



Kevin M. Duguay  
Community  
Planning and  
Consulting Inc.



## **Planning Justification Report - Minor Variance Application 1442 Miles Shore Road East, Township of Douro-Dummer**

### **Introduction**

This Planning Justification Report (PJR) has been prepared at the request of Ms. Holly Richards-Conley, in support of a Minor Variance Application (MVA) to be filed with the Township of Douro-Dummer Committee of Adjustment regarding the waterfront property known municipally as 1442 Miles Shore Road East.

### **The Property**



The Property

(Source: County of Peterborough GIS Website, October 2024)

### **The Minor Variance Application (MVA)**

The MVA is required to permit the proposed construction of a replacement dwelling and an associated detached accessory building (garage).

Ms. Holly Richards-Conley retained my professional services on behalf of her Clients (Dybka). To prepare this PJR, I was provided and considered the following:

- Property Survey; illustrating the proposed replacement dwelling and detached accessory building (garage) – JBF Surveyors;
- Shoreline Restoration Plan; prepare by Ms. Holly Richards-Conley;
- Various pre-application correspondence between Ms. Holly Richards-Conley;
- Various pre-application correspondence between Ms. Holly Richards-Conley and Township Planning Staff;
- Site-Area Photographs;
- County Official Plans;
- Township Zoning By-law; and
- Provincial Planning Documents.

**The MVA is summarized as follows:**

Relief is sought from the LSR – to reduce the minimum water-yard setback of 30 metres to 13 metres, being Section 7.21 (h) of the By-law.

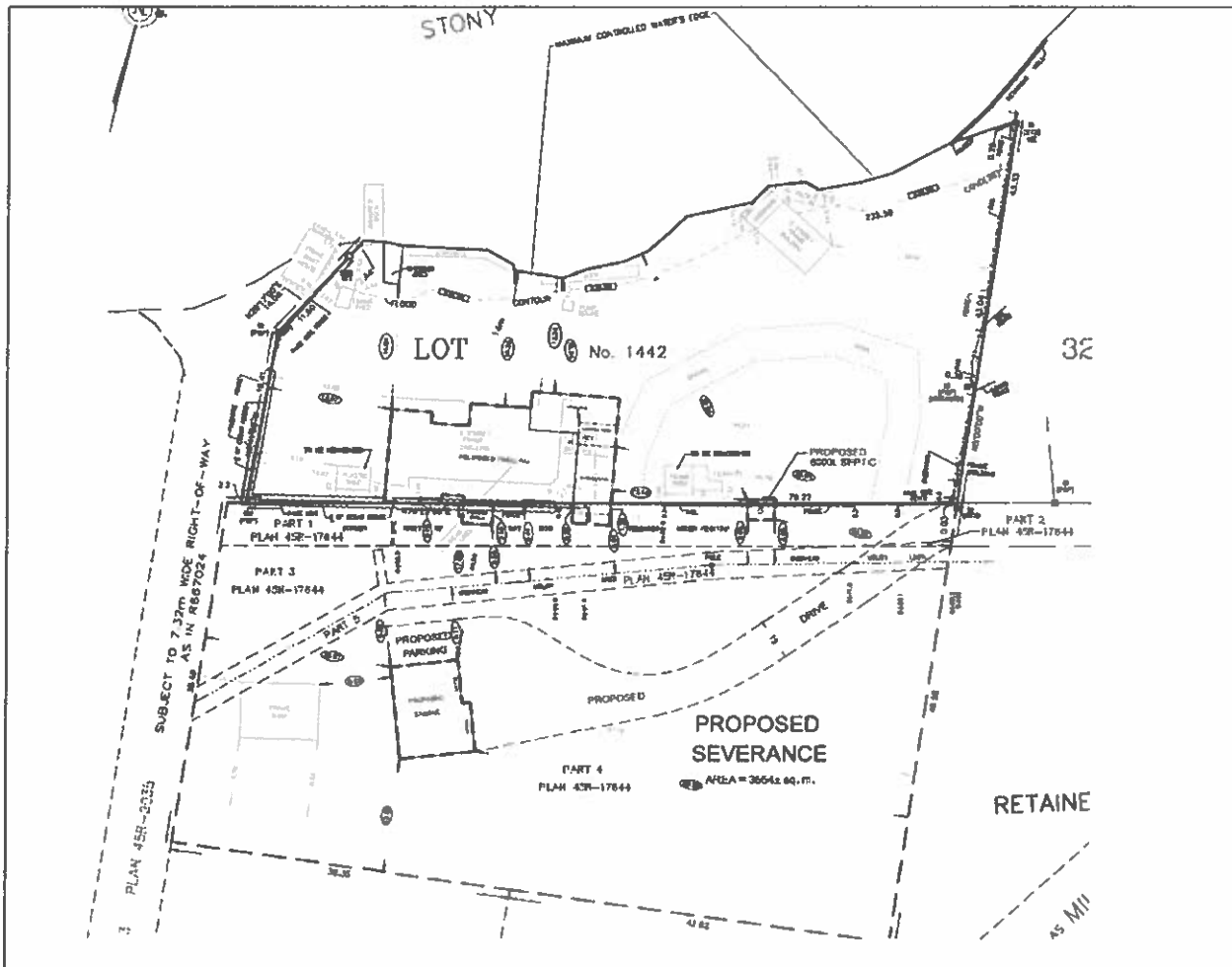
(Note: The existing dwelling has a setback of 12.7 metres).

The MVA is required as a condition of a 2023 property severance (File B-70-23), which served to add lands to the property. Said lands were acquired by way of a lot addition from the adjacent easterly property (File B-70-23).

The proposed building location does not reduce the existing water-yard setback. Moreover, the proposed building location is influenced by:

- The existing right-of-way traversing the property (east to west orientation);
- Existing overhead Hydro power lines; and
- Topographical features.

## The Proposed Development



(Source: JBF Surveyors, October 2023)

### Analysis

#### County of Peterborough Official Plan

For purposes of this PJR, I employed the Pre-July 2022 version of the County of Peterborough Official Plan (COP).

Relative to the MVA, the following policies of the COP are considered to have direct relevancy:

Policy	Details, Planning Opinion
2.4	<p>Local Zoning By-laws</p> <p>When this Plan or any part thereof takes effect, every local zoning by-law shall be amended by the local municipalities to conform with this Plan pursuant to the Planning Act. The Amendments to the zoning by-laws should occur after the local Official Plan has been amended to conform to this Plan.</p> <p><b>Opinion: The proposed redevelopment of the property will meet the regulatory provisions of the Township Zoning By-law, with the singular exception of the water-yard setback regulation.</b></p>
4.4	<p>Shoreland Areas and the Waterfront</p> <p>Shoreland Areas generally include all lands extending inland 150 metres from the ordinary high water mark of, any lake, river or waterway. Lands and land uses that are more than 150 metres from shore but which physically or functionally relate to the Shoreland Areas are considered to be part of the Shoreland Areas. All lands that are less than 150 metres from shore but which do not physically or functionally relate to the Shoreland Areas are not considered to be part of the Shoreland Areas. The entire areas of islands are normally considered to be part of the Shoreland Areas. The Shoreland Area shall not extend into any Settlement Area identified in this Plan or into prime agricultural and other agricultural areas designated in local plans in accordance with Section 4.3.3.2 of this Plan.</p> <p><b>Opinion: The property enjoys a waterfront setting on the south part of the Stony Lake shoreline.</b></p>
4.4.1	<p>Goal</p> <ul style="list-style-type: none"> <li>• to improve and protect the waterfront areas in Peterborough County as a significant cultural, recreational, economic and natural environment resource and enhance land areas adjacent to the shore.</li> </ul> <p><b>Opinion: The MVA is supported by a "Shoreline Restoration Plan" which demonstrates conformity with this policy.</b></p>
4.4.2	<p>Objectives</p> <ul style="list-style-type: none"> <li>• to permit sustainable shoreland development that allows for limited growth of existing and new tourist developments and innovatively designed residential developments;</li> </ul>

	<ul style="list-style-type: none"> <li>• to recognize and preserve to the greatest extent possible the character of waterbodies and lands adjacent to the shoreline with limited, low density backlot development where such development is permitted;</li> <li>• to ensure that the built form along the shoreline is not overly concentrated or dominating to the detriment of the natural form;</li> </ul> <p><b>Opinion: The proposed redevelopment of the property demonstrates conformity with the policy provisions of Section 4.4.2. The limited development associated with the replacement dwelling and detached garage (building coverage) together with the general natural setting and proposed Shoreline Restoration Plan creates an overall responsible and appropriate development form and approach.</b></p>
4.4.3	<p>Policies</p> <ul style="list-style-type: none"> <li>• The character of Shoreland Areas is linked to the natural and built form associated with the lakes and rivers in the County. For the most part, the natural form includes vegetated shorelines with thin soils over bedrock. The built form includes predominantly residential development interspersed with some commercial developments including resorts and marinas. The Shoreland Areas are generally associated with leisure, recreation, water supply, support for fisheries and wildlife habitat. As such, development occurring in the Shoreland Areas should enhance and protect, where possible, those qualities that contribute to the area’s character;</li> <li>• Tree cover and vegetation is encouraged to be retained along the shoreline to uphold the visual and environmental integrity of waterfront areas. Where development is proposed along shoreline areas, local official plans should contain policies relating to the incorporation of a natural undisturbed buffer between the water’s edge and the development. Any such buffer shall be stipulated as being a specific depth from the water’s edge and be represented as a percentage of the water frontage.</li> <li>• Local municipalities may authorize minor variances from the 30 metre setback requirement, without the variance being considered to be inconsistent with the general intent and purpose of the local plan, in the following situations: <ul style="list-style-type: none"> <li>– on a lot existing on the date this Official Plan Amendment No. 3 comes into effect;</li> </ul> </li> </ul>

	<p>→ the addition to an existing building.</p> <ul style="list-style-type: none"> <li>• Where new development is being considered by the local municipality, the County and commenting agencies, significant frontage requirements, building and facility setbacks, as determined by the local municipalities in cooperation with the appropriate authority shall be maintained by the local municipalities to assure long term safety of the structures and minimize further shoreline development;</li> </ul> <p><b>Opinion: The proposed redevelopment of the property demonstrates conformity with the policy provisions of Section 4.4.2. The limited development associated with the replacement dwelling and detached garage (building coverage) together with the general natural setting and proposed Shoreline Restoration Plan creates an overall responsible and appropriate development form and approach.</b></p>
6.2.6	Lakeshore Residential
6.2.6.1	<p>General Principles</p> <p>Permanent single-detached dwellings and cottages in shoreline areas along publicly maintained roads are the predominant use of land within the Lakeshore Residential designation. However in the Township of Douro-Dummer, permanent single-detached dwellings and seasonal cottages may also be permitted on private roads and deeded right-of-ways subject to the provisions of the Township's Zoning By-Law. This designation provides for the conversion of seasonal cottages to permanent dwellings by amendment to the Zoning By-law, where necessary. For the purposes of this plan, the terms "cottage" and "seasonal residence" are used interchangeably.</p> <p><b>Opinion: A replacement dwelling is proposed to be constructed within the north part of the property.</b></p>
6.2.6.2	<p>Permitted Uses</p> <p>The predominant use of land within the Lakeshore Residential designation shall be for permanent single-detached dwellings and seasonal cottages on public roads. This category may include retail and service commercial uses of limited extent which provide primarily for the day-to-day commercial needs of the lakeshore residents.</p>
6.2.6.3	<p>Lakeshore Residential Policies</p> <p>a) The intent of this category is to make provision for permanent single</p>

detached dwellings and seasonal cottages based on public road access. This designation also provides policies to guide the conversion of seasonal cottages to permanent dwellings by amendment to the Zoning By-law, where necessary.

c) General The preservation of naturally-vegetated shoreline is encouraged in order to minimize destruction to the shoreline and wet-beach habitat, minimize visual impact on the waterbody, maintain wildlife habitats and corridors and improve water quality. In this regard, structures permitted in the Lakeshore Residential designation, including leaching beds of septic systems, on lots created by consent or plan of subdivision after the date Official Plan Amendment No.3 comes into effect, shall be set back a minimum of 30 metres from the shoreline of any lake or major watercourse (i.e. Trent River, Eels Creek, Otonabee River, Rice Lake, Crowe River, Indian River, White Lake) in order to ensure adequate protection from changes in water level and flooding and to ensure maintenance of water quality and the protection of fish and wildlife habitats. Applications to create lots within the Lakeshore Residential designation, either by consent or plan of subdivision, shall demonstrate that this 30 metre setback requirement can be met on the proposed lot(s).

**Opinion: A Shoreline Restoration Plan has been prepared in support of the Application. Whilst the otherwise required minimum water-yard setback of 30 metres is not being provided (nor is same technically feasible), the Plan clearly illustrated conformity with the intent of this policy.**

**The shoreline area will remain in a natural condition and will include replacement vegetation as required by the proposed new dwelling construction.**

#### Permitted Exceptions

Notwithstanding anything in this section to the contrary, structures such as pump houses, boat houses, docks, open decks and stairs shall be a permitted use and may encroach into the 30 metre setback without a minor variance provided that the property owner can demonstrate to the Township's satisfaction and, if appropriate, the authority having jurisdiction over the waterway, that it does not negatively affect the waterfront environment. If addressed in the Zoning By-law, applicable standards must be met (i.e. deck width, area, etc.).

**Opinion: The existing non-conforming water-yard setback is 12.7 metres. The proposed new dwelling will have a 13 metres**

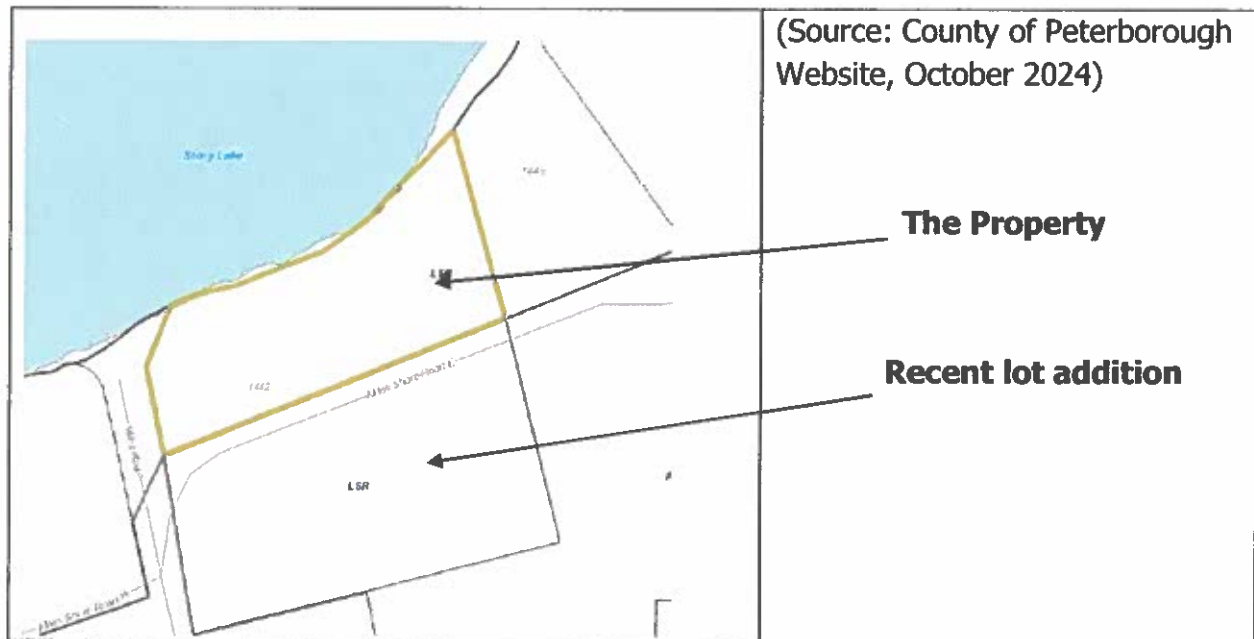
	<b>water-yard setback. This new setback is subject of the MVA.</b>
	<p>Existing Structures</p> <p>Minor variances or zoning changes to accommodate proposed expansions of a structurally-permanent nature to existing structures and/or septic systems that further reduce any applicable minimum water setback shall not be permitted unless it is a matter of public health and/or safety.</p> <p><b>Opinion: The existing non-conforming water-yard setback is 12.7 metres. The proposed new dwelling will have a 13 metres water-yard setback. This new setback is subject of the MVA.</b></p>

**In summary, it is my professional opinion that the Minor Variance Application is in keeping with the general purpose and intent of the policies of the Pre-July 2022 County of Peterborough Official Plan.**

**Township of Douro-Dummer Zoning By-law (TZBL)**

The property is zoned LSR – Limited Service Residential.

**Zoning Map Detail**





For purposes of this MVA, I considered the LSR – Limited Service Residential Zone.

Regulatory relief is sought to permit a water-yard setback of 13 metres, which exceeds the current water-yard setback of 12.7 metres.

**Minor Variance – Relief Sought**

Relief is sought from the LSR – to reduce the minimum water-yard setback of 30 metres to 13 metres, being Section 7.21 (h) of the By-law.

(Note: The existing dwelling has a setback of 12.7 metres).

The proposed redevelopment otherwise conforms with the regulatory provisions of the TZBL.

**It is my professional opinion that the Minor Variance Application is in keeping with the general purpose and intent of the regulatory provisions of the Zoning By-law.**

**2024 Provincial Planning Statement (2024 PPS)**

Since the November 23, 2023 Pre-Consultation Meeting, the Province of Ontario has enacted the 2024 Provincial Planning Statement. This Planning document replaces the 2020 Provincial Policy Statement and the 2020 A Place to Grow; Growth Plan for the Greater Golden Horseshoe. The 2024 PPS came into full force and effect on October 21, 2024. Accordingly, I have considered this document and offer some commentary insofar as how the subject MVA related with same.

Policy	Details, Planning Opinion
2.5	<p>Rural Areas in Municipalities</p> <p>1. Health, integrated and viable <i>rural areas</i> should be supported by:</p> <ul style="list-style-type: none"><li>d) using rural <i>infrastructure</i> and <i>public service facilities</i> efficiently;</li><li>g) conserving biodiversity and considering the ecological benefits provided by nature;</li></ul> <p><b>Opinion: A replacement dwelling and associated detached accessory building (garage) are proposed as part of the redevelopment of the property, which builds upon the existing</b></p>

	<p><b>rural character. Additionally, the Shoreline Restoration Plan serves the conserve/improve upon the ecological benefits provided at this property and its waterfront setting.</b></p>
2.6	<p>Rural Lands in Municipalities</p> <p>1. On rural lands located in municipalities, permitted uses are:</p> <p>b) resource-based recreational uses (including recreational dwellings not intended as permanent residences);</p> <p><b>Opinion: The MVA serves to permit a replacement dwelling (and an associated detached accessory building), having an existing resource-based setting.</b></p>
	<p>2. Development that can be sustained by rural service levels should be promoted.</p> <p><b>Opinion: The property already benefits from current Township (and related) services.</b></p>
3.6	<p>Sewage, Water and Stormwater</p> <p>4. Where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not available, planned or feasible, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts.</p> <p><b>Opinion: The property will continue to rely upon private water and waste-water services. A new septic facility is anticipated to accommodate the replacement dwelling.</b></p>
4.1	<p>Natural Heritage</p> <p>1. Natural features and areas shall be protected for the long term.</p>

**In summary, it is my professional planning opinion that the Minor Variance Application is consistent with the policy directives of the 2024 Provincial Planning Statement.**

## **Summary**

Section 45 (1) of the Planning Act sets forth 4 (four) tests that are to be applied for the purpose of evaluating a Minor Variance Application.

### **1. Is the Variance Minor in Nature?**

The Minor Variance is required to permit a water-yard setback of 13 metres. Section 6.2.1 (h) requires a minimum setback of 30 metres. This water-yard requirement cannot be realized due to specific property conditions; including:

- The exiting right-of-way traversing the property;
- Overhead Hydro power transmission lines; and
- Topographical context

The water-yard setback is being increased from that of the existing cottage setback.

**It is my Professional Planning Opinion that the Application is Minor in nature.**

### **2. Is the Variance desirable and appropriate for the use of land?**

The Minor Variance Application is necessary to permit the proposed redevelopment of the property. A "replacement" dwelling and an associated detached accessory building are proposed, organized in a manner respectful of the setting/context of the property and its adjacent land uses.

**It is my Professional Planning Opinion that the Minor Variance is appropriate and desirable for the use of the property.**

### **3. Do the Variances maintain the general intent and purpose of the Zoning By-law?**

The Minor Variance Application is required to permit a water-yard setback of 13 metres. It is acknowledged that the existing water-yard setback is 12.7 metres. Accordingly, the water-yard setback is being enhanced, but not to the full extent as otherwise required by Section 6.2.1 (h) of the Township Zoning By-law.

**It is my Professional Planning Opinion that the Minor Variance maintains the general intent and purpose of the Township of Douro-Dummer Zoning By-law.**

**4. Do the Variances maintain the general intent and purpose of the Official Plan?**

The proposed replacement dwelling is a form of land use contemplated by the Official Plan. The proposed overall approach to development is respectful of the resource-based setting of the property.

**It is my Professional Planning Opinion that the Minor Variance Application maintains the general intent and purposes of the County of Peterborough Pre-July 2022 Official Plan.**

It is my professional opinion that the Application satisfies the 4 (four) tests prescribed in Section 45(1) of the Planning Act, and furthermore that the Application is:

- Consistent with the policy directives of the 2024 Provincial Planning Statement; and
- **Is Representative of Good planning.**

Respectfully Submitted,



Kevin M. Duguay, MCIP, RPP