

ISSUE DATE:

November 9, 2011



PL110255

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: Charles Field-Marsham
Subject: Minor Variance
Variance from By-law No.: A2000-07
Property Address/Description: Island B0452, Parcel 11129
Municipality: Township of The Archipelago
Municipal File No.: A-01/11
OMB Case No.: PL110255
OMB File No.: PL110255

APPEARANCES:

Parties

Township of The Archipelago

Charles Field-Marsham

Counsel

C. J. Tzekas

M. Green

DECISION DELIVERED BY A. CHRISTOU AND ORDER OF THE BOARD

This is an appeal under ss.45(12) of the *Planning Act*, against the decision of the Township of The Archipelago Committee of Adjustment (Committee) decision that refused an application by Charles Field-Marsham for a minor variance to permit the construction of a 35 m² sleeping cabin.

The variance to Zoning By-law No.A2000-07, requested permission for a Maximum Lot Coverage of 313.6 m², to permit the construction of a second sleeping cabin on Georgian Bay island B-452, also known as Scarr Island. The By-law permits a Maximum Lot Coverage of 291.76 m² on an Island which is 0.5 ha in size.

The Planning Department recommended approving the application, subject to conditions to maintain setbacks and maintaining vegetation.

At the start of the hearing, Mr. Tzekas, Counsel for the Township of The Archipelago, advised the Board that the Parties have managed to resolve the matter and Minutes of Settlement (Exhibit 4) have been duly signed, which allows for a reduced variance for coverage, subject to conditions.

Greg Corbett, a qualified land use planner provided planning opinion evidence for the Township in support of the settlement, which was concurred in by the representatives of the Applicant/Appellant.

Mr. Corbett provided his Evidence Outline (Exhibit 2) and Joint Document Book (Exhibit 3) and provided *viva voce* planning opinion evidence that the variance as agreed to by the Parties and described in the Minutes of Settlement meets the four part test in s.45 of the *Planning Act* and represents good planning.

The Minutes of Settlement provide for a reduced variance for lot coverage of 300.1 m² on Scarr Island. The conditions require a Site Plan Agreement to be registered on title. The agreement between the Parties also provides for a new 35 m² sleeping cabin and reduces the size of the existing sauna building. The Site Plan drawing shown on page 5 of Exhibit 4 provides for increased setback of the cabin from the lake and maintains the tree cover between the water and the building.

Mr. Corbett testified that the intent of the Official Plan is to ensure that the built form remains secondary to the natural landscape. In his opinion, the lot coverage provided for in the Minutes of Settlement would not detract from an appropriate balance. The island is zoned Coastal Residential (CR) and the proposed sleeping cabin would comply with all zoning standards, with the exception of the lot coverage. The increase in lot coverage from 291.76 m² to 300.1 m² represents only a 2.87% increase, which is minor. The proposed development would be desirable, as the historic character of the Archipelago recognizes sleeping cabins as an integral component and the By-law allows up to three cabins. He recommended the Board authorize the variance as described and provided for in the Minutes of Settlement.

The Board will therefore authorise the variance to the Township of The Archipelago Zoning By-law No.A2000-07, for Georgian Bay Island B-452, as provided for in the Minutes of Settlement between Charles Field-Marsham and the Corporation of the Township of The Archipelago (Exhibit 4), dated October 19, 2011.

This is the Order of the Board.

"A. Christou"

A. CHRISTOU
MEMBER