



## Committee of Adjustment Notice of Decision

**File Number:** #A07/24  
**Subject Land:** Part of Lot 29, Concession 2, Geographic Township of Palmerston (1076 Goudge Drive)  
**Applicant(s):** Giles Leo  
**Date of Decision:** July 22, 2024  
**Date of Notice:** July 23, 2024

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In the matter of Section 45 of the Planning Act, Zoning By-law 55-19, and an application for:

**Section 45 (1) - Minor Variance (X) Section 45 (2) - Special Permission to Allow ( )**

### **Purpose and Effect under Section 45(1)**

The subject property is developed with a one storey dwelling with an area of 89 square metres, setback approximately 8 metres from the high water mark; a one storey garage with an area of 44 square metres, setback approximately 8 metres from the high water mark; and an existing septic system

The applicant is proposing to construct a 10 square metre (107 square foot) sleep cabin located approximately 12 metres (40 feet) from the estimated highwater mark of Palmerston Lake.

### **Four Tests of a Minor Variance under Section 45(1)**

#### **1. Is the application minor?**

The Committee is of the opinion that the proposed waterbody setback reduction is minor in the context of the constrained nature of the property. Given the slope on the property the developable portion of the property is at most 22 metres (72 feet) wide as measured from the edge of Palmerston Lake, meaning that meeting the minimum 30 metres (98 feet) waterbody setback is impossible without excavating the slope.

Based on County staff observations noted in the planning report, elevation map, staff discussions with the property owner, and findings of the slope stability study, the location chosen for the sleep cabin is the most practical. The proposed location maximizes the setback from the water to the greatest extent possible while not impacting slope integrity.

#### **2. Is the application desirable for the appropriate development of the lands in question?**

The Committee is of the opinion that the proposed development is desirable and appropriate for the subject property.

The existing dwelling is modest in size and offers limited expansion space. The area proposed for development is mostly flat and will require little to no site alteration to support the structure. The proposed building will be clustered in proximity to the existing dwellings and will not be hooked up to the existing sewage disposal system.

Overall, the proposed development will allow the property owner to meet the needs of their family while minimizing site alteration (slope excavation and vegetation removal).

#### **3. Does the application conform to the general intent and purpose of the Zoning By-law?**

The Committee is of the opinion that the proposed development conforms to the general

intent and purpose of the Zoning By-law.

The purpose of the 30 metre (98 foot) waterbody setback for any new structure is to ensure that the shoreline and waterbody is adequately protected and impacts from development are mitigated by a vegetation buffer that helps to filter run off, provide habitat for aquatic species, and minimize visual impact of development.

It is important to consider that the existing lot was developed prior to the current Zoning By-law coming into effect which has resulted in all existing development to be located within the required 30 metre (98 foot) waterbody setback.

The proposed development meets the intent of the Zoning By-law because it maximizes the distance from the water while minimizing all other site alteration and visual impacts on the lake. The development will not result in any shoreline vegetation to be removed and will not be connected to the sewage system. The total footprint of the existing and proposed structures falls below the maximum permitted lot coverage of the Zoning By-law.

#### **4. Does the application conform to the general intent and purpose of the Official Plan?**

The Committee is of the opinion that the proposed development conforms to the general intent and purpose of the Township Official Plan.

The intent of the Waterfront Area policies of the Township Official Plan are to ensure that development can occur without a significant impact on shoreline quality, shoreline character, and health of the waterbody. The Official Plan also requires the Township to carefully consider development on Lake Trout lakes to ensure new development will not result in additional phosphorus and nitrogen loading which have a negative impact on lake quality. Palmerston Lake is identified as a Not-at-Capacity Lake Trout Lake.

The Committee is of the understanding that nitrogen and phosphorus typically originate from sewage disposal systems. The structure proposed in this application will not be connected to the sewage disposal system, will not impact any sewage system components, and will be located away from the edge of the water as far as practically possible. The development will not result in shoreline vegetation removal which provides a visual and ecological buffer between all development on this property and the waterbody.

The intent of the ANSI policies found in 4.12.2(E) are to ensure that areas that exhibit unique natural and scientific values are not impacted by development located within the ANSI or within 120 metres (393.7 feet) of the edge of the identified ANSI feature. Although the proposed development is located within 120 metres (393.7 feet) of the ANSI, the proposed location is within an established building cluster, will not require vegetation removal, or significant site alteration. As such, the Committee does not anticipate any impact on the ANSI feature because of this application.

The Official Plan also directs development away from natural hazards such as steep slopes and areas prone to erosion. The applicant has demonstrated through the submission of a Geotechnical Slope Review that the proposed development will not be impacted by erosion hazards and will not have a negative impact on slope stability.

#### **Public Comments and Impact:**

Public comments opposing the application were received by the Committee of Adjustment for consideration.

#### **Decision**

The variance is hereby **Approved** to permit the variances subject to the following conditions:

### **Applicability**

1. That the Minor Variance granted through Application A07/24 is only to construct a new a 10 square metre (107 square foot) sleep cabin located approximately 12 metres (40 feet) from the estimated highwater mark of Palmerston Lake.
2. This Minor Variance does not include a reduction in the required setbacks along the entire width/length and depth of the property or for any future structures.
3. Application number A07/24 is applicable only to the Township of North Frontenac's Zoning By-Law Number 55-19, as amended, and not to any subsequent zoning by-laws.

### **No Adverse Impacts**

4. The owner/applicant shall ensure that there are no adverse impacts on neighbouring properties as a result of the approved proposal, nor shall there be any increased runoff or grade changes to the property as a result of any excavation or downspout orientation.

### **Building Permits/Septic Inspection**

5. A building permit is required for all demolition and construction on the property. There shall be no additional development, or demolition of existing structures, on the property without approval from the Township of North Frontenac.
6. The owner/applicant shall provide to the Building Department a copy of the decision of the Committee of Adjustment, together with a copy of any approved drawings. The drawings submitted with the building permit application must, in the opinion of the Township, conform to the general intent and description of any approved drawings, including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. Additional variances may be required should further zoning deficiencies be identified through the Building Permit application process.
7. The owner shall have the septic system pumped and inspected to ensure the system is functioning properly; and the system shall be replaced if deficient.

### **Construction Method**

8. Should any excavation of native soil be required, sediment control measures shall be implemented throughout the construction process (mainly the placement of a sediment barrier such as staked straw bales between exposed soil and the lake). The sediment barrier shall remain in place and in good working order until all disturbed areas have been stabilized and re-vegetated.
9. All excavated material and accumulated sediment along sediment control measures shall be disposed of more than 30 metres (98 feet) of the waterbody. Excess soil or fill shall not be placed in any low area and shall not interfere with any seasonal or permanent wetlands or watercourse.
10. Natural drainage patterns on the site shall not be substantially altered such that additional run-off is directed towards the lake, or onto neighboring properties. In order to achieve this, eaves troughing shall be installed on the additions and outlet away from the lake, to a leach pit or well-vegetated area to maximize infiltration.

### **Conservation Authority**

11. In accordance with the provisions of the relevant Municipal Zoning By-law, the existing vegetation along the shoreline shall be retained, with the exception of the allowable clearing for water access. This effort will help to mitigate the effects of erosion on the shoreline.
12. The vegetation along the slope shall be retained in its entirety to mitigate erosion and impacts on the stability of the slope.
13. Natural drainage patterns on the site shall not be substantially altered such that additional drainage is directed towards the waterbody.

14. All recommendations in the Geotechnical Slope Review (Cambium, February 28, 2024), shall be adhered to.

**Notice of Last Date of Appeal**

Notice is hereby given that the last date for appealing this decision to the Ontario Land Tribunal is **August 12, 2024**.

A Notice of Appeal setting out written reasons in support of the appeal and accompanied by the applicable fee in the form of a certified cheque or money order payable to the Minister of Finance should be received on or before the date noted above.

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Chairperson

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Member

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Member

I, Tara Mieske, Secretary-Treasurer of the North Frontenac Township Committee of Adjustment certify that the above is a true copy of the decision of the Committee with respect to the application recorded herein.

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Dated this 22<sup>nd</sup> day of July, 2024