The Secretary-Treasurer confirmed with the Committee that they wanted the decision to reflect approval of the location of the pool and shed subject to Ausable Bayfield Conservation Authority. She noted that the decision for this application will be emailed to the committee members, the committee members are to reply to the email stating "I agree" or "I disagree". The emailed responses will be attached to the decision sheet.

**Motion:** COA#010-2020

**Moved:** A. Neeb

**Seconded:** D. Faubert

**That the Minor Variance D13-MV06-2020 Robinson be approved as per the attached decision sheet.**

**Disposition: Carried (3 to 0)**

11. Adjournment

**Motion:**

**Moved:** A. Neeb

**Seconded:** D. Faubert

**That South Huron Committee of Adjustment hereby adjourns at 5:48 p.m, to meet again at the call of the Chair.**

**Disposition: Carried (3 to 0)**

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Ted Oke, Chair

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Rebekah Msuya-Collison, Secretary-Treasurer