



Planning Report

To: Township of Huron Kinloss Committee of Adjustment

From: Julie Steeper, Planner

Date: December 12, 2022

Re: Minor Variance Application - A-2022-037 (Courtney)

Recommendation:

Subject to a review of submissions arising from the public meeting:

That Committee approve Minor Variance A-2022-037 as attached subject to the conditions on the decision sheet.

Summary:

The purpose of the application is to allow relief from the interior side yard setback and height. The proposed height is 8.75 m, whereas the maximum height in the zoning bylaw is 8 m. The applicant is requesting relief for 0.75 m. The proposed side yard setback is 1.5 m, whereas the required setback in the Zoning By-law is 3 m. The applicant is requesting relief for 1.5 m. If approved, the application would facilitate an addition to the existing single detached dwelling.

The property is located north west of Highway 21, and north of Concession 12. The property is south of Kincardine Ave and is surrounded by residential uses.

Airphoto

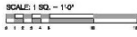


Site Plans

SITE PLAN

21 Boiler Beach Rd
Huron-Kinloss, Ontario

NOT TO SCALE
APR 28/22



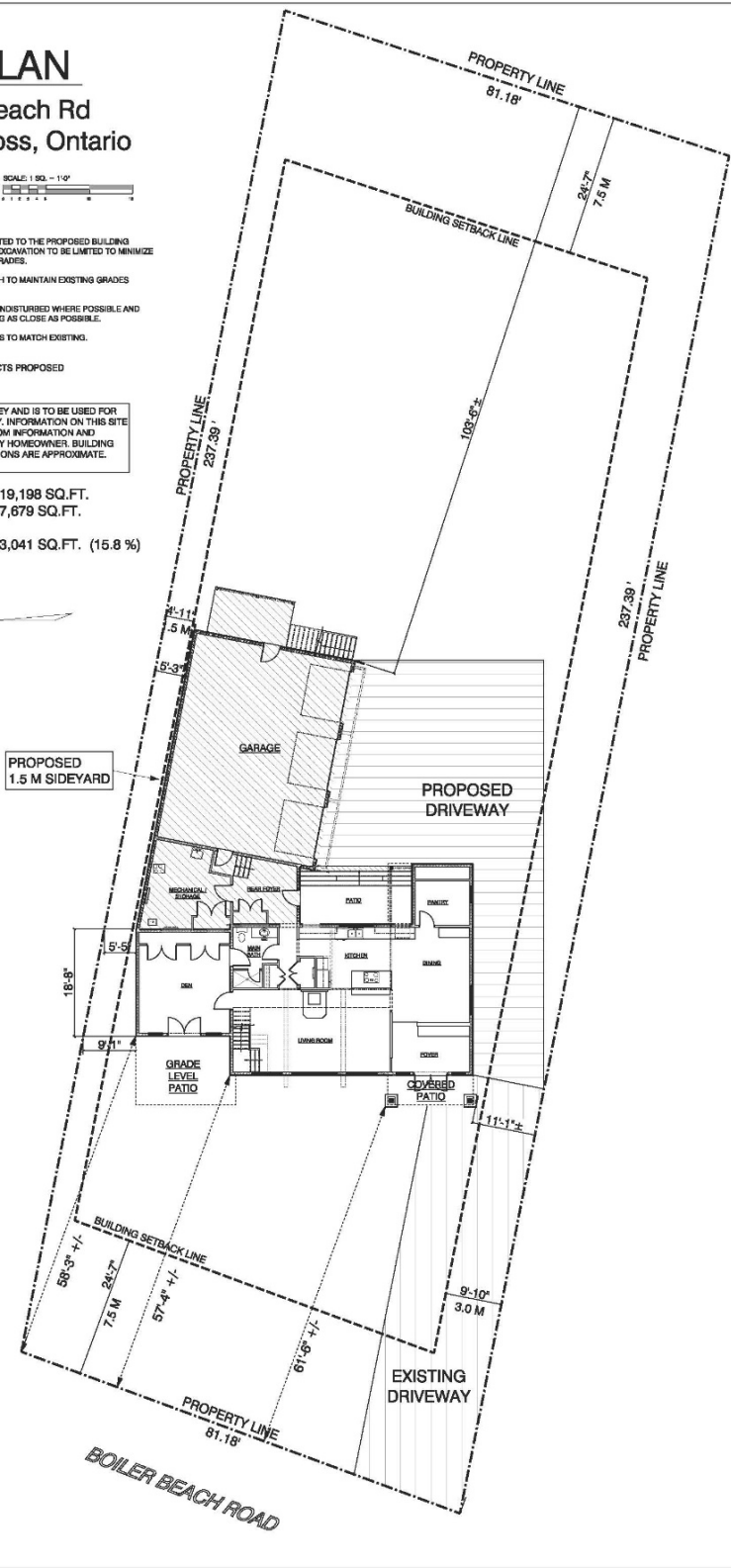
NOTES:

1. EXTENT OF EXCAVATION IS LIMITED TO THE PROPOSED BUILDING FOOTPRINT AS REQUIRED. OVER-EXCAVATION TO BE LIMITED TO MINIMIZE THE IMPACT ON SURROUNDING GRADES.
2. BACKFILL FOUNDATION AS SUCH TO MAINTAIN EXISTING GRADES WHEREVER POSSIBLE.
3. OVERALL GRADES TO REMAIN UNDISTURBED WHERE POSSIBLE AND REGRADING IS TO MATCH EXISTING AS CLOSE AS POSSIBLE.
4. OVERLAND DRAINAGE PATTERNS TO MATCH EXISTING.

HATCHING DEPICTS PROPOSED ADDITION

THIS IS NOT A PLAN OF SURVEY AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. INFORMATION ON THIS SITE PLAN HAS BEEN DERIVED FROM INFORMATION AND MEASUREMENTS SUPPLIED BY HOMEOWNER. BUILDING LOCATIONS AND ALL DIMENSIONS ARE APPROXIMATE. O&E.

LOT AREA = 19,198 SQ.FT.
40 % COVERAGE = 7,679 SQ.FT.
HOUSE AREA = 3,041 SQ.FT. (15.8 %)



SITE PLAN

21 Boiler Beach Rd
Huron-Kinloss, Ontario

NOT TO SCALE

Apr 28/22

Rev: Oct 14/22

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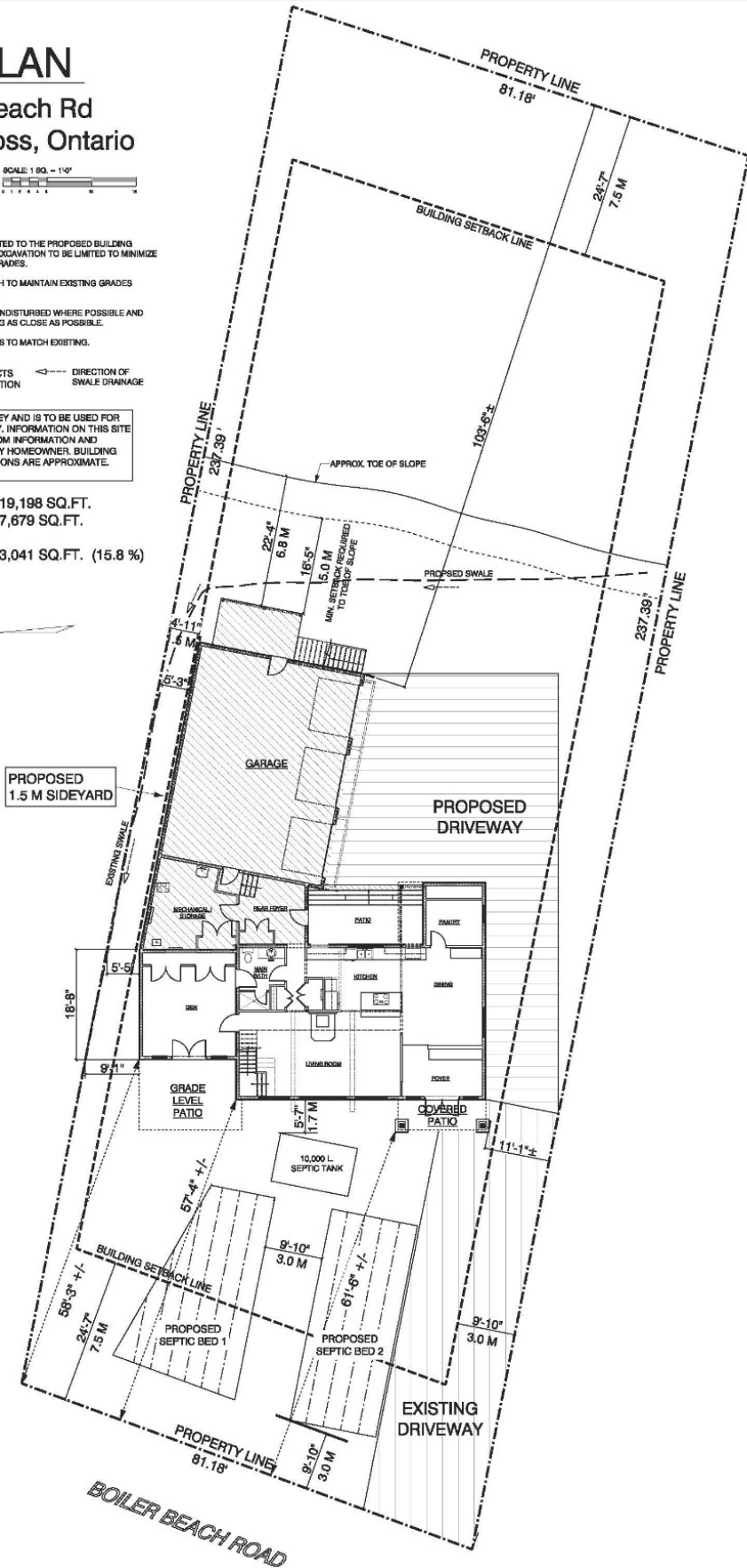
HATCHING DEPICTS PROPOSED ADDITION
 DIRECTION OF SWALE DRAINAGE

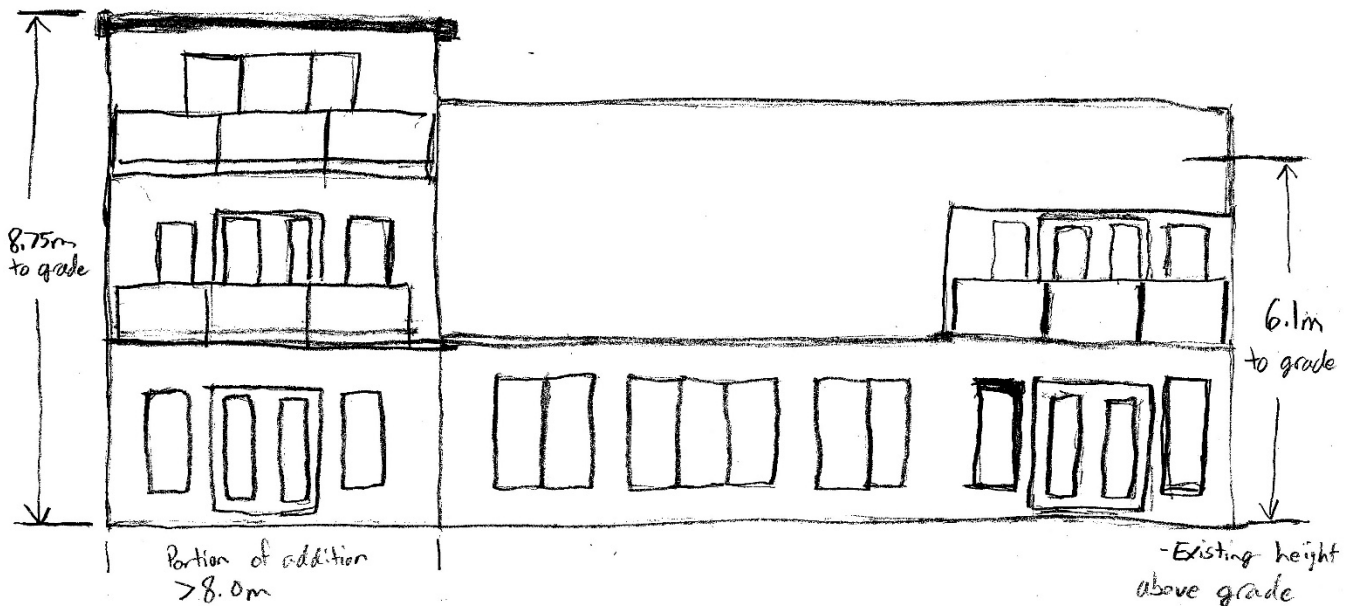

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The height elevation drawing is depicting the front of the dwelling from the street (which is from the west property boundary).

Planning Analysis:

The following section provides an overview of the planning considerations that were factored into the staff recommendation for this application, including relevant agency comments (attached), public comments (attached) and planning policy sections.

Archaeological Potential

The lands are considered to have high archeological potential due to the proximity of Lake Huron. In review it was determined that an Archaeological Assessment was not needed due to previous disturbance for the lands where development is proposed.

Four Tests of a Minor Variance

Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

Does the variance maintain the intent and purpose of the Official Plan?

The Bruce County Official Plan designates the property Secondary Urban Communities. The Township of Huron Kinloss Official Plan designates the property Lakeshore Residential and Environmental Protection. The proposed addition to the existing dwelling is an existing residential use and permitted within both Official Plans. Furthermore, Saugeen Valley

Conservation Authority required that a geotechnical (slope evaluation) be prepared to support the proposal because of the slope hazard on the property. A Slope Stability Assessment by Peto MacCallum Ltd. Consulting Engineers dated October 7, 2022, was prepared to support the proposal. Therefore, the application does maintain the intent and purpose of the Official Plans.

Does the variance maintain the intent and purpose of the Zoning By-law?

The property is zoned Residential (R1) and the Zoning By-law identifies the minimum interior side yard setback for a dwelling shall be 3 m. The applicant is requesting a side yard setback of 1.5 m to the North. The proposed addition will have a setback that exceeds the requirement at the south side of the property boundary. The septic is located within the front yard of the property and access is not an issue with the proposed development. Staff are satisfied that access to the rear yard will be maintained. Side yard setbacks provide separation between buildings and uses on adjacent properties, space for maintenance and landscaping, and buffering. The proposed setbacks will still allow adequate space for maintenance, landscaping, and buffering. The variance maintains the intent and purpose of the zoning by-law.

The by-law identifies that the maximum height for dwellings shall not be greater than 8 m. The intent of the height regulation is to control the height so that the buildings are in keeping with the residential character of the area. In this instance, the height of the building is proposed to be 8.75 m which doesn't conflict with the character of the area. The variance maintains the intent and purpose of the zoning by-law.

Is the application desirable for the appropriate development of the land, building or structure?

Over time, it can be expected that a property owner will grow and replace, add to, or build new structures on their property which allow them to maximize the benefit, value and use of their property. The variances will enable the property owner to build an addition to their existing single detached dwelling to meet their current needs. The variances represent an appropriate form of development for the use of the land.

A property owner located at 19 Boiler Beach Road has expressed concerns regarding the proposed height of the dwelling and drainage. The Saugeen Valley Conservation Authority has reviewed and accepted a geotechnical assessment and did not identify any concerns with erosion or drainage. The lot will have to have its own drainage path on its own lot preventing drainage onto neighbouring properties.

The issues related to height and drainage have been considered but weren't deemed to be a concern for this application.

The proposed variances will also allow for the construction of an addition in a suitable location, and of a scale that is appropriate in relation to the size and dimensions of the property. The proposed development is consistent with surrounding land uses, and would

comply with all required setbacks, with the exception of the interior side yard setback. The variances represent an appropriate form of development for the use of the land.

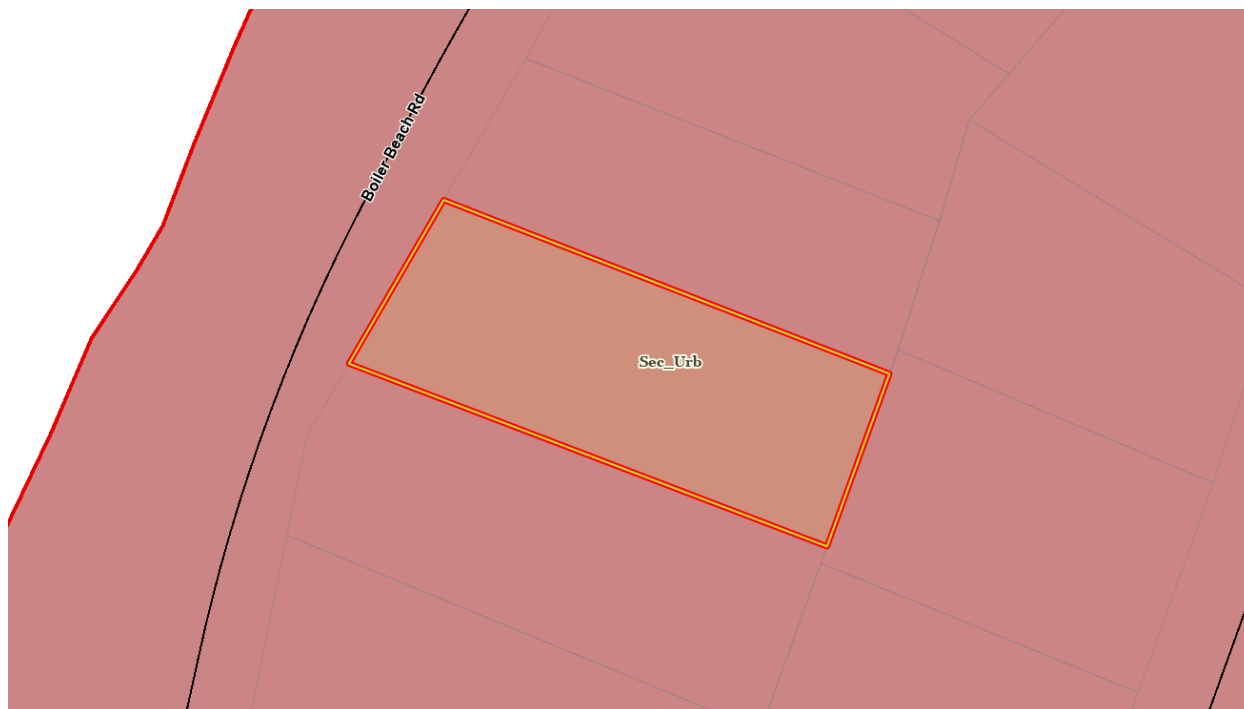
Is the application minor in nature?

Whether a variance is minor is evaluated in terms of the impact the proposed development is expected to have on the surrounding neighbourhood. It is not expected that permitting the variances will have any impact on the character of the area or impact the ability of adjacent property owners to use their property for permitted uses. The variances are minor.

Appendices

- County Official Plan Map
- Local Official Plan Map
- Local Zoning Map
- Agency Comments
- Public Comments
- Public Notice

County Official Plan Map (Designated Secondary Urban Communities)



Local Official Plan Map (Designated Lakeshore Residential, Environmental Protection)



Local Zoning Map (Zoned Residential 'R1', Environmental Protection 'EP')



Agency Comments

Township of Huron Kinloss: No comment.

BM Ross, Township of Huron-Kinloss Engineers: The application has been reviewed by OBC Part 8 Inspector Dave Bell (BCIN# 34600). The existing septic system on this property was inspected in May 2022 and assessed to be in good working order. It was given a High-Age rating. The application includes a proposed septic system location, with two septic beds. We note that the required setback between the septic beds is 5 m. The replacement of the existing septic system will also require submission and review of Application for Permit to Construct or Demolish and associated fee prior to construction. We have no objections to this proposal.

Saugeen Ojibway Nation: I will trust that the information is accurate and that the area is disturbed. We have no further comments on this project. If at any point anything of archeological interest is revealed on site, please contact the SON Environment Office immediately.

Historic Saugeen Metis (HSM): The Historic Saugeen Métis (HSM) Lands, Resources and Consultation Department has reviewed the relevant documents and have no objection or opposition to the proposed Minor Variance as presented.

Saugeen Valley Conservation Authority: The proposed application is acceptable to SVCA staff and provided in full below.

Risk Management (Source Water): I have no concerns with the proposed application.

Public Comments

Public comments were received from Rick and Joanne Malott located at 19 Boiler Beach Road expressing concerns and are provided in full below.

Comments in support of the application were received from Paul Dale located at 20 Boiler Beach Road and are provided in full below

SENT ELECTRONICALLY ONLY (jstepper@brucecounty.on.ca and bcplwa@brucecounty.on.ca)

November 21, 2022

County of Bruce Planning & Development Department
30 Park Street
Walkerton, Ontario N0G 2V0

ATTENTION: Julie Steeper, Planner

Dear Ms. Steeper

RE: Proposed Minor Variance A-2022-037 (Courtney & Carter)
21 Boiler Beach Road
Lot 21, Plan 503
Roll No. 410716000914800
Geographic Township of Huron
Township of Huron-Kinloss

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the above-noted applications as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020) and as a regulatory authority under Ontario Regulation 169/06 (SVCA's Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation). SVCA staff has also provided comments as per our Memorandum of Agreement (MOA), dated September 2019, with the County of Bruce representing natural hazards, natural heritage, and water resources; and the applications have also been reviewed through our role as a public body under the *Planning Act* as per our Conservation Authority Member approved Environmental Planning and Regulations Policies Manual, amended October 16, 2018.

Purpose

The purpose of the application is to allow relief from the interior side yard setback and height. The proposed height is 8.75 meters (m), whereas the maximum height in the zoning by-law is 8m. The applicant is requesting relief from 0.75m. The proposed setback is 1.5m, whereas the required side yard setback in the zoning by-law is 3m. The applicant is requesting relief from 1.5m.

Background

On May 5, 2022, the SVCA was contacted by the owners regarding a proposed addition to the existing dwelling on the property. SVCA staff (Michael Oberle and Nicholas Stasiak) met with the owners at their property on August 12, 2022. SVCA required that a geotechnical (slope evaluation) be prepared to support the proposal because of the slope/bluff hazard on the property.

A Slope Stability Assessment by Peto MacCallum Ltd. Consulting Engineers dated October 7, 2022, was prepared to support the proposal. On October 14, 2022, SVCA staff received the final design/construction drawings for the proposal and deemed the SVCA application complete. SVCA issued SVCA permit 22-283 on October 17, 2022, for the following work: construction of an addition to the existing dwelling, installing a driveway, and related excavation, filling, and grading, all within the adjacent lands to part of the Lake Huron shoreline bluff/slope.

Recommendation

The proposed application is acceptable to SVCA staff.

Delegated Responsibility and Advisory Comments

SVCA staff has reviewed the applications through our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020). We have also reviewed the applications through our responsibilities as a service provider to the County of Bruce in that we provide expert advice and technical clearance on *Planning Act* applications with regards to natural hazards, natural heritage, and water resources as set out in the PPS, 2020, County Official Plan (OP) and/or local official plans. Comments below only include features/technical requirements affecting the property.

Natural Hazards:

The natural hazard features affecting the property include Lake Huron and its related flooding and erosion hazards, directly west of the property, and the shoreline bluff/slope located along the eastern property boundary. It is SVCA staff's opinion that the Environmental Protection designation as shown on Schedule A to the Huron-Kinloss OP and the Environmental Protection (EP) zone as shown in the Huron-Kinloss Zoning By-law, generally coincides with SVCA Hazard Lands (which represents the natural hazard features) as mapped by the SVCA for the property.

Provincial Policy Statement – Section 3.1

Section 3.1 of the PPS, 2020 states, in part, that development shall generally be directed to areas outside of hazardous lands, and hazardous sites. It is the opinion of SVCA staff that the application is consistent with Section 3.1.1 of the PPS, 2020.

Bruce County Official Plan and Huron-Kinloss Official Plan Policies

Section 5.8 of the Bruce County OP, and Section 2.7 of the Huron-Kinloss OP, generally direct development to be located outside of Hazardous Land Area and EP designated area. It is the opinion of SVCA staff that the application complies with the natural hazard policies of the Bruce County OP and the Huron-Kinloss OP.

Natural Heritage:

As part of SVCA staff's desktop review, the following significant natural heritage features were identified as affecting the property: significant woodlands, significant wildlife habitat, and fish habitat.

Provincial Policy Statement – Section 2.1

Section 2.1 of PPS states in part that development shall not be permitted in significant woodlands, significant wildlife habitat, fish habitat, and the adjacent lands (Section 2.1.8) to be above referenced features, except in accordance with the specific policies found in Section 2.1.

Significant Woodlands

Although not located on the property, significant woodlands have been identified on lands adjacent to the west of the property. Section 4.3.2.6 of the Bruce County OP and Section 2.6.4 of the Huron-Kinloss OP states, in part, that development or site alteration shall not be permitted within significant woodlands or their adjacent lands.

Based on the submitted site plan, it is SVCA staff's interpretation that the proposed development associated with the minor variance is generally restricted to the previously disturbed portion of the subject property. As such, SVCA staff are of the opinion that the potential impact to the woodlands will be negligible and will not require the preparation of an Environmental Impact Study (EIS) to address impacts to significant woodlands in accordance with section 2.6.10 of the Huron-Kinloss OP.

Significant Wildlife Habitat

While mapping showing significant wildlife habitat is not included in the Bruce County OP or the Huron-Kinloss OP, it has come to the attention of SVCA staff that significant wildlife habitat may be located on and/or on lands adjacent to the property.

Section 4.3.2.10 of the Bruce County OP and Section 2.6.6 of the Huron-Kinloss OP states, in part, that development proposed within or adjacent to significant wildlife habitat will require an EIS to demonstrate there will be no negative impacts on the feature.

While the minor variance proposed may be within or adjacent to significant wildlife habitat, there is existing development of similar size and impact on the property, and SVCA staff are of the opinion that the impact to the habitat will be negligible. As such, the application is generally consistent with the Bruce County OP and the Huron-Kinloss OP.

Fish Habitat and the Adjacent Lands to Fish Habitat

The property is located within the adjacent lands to Lake Huron and is concerned fish habitat by SVCA staff. Our review of fish habitat is provided in consideration of the PPS and local policies but does not provide clearance on the required statues or legislation from either the Ministry of Natural Resources and Forestry (MNR) or the Department of Fisheries and Oceans (DFO).

Section 4.3.3.1 (v) of the Bruce County OP and Section 2.6.10 of the Huron-Kinloss OP states in part that development proposed within lands adjacent to fish habitat requires an EIS that starts there will be no negative impact on the feature.

While the development proposed is within the adjacent lands of fish habitat, there is existing development if similar size and impact, and SVCA staff are of the opinion that the impact to the habitat

will be negligible. As such, the application is generally consistent with the Bruce County OP and the Huron-Kinloss OP.

Drinking Water Source Protection

SVCA staff has screened this application to determine the applicability of the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Plan, prepared under the Clean Water Act, 2006. The Source Protection Plan came into effect on July 1st, 2016 and contains policies to protect sources of municipal drinking water from existing and future land use activities. The subject property appears to SVCA staff to be located within an area that is subject to the local Source Protection Plan where applicable policies may apply. A separate Notice from the local Risk Management Official may be required as specified under the Clean Water Act, 2006 to allow your project to proceed. Please contact Mary Lynn MacDonald, the Township of Huron-Kinloss Risk Management Official (mmaacdonald@abca.ca) for more information on the Source Protection Plan policies that may affect your application.

Statutory Comments

SVCA staff has reviewed the application as per our responsibilities as a regulatory authority under Ontario Regulation 169/06 (SVCA's Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation). This regulation, made under Section 28 of the *Conservation Authorities Act*, enables SVCA to regulate development in or adjacent to river or stream valleys, Great Lakes and inland lake shorelines, watercourses, hazardous lands and wetlands. Subject to the CA Act, development taking place on or adjacent to these lands may require permission from SVCA to confirm that the control of flooding, erosion, dynamic beaches, pollution or the conservation of land are not affected. SVCA also regulates the alteration to or interference in any way with a watercourse or wetland.

The eastern portion of the property is within the SVCA Approximate Screening Area associated with Ontario Regulation 169/06. As such, development and/or site alteration within the SVCA Approximate Screening Area will require permission from SVCA, prior to carrying out the work. For the property, the SVCA Approximate Screening Area includes the shoreline slope/bluff located along the eastern property boundary and an offset distance of 15-meters outwards from the toe/bottom of slope.

"Development" as defined under the *Conservation Authorities Act* means:

- a) *the construction, reconstruction, erection or placing of a building or structure of any kind;*
- b) *any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;*
- c) *site grading; or,*
- d) *the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.*

And;

“Alteration” as per Section 5 of Ontario Regulation 169/06 generally includes the straightening, diverting or interference in any way with a river, creek, stream or watercourse, or the changing or interfering in any way with a wetland.

To determine where the SVCA Approximate Screening Area is located associated with our Regulation on the property, please refer to the SVCA’s online mapping program, available via the SVCA’s website at <http://eprweb.svca.on.ca>.

SVCA Permission for Development or Alteration

Development or alteration including construction, reconstruction, conversion, grading, filling or excavation, within the SVCA Approximate Screening Area may require permission (SVCA Permit) prior to the works commencing.

As mentioned above, SVCA staff (Michael Oberle) issued SVCA permit 22-283 on October 17, 2022, for the construction of the proposed addition on the property.

Summary

SVCA staff has reviewed the application in accordance with our mandated responsibilities for natural hazard management, including our regulatory role under the *Conservation Authorities Act*.

The proposed minor variance is acceptable to SVCA staff.

Given the above comments, it is the opinion of the SVCA staff that:

- 1) Consistency with Section 3.1, Natural Hazard policies of the PPS, 2020 has been demonstrated;
- 2) Consistency with Section 2.1, Natural Heritage policies of the PPS, 2020 has been demonstrated, with the exception of endangered species and threatened species policy, which must be addressed by the applicant/landowner; and
- 3) Consistency with local planning policies for natural hazards and natural heritage has been demonstrated, with the exception of endangered species and threatened species policy, which must be addressed by the applicant/landowner.

Please inform this office of any decision made by the planning approval authority with regards to this application. We respectfully request to receive a copy of the decision and notice of any appeals filed. Should you have any questions, please contact the undersigned.

Sincerely,



Cassandra Malo
Environmental Planning Technician
Saugeen Conservation
CM\

cc: Don Murray, SVCA Authority Member representing the Township of Huron-Kinloss (via email)
Emily Dance, Clerk, Township of Huron-Kinloss (via email)

Candace Hamm

Subject: FW: Boiler Beach

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, September 28, 2022 7:19 AM
To: Julie Steeper <JSteeper@brucecounty.on.ca>
Cc: [REDACTED]
Subject: Boiler Beach

**** [CAUTION]:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

My name is Paul Dale, and we own 20 Boiler Beach Road.

Joel Courtney has been keeping us up to speed on his plans to improve his property.

He asked that I contact you and provide my home address and e mail info so you can share information with me.

My contact info is below.

Thanks

Paul Dale

23 Quail Hollow

Kitchener

N2P 2A8

Paul Dale
[REDACTED]

Individuals who submit letters and other information to Council and its Committees should be aware that any personal information contained within their communications may become part of the public record and may be made available through the agenda process which includes publication on the County's website.

If you have received this communication in error, please notify the sender immediately and delete all copies (electronic or otherwise). Thank you for your cooperation.

November 29, 2022

File # A-2022-037. 21 Boiler Beach Rd.

Attention: Julie Steeper, Planner. Bcplwa@brucecounty.on.ca

Thank you for notifying us of the application proposing changes at 21 Boiler Beach Road.

We have serious concerns about the proposed changes requiring relief at the above address. Our concerns are with both the height and the distance from the north property line.

Although it might not seem like much on paper, extending the height from 8.0 meters to 8.75 meters is considerable particularly when it appears that this will make the structure three floors high with balconies on both the second and third floor. Allowing this change sets a dangerous precedent, one we feel is a negative one. Tall, three story buildings close to the property line invade the personal space of neighbours and are not currently found along Boiler Beach nor do we want that. The changes the applicant is proposing will change the makeup of our street moving it towards high density housing.

Our second point concerns the drainage along the north side of the property. Currently there is a stream carrying run-off from the hill at the back of the property. 1.5 meters for the drainage from the house and the drainage from the hill (which moves around depending on hillside conditions) does not seem sufficient when the water does not stay on the same course over time. While it may seem fixed for a couple of years, the close proximity of the large building to the property line and the stream will cause problems for neighbouring properties.

In summary, we are opposed to the height relief due to the negative precedent it sets and the sideyard relief as it does not allow for the water off the hill to run its own course and will cause problems for neighbours down the road.

Thank you for considering our comments.

Sincerely,
Joanna and Rick Malott
19 Boiler Beach Rd

Kincardine, ON
N2Z 2L2



County of Bruce
Planning & Development Department
30 Park Street, Box 848
Walkerton, ON N0G 2V0
brucecounty.on.ca
226-909-5515



November 1, 2022

File Number: A-2022-037

Public Hearing Notice

You're invited

**Monday, December 12, 2022 at 7:00 pm, Council Chambers,
Township of Huron-Kinloss, 21 Queen Street, Ripley, ON**

A change is proposed in your neighbourhood: The purpose of the application is to allow relief from the interior side yard setback and height. The proposed height is 8.75 m, whereas the maximum height in the zoning bylaw is 8 m. The applicant is requesting relief for 0.75 m. The proposed setback is 1.5 m, whereas the required side yard setback in the Zoning By-law is 3 m. The applicant is requesting relief for 1.5 m. If approved, the application would facilitate an addition to the existing single detached dwelling.



21 BOILER BEACH RD – PLAN 503 LOT 21 (Huron)
Township of Huron-Kinloss, Roll Number 410716000914800

Learn more

You can view limited information about the application at <https://brucecounty.on.ca/living/land-use>. Additional information, including the supporting materials, can be provided upon request by e-mailing bcplwa@brucecounty.on.ca or calling 226-909-5515. Information can also be viewed in person at the County of Bruce Planning Office noted above, between 8:30 a.m. and 4:30 p.m. (Monday to Friday).

The Planner on the file is: Julie Steeper

Have your say

Comments and opinions submitted on these matters, including the originator's name and address, become part of the public record, may be viewed by the general public and may be published in a Planning Report and Council Agenda. Comments received after December 5, 2022 may not be included in the Planning report but will be considered if received prior to a decision being made, and included in the official record on file.

1. Please contact us by mail (address above) or bcplwa@brucecounty.on.ca if you have any questions, concerns or objections about the application.
2. You can speak at the Public Hearing.

For information on how to participate in the public hearing, please visit the Township of Huron-Kinloss website at: <https://calendar.huronkinloss.com/meetings>, or contact the Township by 4:30 pm on December 12, 2022 (jwhite@huronkinloss.com or 519-395-3735 ext. 123) if you have any questions regarding how to participate in the hearing.

Stay in the loop

If you'd like to be notified of the decision of the Committee of Adjustment on the proposed application, you must make a written request to the Bruce County Planning Department on behalf of the Secretary-Treasurer for the Committee of Adjustment.

Know your rights

The applicant, the Minister or any other person or public body who has an interest in the matter may within 20 days of the making of the decision appeal to the Tribunal against the decision of the committee by filing with the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee charged by the Tribunal under the Ontario Land Tribunal Act, 2021 as payable on an appeal from a committee of adjustment to the Tribunal, in accordance with Section 45(12) of the Planning Act

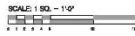
For more information, please visit the Ontario Land Tribunal website at <https://olt.gov.on.ca/appeals-process/>.

Site plan

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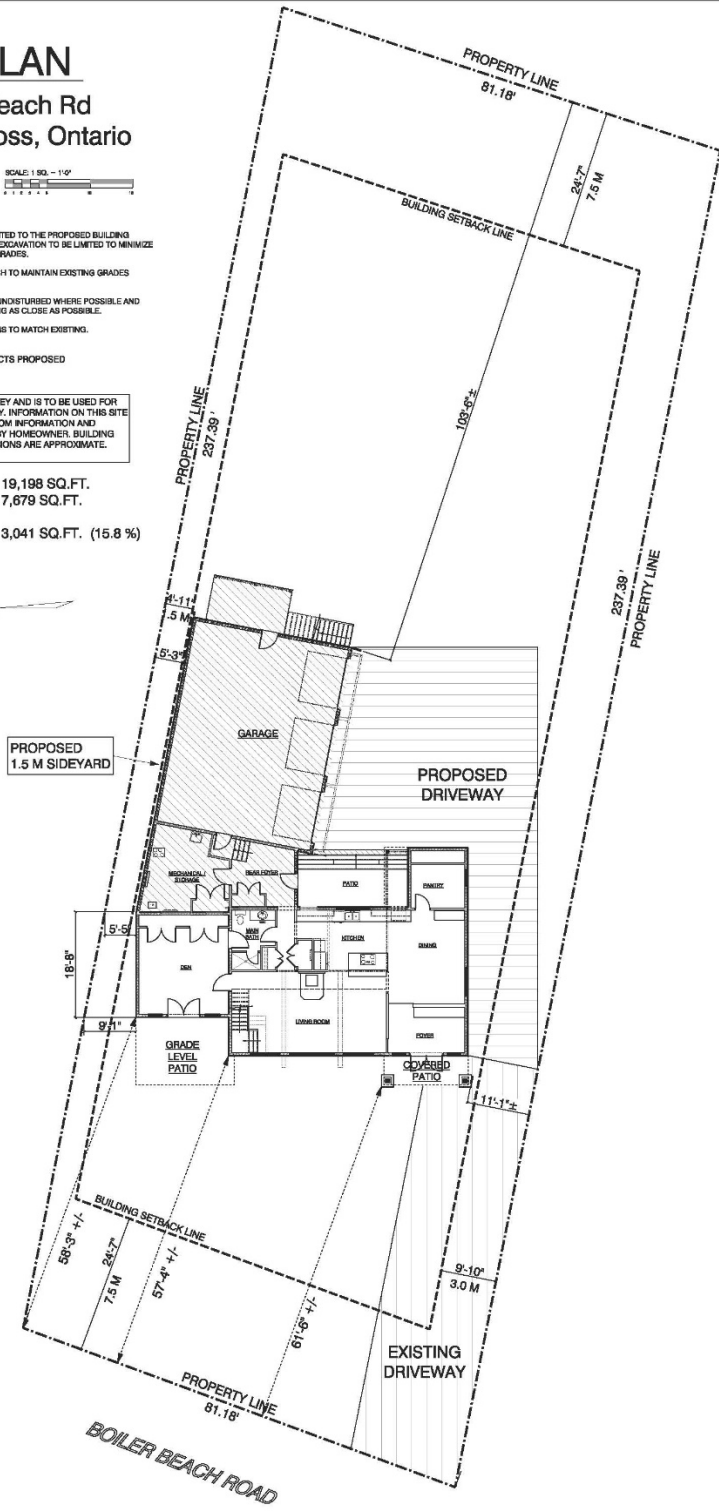
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Site plan - Elevation Sketch

