

ISSUE DATE:

Mar. 18, 2011



PL101356

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Inge Secor
Subject: Minor Variance
Variance from By-law No.: 06-10
Property Address/Description: 1059 Summer Lane (Lot 7, Concession 4)
Municipality: Township of Minden Hills
Municipal File No.: A-23/2010
OMB Case No.: PL101356

APPEARANCES:

Parties

Inge Secor

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. A. SILLS ON
MARCH 4, 2011 AND ORDER OF THE BOARD**

Ms Inge Secor (Applicant/Appellant) has appealed the decision of the local Committee of Adjustment (COA) with respect to an application for minor variances for her property located at 1059 Summer Lane, in the Township of Minden Hills.

The subject property is designated Waterfront in the Township of Minden Hills Official Plan (OP) and zoned Shoreline Residential (SR) by Zoning By-law No. 06-10. The site is currently developed with a legal non-complying cottage structure which was constructed in 1969, and various accessory buildings. The Applicant proposes to construct an addition to the existing cottage and requires authorization for relief from the zoning by-law, as follows:

1. to permit an increase of 34% in lot coverage
2. to permit a side yard setback of 0.3 metres, whereas a side yard setback of 1.82 metres is required.

As the COA approved Variance 1, subject to conditions, the Applicant is appealing the decision related to Variance 2 only. With respect to Variance 2, the COA granted relief, but modified the setback to 1.94 metres, which is the present side yard setback of the existing building to the north lot line. Variance 2 results from the required setback relative to the north east corner section of the proposed addition. The Applicant is seeking authorization of the variance as requested in the original application.

The Applicant was not represented by counsel and did not call any expert witnesses. Mr. Ron Secor, the Applicant's spouse, gave evidence in support of the application. The Township of Minden Hills did not appear at the hearing. Two members of the local COA attended the hearing as Observers, as did the Applicant's building contractor. No other individuals or public bodies appeared in support or in opposition to the application.

Mr. Secor told the Board that the proposed extension is part of an overall building upgrade which will improve the existing structure and facilitate year-round use of the cottage. The Applicant also intends to install insulation and quality windows and doors in an effort to make the building more energy efficient. The interior of the cottage will be renovated and modernized, and the existing septic system will be replaced with an upgraded system which is compliant with current standards.

Mr. Secor asserted that due to the orientation of the existing building, only the corner of the proposed extension comes within the 0.3 metres setback requested. The proposed addition will replace an existing shed located at a similar setback to what is being requested. He told the Board that the Applicant is restricted from extending the cottage in any other direction as a result of required water setbacks, and the internal layout of the existing structure.

Mr. Secor submitted that the proposal is consistent with the land use objectives of the County of Haliburton Official Plan which "*promotes sustainable development that achieves efficient land use patterns, supports growth, and enables healthy, liveable and safe communities*" and by "*avoiding land use patterns which may cause environmental or public health and safety concerns*". The proposed addition does not represent a change of use and is consistent with the settlement patterns and overall development of area lakefront properties. In support of this contention, Mr. Secor provided a photo of the adjacent property to the west, which portrays a development form and setbacks

similar to that of which is being proposed by the Applicant. The abutting property to the east is a vacant lot of approximately nine acres in size. Mr. Secor told the Board that as a result of a Hydro One easement and required water setbacks, this property is not developable in the vicinity of the proposed addition. Consequently, the proposal will not result in the creation of impacts related to privacy.

Likewise, the proposal is consistent with the objectives of the Township of Minden Hills Official Plan, which state:

3.3.1 Evaluation of environmental impact will be the biggest factor in determining the suitability of any property for development. Existing lots are adequate to house anticipated changes in the population; demands for new lots will be for reasons other than population growth.

Mr. Secor contended that the proposal will not negatively impact the environment, and in fact, the installation of an improved septic system will serve to enhance protection of lake waters and the natural environment.

In summary, Mr. Secor submitted that the relief requested will not negatively impact abutting property owners, Minden Lake or the natural environment. The side yard setback being requested is similar to that of building setbacks on the adjacent property to the west, and the proposed addition is in keeping with the overall development of Minden Lake properties. As a further endorsement of the application, Mr. Secor submitted three letters of support from the abutting property owners to the north, east and west.

Disposition

On the evidence before me, I am satisfied that the requested variances meet the general intent of the County and Township Official Plans and Zoning By-law No. 06-10, and are minor in nature. The proposed development is a desirable and appropriate use of the property and will not result in the creation of adverse impacts to the environment or neighbouring properties.

As there was no dispute with respect to Variance 1, the Board does not find it necessary to provide a detailed planning analysis of this variance. Suffice to say, I have

examined the applicable provisions of County and Township planning documents and find that this variance meets the criteria set out in subsection 45(12) of the *Planning Act*.

Despite not having a planning background or any previous experience with respect to Board proceedings, Mr. Secor put forth a very capable and convincing planning justification case in support of the application. In contrast, the municipal planning report did not provide planning rationale, nor did it offer a professional opinion or make recommendations. Consequently, the Board accepts and relies on the contextual evidence provided by Mr. Secor as a basis to analyze the planning merits of the application in accordance with the local planning instruments and Provincial legislation. In this regard, the authority for the enlargement of a non-complying building or structure is set out in subsection 4.7.4 (ii) of Zoning By-law No. 06-10, which states:

Permitted Non-Complying Building or Structure: Nothing in this By-law shall prevent the reconstruction, relocation, renovation or repair of an existing legal non-complying building or structure on a lot provided such enlargement, reconstruction, renovation or repair does not increase the extent of non-compliance by:

- ii) reducing the yard between a lot line and the existing building or structure if the existing yard is less than the required yard except that such yard may be reduced so long as the distance between any high water mark and the nearest part of any such building or structure is a minimum of 15 metres;

In response to a question from the Board, Mr. Secor stated that the front of the existing structure is sited just under 15 metres from the lake. As the proposed addition is located at the rear of the existing cottage away from the lake, I am satisfied that this criterion is met.

THE BOARD ORDERS that the appeal is allowed and the variances to Zoning By-law No. 06-10 are authorized, subject to the conditions set by the Committee of Adjustment.

The Board so Orders.

“M. A. Sills”

M. A. SILLS
MEMBER