



Committee of Adjustment

Report N° PE2024-045

Date received: 09/08/2024

Date of the meeting: 13/08/2024

Submitted by: Fabien Lalande

Subject: Minor variance

File no: D-13-24-05

Owners: Robert Lemay et Michelle Lemay

Applicant: Lascelles Engineering & Associates Ltd.

Civic address: 3585 Old Highway 17

Legal description: Part of Lot 4, Concession 1 (O.S.), being Parts 3 & 7 on plan 50R-7566

General information

Designation of the Official Plan of the United Counties of Prescott and Russell:

Rural Policy Area

Classification of Zoning By-Law No. 2016-10:

- Rural – Unstable Slopes (RU-ss) Zone
- Rural Residential – Exception 4 (RR-4) Zone

Services:

- Municipal water: NO
- Municipal Sewer: NO
- Road access: Municipal Road access.

Purpose

Minor variance to reduce minimum rear yard of the RR-4 zone from 20 meters to 10.4 meters.

Variance requested

RR-4 Zone	Permitted	Proposed
Min. rear yard	20m	10.4m

Conditions and Comments Received

No concerns or objections were received from the commenting departments and agencies. The public works department pointed out that they need a

confirmation that the existing entrance meets the requirements of the entrance by-law 2017-44. South Nation Conservation submitted the following comments: *“South Nation Conservation (SNC) has no objections to the proposed minor variance D-13-24-05 for 3585 Old Highway 17 in Rockland. SNC understands the purpose of the application is to reduce the minimum rear yard from 20 metres to 10.4 metres. According to the site plan provided, the proposed building will be a minimum of 30 metres from the shoreline of the Ottawa River. SNC has reviewed the technical report titled “Slope Stability Analysis – Proposed Residential Developments at 3585 Old Highway 17, Rockland, Ontario” prepared by Shuang Chang, M.A.Sc., P.Eng., of Lascelles Engineering, on May 14, 2024, submitted in support of this application. SNC has not conducted any independent site investigation to confirm the validity of the data and conclusions presented in the report. SNC has accepted the findings as conveyed and the professional opinions of the consultants who conducted the geotechnical investigation. Considering that the site is underlain by glaciomarine clay, and the slopes are over 8 meters high, SNC recommends that the landowner ensure that a geotechnical engineer experienced with retrogressive landslides evaluates the site for the potential of retrogressive landslides and deems it safe to construct the proposed dwelling. To ensure the short- and long-term stability of the slope, the recommendations and conclusions provided by Lascelles in the report (on page 7) must be adhered to. The proposed dwelling is located within an area regulated under the Conservation Authorities Act and Ontario Regulation 41/24. This area has been identified as a Riverine Erosion Hazard associated with the Ottawa River. SNC issued a Permit for Development Activity within a regulated area for the proposed dwelling, attached garage, septic system, grading, and erosion control.”*

Discussion:

The agent of the owners of 3585 Old Highway 17 have requested a minor variance to reduce the minimum rear yard of the RR-4 zone from 20m to 10.4m to build a home.

The subject property is a vacant lot located in the north-east side of Clarence-Rockland, approximately 5 km east of Clarence Point. The surrounding area consists of other rural lands with residential and agricultural uses.

The property is an irregular shape. It has frontage of approximately 36m on Old Highway 17, lot depth of 135m and an area of 5,900 square meters.

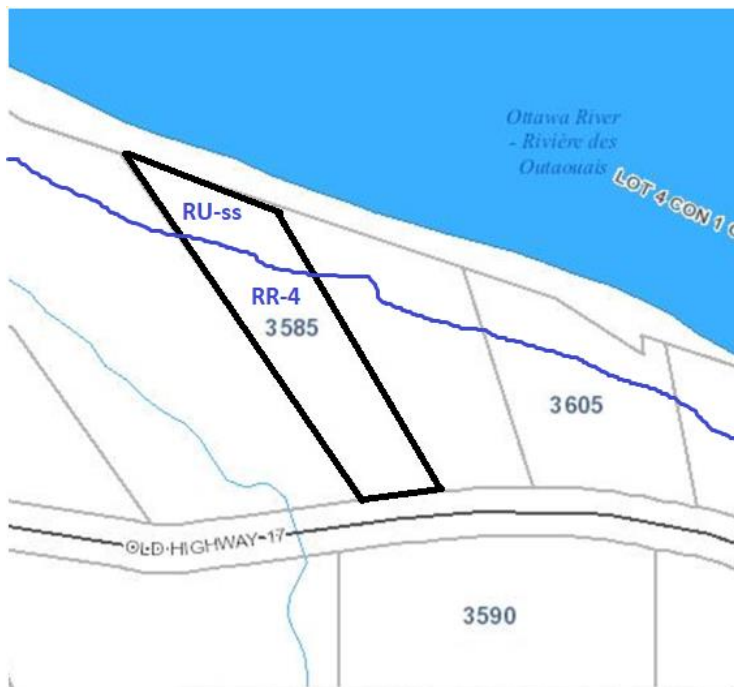


Image: Keymap of the subject property

Planning Act

Section 45(1) of the Planning Act States that:

"The Committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is in effect under section 34 or 38, or a predecessor of such section, or any person authorized in writing by the owner, may despite any other Act, authorize such minor variance from the provision of the by-law in respect to the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and the official plan, in any, are maintained."

The Planning Act allows for owners or representatives of owners to apply for a minor variance which the Committee of Adjustment will review that the change does not conflict with the overall intent and purpose of the by-law and the official plan, if applicable. The four tests in this report will evaluate if the application is considered a 'minor' change and will be followed by a recommendation by the Planning Division.

Four tests

I. The general intent and purpose of the United Counties of Prescott and Russell Official Plan are maintained:

All of the subject property is included under the "Rural Policy Area" on Schedule "A" of the Official Plan of the United Counties of Prescott and Russell. Under this policy area, the proposed residential uses are permitted.

II. The general intent and purpose of the Clarence-Rockland Zoning By-law 2016-10 are maintained:

The property is located in the "Rural Residential -exception 4 (RR-4) Zone as well as the Rural-sensitive slope (RU-ss)-Zone in the City of Clarence-Rockland Zoning By-law 2016-10. The proposed rear yard setback reduction from 20 metres to 10.4 metres is for the RR-4 Zone only. Since the property has dual zoning, each portion of the lot shall be used in accordance with the provisions of the Zoning by-law. As such, since the property is in majority in a RR-4 zone and the house will be built on the RR-4 section, the house must meet all provisions of the RR-4 zone. The house will be located at 10.4 metres from the rear line of the RR-4 zone. However, it will still be located at least 30 metres from the rear lot line (water's edge). As such, the intent and purpose of the Zoning by-law will be maintained.

III. The variance is minor:

The variance is to reduce the minimum rear yard setback of the RR-4 from 20 metres to 10.4 metres. The requested variance is minor since the distance between the proposed house to the rear lot line is 30 metres which would conform to the Zoning by-law in a scenario where the property did not have dual zoning. Because of the dual zoning, the rear yard setback is not met.

For the reasons outlined above, the variance requested is considered minor.

IV. The proposed use of land, building or structure is desirable for appropriate development:

The request is desirable for appropriate development as a single detached dwelling is permitted on the property. All other provisions of the Zoning By-law are respected and all necessary permits from South Nation Conservation were issued.

[Recommendation from the Planning Division](#)

THAT the Committee of Adjustment accepts the application for a Minor Variance submitted by Lascelles Engineering & Associates Ltd. for Robert Lemay and Michelle Lemay, for the property identified as 3585 Old Highway 17 to reduce the minimum rear yard of the RR-4 zone from 20 meters to 10.4 meters to accommodate the construction of a detached dwelling.

QUE le comité de dérogation accepte la demande de dérogation mineure soumise par Lascelles Engineering & Associates Ltd. pour Robert Lemay et Michelle Lemay, pour la propriété identifiée comme étant le 3585 Old Highway 17 afin de réduire la cour arrière minimale de la zone RR-4 de 20 mètres à 10,4 mètres pour permettre la construction d'une nouvelle maison.