

ISSUE DATE:

**JULY 18, 2012**



PL120388

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

Applicants and Appellants: Adale Boudreau and Henry Boudreau  
Subject: Minor Variance  
Variance from By-law No.: 28-80  
Property Address/Description: 351D Evergreen Road  
Municipality: City of North Bay  
Municipal File No.: A-03-12  
OMB Case No.: PL120388  
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**APPEARANCES:**

**Parties**

Adale Bourdreau

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. E. SNIEZEK  
ON JULY 10, 2012 AND ORDER OF THE BOARD**

Adale and Henri Boudreau ("applicants/appellants") purchased the subject property in 1999. When they went to sell the property in 2011, they discovered by-law deficiencies with respect to the two storey garage on the property that contained an illegal apartment and a by-law violation with respect to the garage height. They removed the illegal apartment and applied for the necessary variances to regularize what was in place. The Board was provided with a package of materials prepared by the lawyer for the applicants/appellants when they purchased the property that indicated that the buildings on the site conformed to Zoning By-law 28-80.

The variances to the by-law are set out as follows:

- 1) Reduction in the required lot area from 0.4 ha to 0.28 ha;
- 2) Reduction in the required lot frontage from 61 m to 31.1 m;

- 3) Increase in maximum permitted lot coverage from 10% to 10.33%;
- 4) Reduction in the required side yard setback from 3 m to 1.815 m; and
- 5) Permit a second storey on the garage where the maximum height is one storey.

The Board heard uncontested planning evidence in support of the variances from Steve McArthur, a planner with the City of North Bay.

Mr. McArthur testified that the subject lands are designated “Rural” in the Official Plan and zoned “Rural” in the zoning by-law. The Official Plan has a constraints policy within 15 m of the lake. The subject building is located approximately 70 m from the lake outside the area affected by the constraints policy.

It was Mr. McArthur’s opinion that the intent of the Official Plan was maintained because there was no impact on the constraint area, the intent of the zoning by-law was maintained because the secondary apartment had been removed and the deficiencies in the by-law reflected the existing condition. He stated that height variances for garages in the rural area were not uncommon. The impact of the variances was minor in terms of their size and impact and the development was desirable in that the existing conditions were maintained. Mr. McArthur indicated that the only condition requested was that a site plan agreement be entered into.

Based on the uncontested expert testimony of Mr. McArthur, the Board finds that the variances individually and collectively meet the general intent and purpose of both the Official Plan and Zoning By-law 28-80; that the variances are minor in terms of their scale and impact; and that they are desirable for the appropriate development of the land.

**THE BOARD ORDERS** that the appeal is allowed and the variances to Zoning By-law 28-80 are authorized subject to the condition that the owners enter into a site plan agreement with the City of North Bay.

“J. E. Sniezek”

J. E. SNIEZEK  
MEMBER