



Planning Report

To: Township of Huron-Kinloss Committee of Adjustment

From: Benito Russo, Planner

Date: August 12, 2024

Re: Minor Variance Application - A-2024-020 (Bailey)

Recommendation:

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

That Committee approve Minor Variance A-2024-020 as attached subject to the conditions on the decision sheet.

Summary:

The purpose of this application is a Minor Variance to permit an interior side yard setback of 1.8m and 2.1m where 3.0m is required. If approved, this will permit the establishment of an uncovered lower-level deck and associated stairs at 2.1m from the interior lot line, and the addition of a roof cover over an existing upper-deck area at 1.8m from the interior lot line. This would result in further gross floor area encroaching into the required side yard setback.

The subject property has a civic address of 819 Wilson Ave in Point Clark and is located East of Winnebago Rd and on the South side of Wilson Ave. It is surrounded by residential land uses.

In consultation with the landowner, the proposed Minor Variance is being sought to provide a covering for the upper deck, which serves as the main entry point for the residence. The deck has been weakening faster than anticipated due to the drip line from mature vegetation along the interior lot line, and the proposed covering will minimize future deterioration. The lower deck is to promote use of the greenspace behind the residence and is sited in the proposed location due to the septic system.

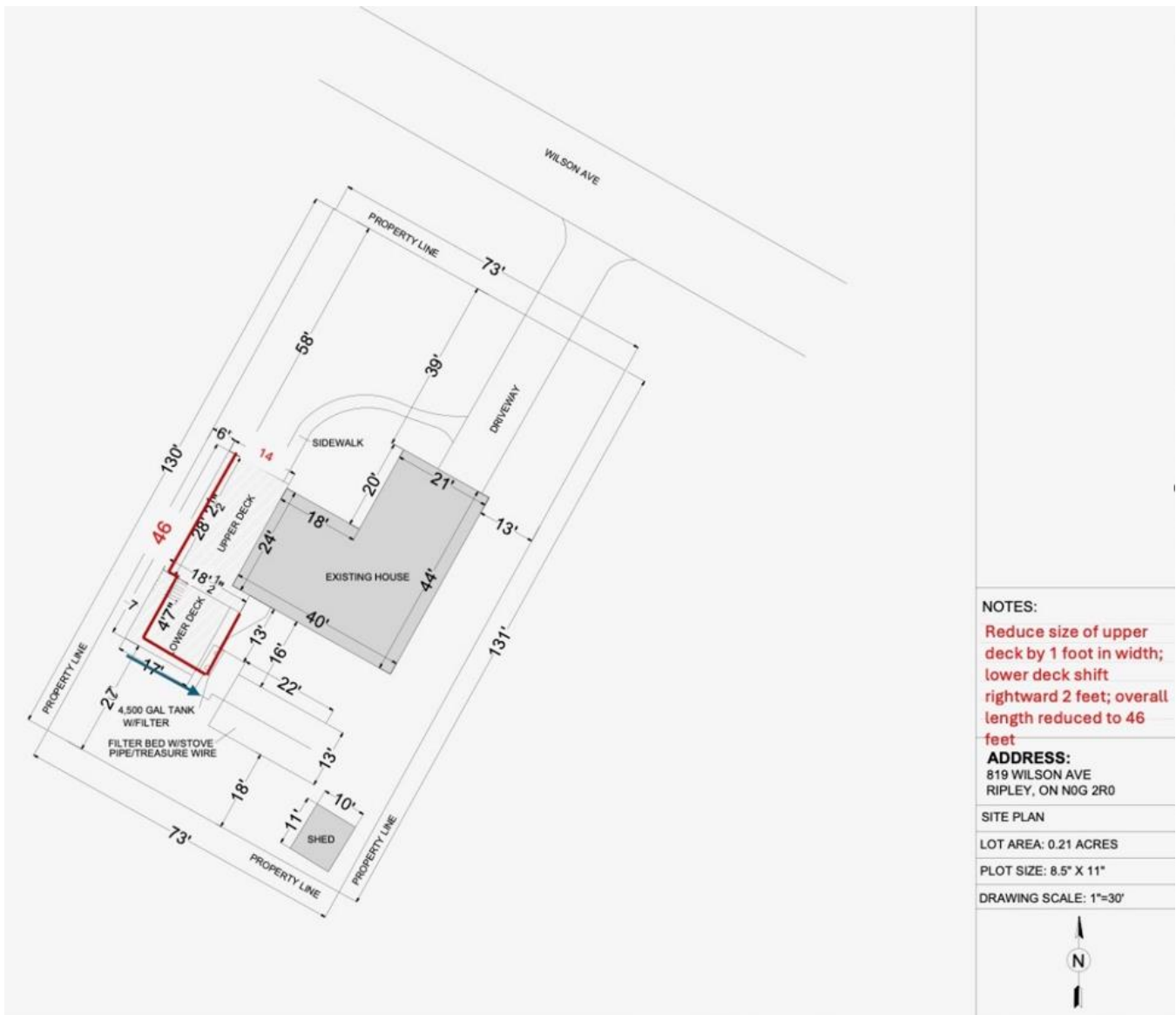
To address comments received from neighboring land owners, the applicant has modified their proposal from the initial circulation as follows:

- Modification from the originally proposed 1.5m interior side yard setback to 1.8m for the upper deck covering.
- Modification from the originally proposed 1.5m interior side yard setback to 2.1m for the lower deck area.
- Modification from the originally proposed 14.3m length of overall deck size to 14m.

Airphoto



Proposed Site Plan & Description of Modifications



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), and planning policy sections.

Development Considerations

The applicant has provided a site plan denoting the location of the septic system showing adequate access for maintenance and replacement along the East side of the residence.

Mature cedar vegetation is present along the interior lot line for the majority of the area where the variances are requested, this provides screening between the adjacent properties

The lands are located in areas identified as having high archaeological potential. Archaeological concerns have been reviewed in consultation with the Saugeen Ojibway Nation Environment Office and it has been determined that an archaeological assessment is not required for this project due to past disturbances.

The applicant has provided a site plan denoting the location of the septic system showing adequate access for maintenance and replacement along the East side of the residence and

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 Plans?

The Bruce County Official Plan designates the property Secondary Urban Areas. The Huron-Kinloss Official Plan designates the lands Lakeshore Residential. Accessory structures such as patios, decks, and deck coverings are permitted within the residential designation of both the County and local Official Plans. The application maintains the intent and purpose of the Official Plans.

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

The following variance is proposed:

- An upper deck covering located 1.8m from the interior lot line where 3.0m is required.
- The installation of stairs and a lower deck located 2.1m from the interior lot line where 3.0m is required.

The subject lands are zoned Residential One (R1) Lakeshore. The Zoning By-law Section 12.4 details a minimum interior side yard setback of 3 metres for the Lakeshore area. Despite the 3-metre setback, Section 4.1 Accessory Buildings, and Section 4.8 Encroachments, permit various accessory buildings and structures closer to the interior side lot line. The following buildings and structures are permitted as close as 1.5m to the interior lot line: garages, storage buildings, architectural projections, stairs, and balconies.

The purpose and intent of the Zoning By-law permitting the encroachment of accessory structures within required yards is that they are of a lessor impact to adjacent properties than the primary use.

It is noted that balconies are permitted to encroach into any required yard by 1.5 metres. The proposed deck covering for the upper deck has the same function as both an unenclosed porch and a balcony and can be viewed as being a similar structure. Both the lower deck and upper deck covering are consistent with, and located further from, the interior lot line than the permitted setback or encroachment of similar structures.

The proposal meets the intent and purpose of the Zoning By-law permitting the encroachment of accessory structures.

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 proposed development can be considered appropriate with surrounding land uses and would comply with the Zoning By-law requirements except for the requested variances.

As the upper deck is existing no new compatibility issues are being introduced, the inclusion of a covering does not change the use of the existing structure. The lower deck area is proposed to be 2 feet in height, this is substantially smaller than other permitted structures which are as of right permitted to occupy a similar footprint at a lesser setback than the current proposal. The proposal is desirable for the appropriate development of the land, and building.

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 variance 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 variance is considered minor.

Public Comments

One formal comment has been received in opposition to the proposal. The full comment is provided below. In review of this comment, the applicant has made modifications to their proposal.

Financial/Staff/Legal/IT Considerations:

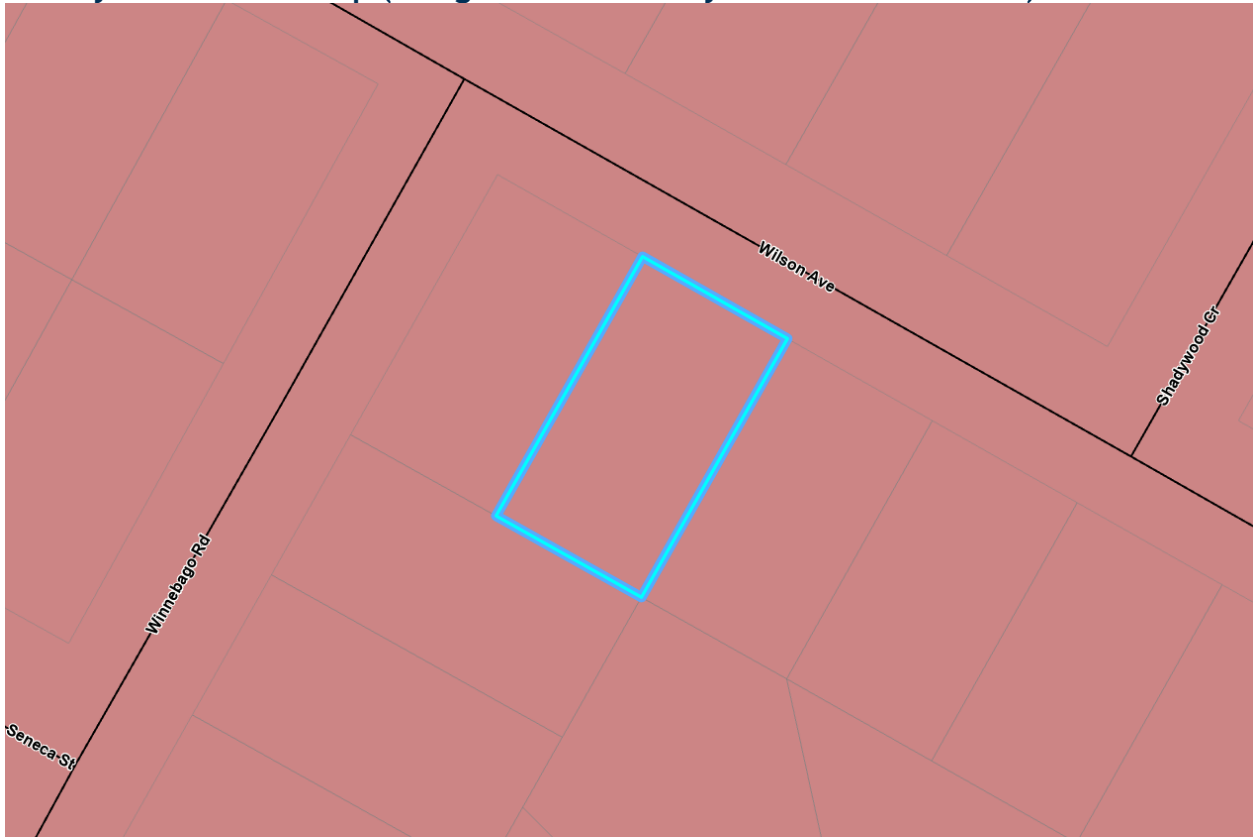
Potential Appeal to the Ontario Land Tribunal.

Appendices

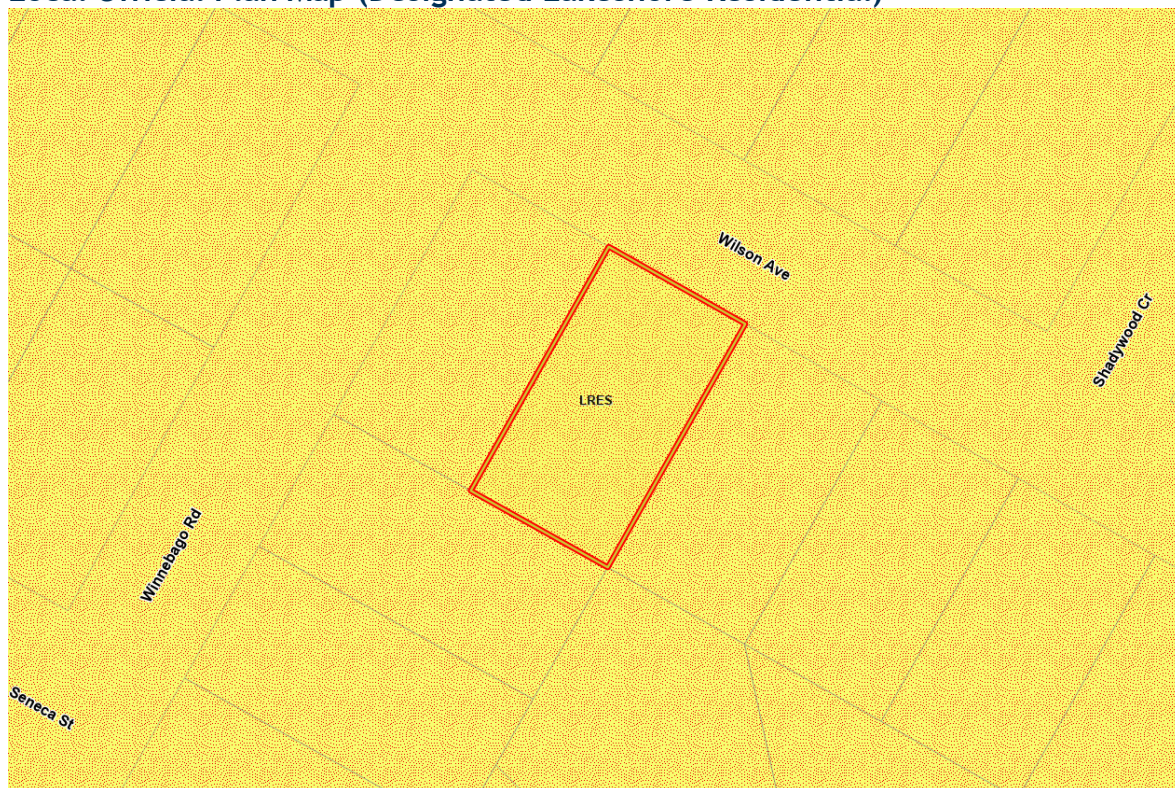
- County Official Plan Map
- Local Official Plan Map
- Local Zoning Map
- List of Supporting Materials
- Agency Comments
- Public Comments

- Public Notice

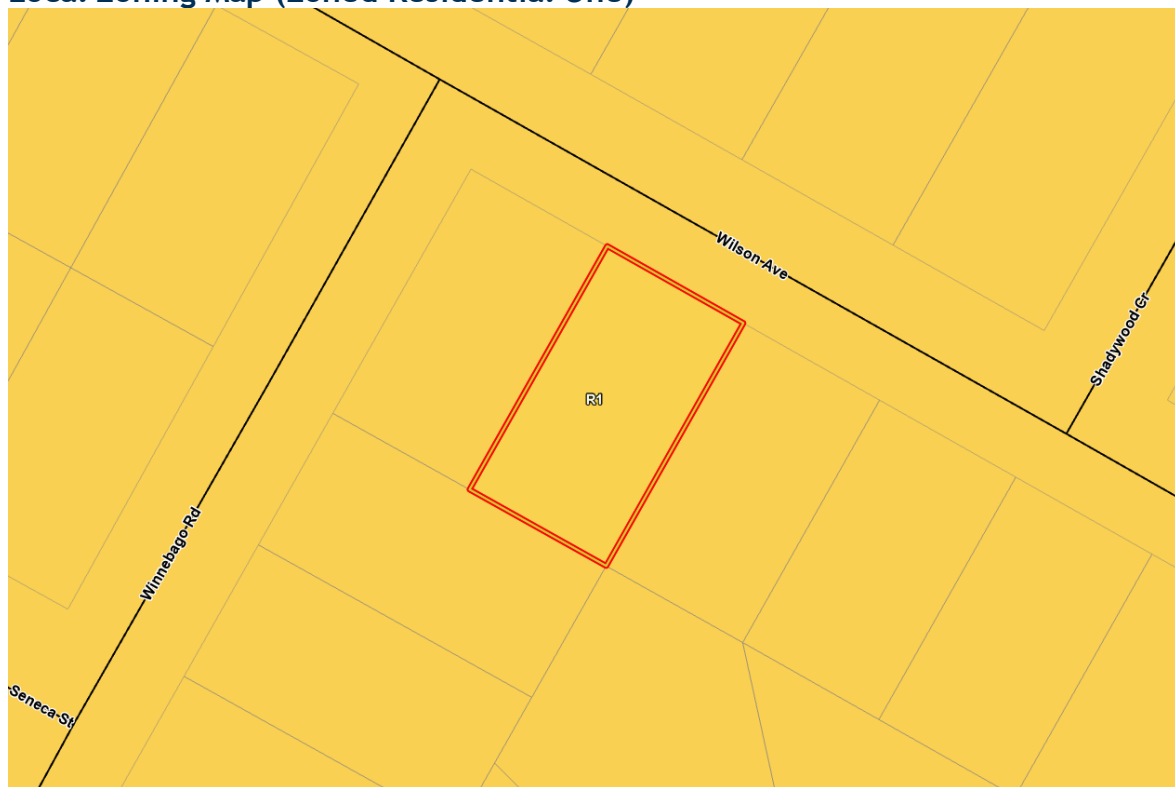
County Official Plan Map (Designated Secondary Urban Communities)



Local Official Plan Map (Designated Lakeshore Residential)



Local Zoning Map (Zoned Residential One)



List of Supporting Materials

- Building Plans - prepared by Nathan Adam

Note: If the proposal is approved, building plans will be required to be modified in accordance with the Minor Variance decision.

Agency Comments

The Corporation of the Township of Huron-Kinloss: No Comments.

BM Ross: No objections. The septic system for this property was installed & inspected in 2021. It will be due reinspection in 2029. It is advised that the property owner ensure the septic system is not covered by the proposed deck.

Historic Saugeen Métis: No objection or opposition.

Saugeen Ojibway Nation: An archaeological assessment is not necessary for the new development as indicated. If archaeological resources are revealed, please contact SON immediately.

Saugeen Valley Conservation Authority: The application is acceptable to SVCA staff. Full comments provided below.

SENT ELECTRONICALLY ONLY: BRusso@brucecounty.on.ca and bcplwa@brucecounty.on.ca

July 19, 2024

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

ATTENTION: Benito Russo, Planner

Dear Mr. Russo,

RE: A-2024-020 (Bailey)
819 Wilson Avenue
Roll No.: 410716000518023
Lot 24, Plan 795
Geographic Township of Huron
Township of Huron-Kinloss

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the above-noted proposal as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3 of the Provincial Policy Statement (PPS, 2020) and as a regulatory authority under Ontario Regulation 41/24 (SVCA's Prohibited Activities, Exemptions and Permits Regulation). SVCA staff has also provided comments as per our Memorandum of Agreement (MOA) with the County of Bruce representing natural hazards. The application has also been reviewed through our role as a public body under the Planning Act as per our CA Member approved Environmental Planning and Regulations Policies Manual, amended October 16, 2018. Finally, we have screened the application to determine the applicability of the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Plan, prepared under the Clean Water Act, 2006.

Purpose

The purpose of the application is to permit an interior side yard setback of 1.5m where 3.0m is required. If approved, this will permit the establishment of an uncovered lower-level deck and associated stairs, and the addition of a roof cover over the existing upper-deck area. This would result in further gross floor area encroaching into the required side yard setback.

Recommendation

The application is generally acceptable to SVCA staff.

Natural Hazards

There are no natural hazard features located on the subject property. The property is not zoned Environmental Protection (EP) in the Huron-Kinloss Zoning By-law 2018-98 and not designated EP in the Huron-Kinloss Official Plan (OP).

Provincial Policy Statement – Section 3.1

Section 3.1.1 of the PPS, 2020 states in part that development shall generally be directed to areas outside of hazardous lands and hazardous sites. Based on the plan submitted with the proposal, the proposal would be consistent with Section 3.1.1 of the PPS, 2020.

County of Bruce OP and Huron-Kinloss OP Policies

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.

Drinking Water Source Protection

The property appears to SVCA staff to not be located within an area that is subject to the local Drinking Water Source Protection Plan.

SVCA Regulation 41/24

SVCA staff has reviewed the proposal as per our responsibilities as a regulatory authority under Ontario Regulation 41/24 (SVCA's Prohibited Activities, Exemptions and Permits 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, or unstable soil or bedrock are not affected. SVCA also regulates the alteration to or interference in any way with a watercourse or wetland.

The northern portion of the property adjacent to Wilson Avenue is within the SVCA Approximate Screening Area associated with the SVCA's Prohibited Activities, Exemptions and Permits Regulation (Ontario Regulation 41/24). This Regulation is in accordance with Section 28 of the *Conservation Authorities Act* R.S.O, 1990, Chap. C. 27, and requires that a person obtain the written permission of the SVCA prior to any "development" within a Regulated Area or alteration to a wetland or watercourse.

For this property, the SVCA Approximate Screening Area includes Lake Range Drain Part 1 that is located on adjacent lands north of the property and an offset distance from this feature, which extends onto 819 Wilson Avenue.

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>. Should you require assistance, please contact our office directly.

Permission for Development or Alteration

If development or alteration including construction, reconstruction, conversion, grading, filling or excavation, is proposed within the SVCA Approximate Screening Area, associated with our Regulation on the property, the SVCA should be contacted, as permission may be required.

Based on the site plans submitted as part of the application, development will be located within the SVCA Approximate Screening Area, but outside of the SVCA's Regulated Area, therefore a permit from the SVCA will not be required. Should any new works such as development and/or site alterations be proposed within the SVCA Approximate Screening Area in the future, they may require permission from SVCA prior to work commencing.

Summary

SVCA staff has reviewed this proposal in accordance with our MOA with the County of Bruce, and as per our mandated responsibilities for natural hazard management, including our regulatory role under the *Conservation Authorities Act*.

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 has been demonstrated.
- 2) Consistency with local planning policies for natural hazards has been demonstrated.

Please inform this office of any decision made by the Township of Huron-Kinloss and/or the County of Bruce with regard to the proposal. Should you have any questions, please contact the undersigned.

Sincerely,



Vivian Vanceeder
Environmental Planning Technician
Saugeen Conservation
VV/

cc: Jennifer White, Clerk, Township of Huron-Kinloss (via email)
Larry Allison, SVCA member representing the Township of Huron-Kinloss (via email)
Amy Rogers, Applications Technician, Bruce County (via email)

From: [REDACTED]
To: [Bruce County Planning - Inland Hub](#)
Subject: Concerns re; file #A-2024-020
Date: Saturday, July 13, 2024 1:40:07 PM

You don't often get email from [REDACTED] [Learn why this is important](#)

**** [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.**

I am the owner of 428 Winnebago, immediately adjacent to 819 Wilson

The buildings on my property as well as those on 819 Wilson appear to meet the 3m set back requirements of the current zoning by-laws
However, at some point a deck was added at 819 Wilson with a set back of half of what zoning requires

Application A-2024-20 asks that this deck now be replaced, a roof be added to the replacement deck and a lower deck also encroaching into the side yard set back be built

I object to this application for the following reasons

With respect to the application as it pertains to the current deck

- the current deck is 28 feet long, and encroaches 21% of the 130 foot length of the property, a significant amount
- the addition of a roof would block the amount of light I receive, since the roof would also extend 1.5 m into the air space between our properties. This would be particularly evident since my property is at a lower elevation
- the addition of a roof would set a precedent for future variance requests for additions/extensions
- the current non compliant deck is immediately adjacent to my primary bedroom

I ask that

- the application to build a replacement deck be denied as if it does not meet current zoning requirements. Huron Kinloss has established these zoning by-laws as a way to address issues and concerns and maintain to a pleasant community for everyone.
- any necessary repairs made to the current deck maintain the footprint and height of the existing deck

With respect to the application as it pertains to the new lower deck

- the proposed lower deck is 19 feet long, a further 15% of the total length of the property. If allowed, 36% of the length of the side yard would be encroached by 1.5m
- a 3m tree protection zone needs to be maintained to protect the roots of cedar trees along the property line which would be impacted by the placement of helical piles/posts for the lower deck
- should a fence be placed along the lower deck, the air space above the deck would also be encroached, affecting the amount of light received
- a lower deck could be located elsewhere on the property in keeping with zoning by-laws

I ask that

- the application to build a new lower deck be denied as it does not meet the general intent and purposes of current zoning requirements and is not an appropriate development or use of the land



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



June 24, 2024

File Number(s): A-2024-020

Public Hearing Notice

**You're invited to participate in a Public Hearing
to consider a Minor Variance / file #A-2024-020
August 12, 2024 at 7:00 p.m., Council Chambers, Township
of Huron-Kinloss, 21 Queen Street, Ripley, ON**

For information on how to participate in the public hearing, please visit the township website at:
<https://events.huronkinloss.com/meetings>.

Please contact the Township of Huron-Kinloss jwhite@huronkinloss.com or 519-395-3735 x123 if you have any questions regarding how to participate in the meeting.

A change is proposed in your neighbourhood: The purpose of this application is a Minor Variance to permit an interior side yard setback of 1.5m where 3.0m is required. If approved, this will permit the establishment of an uncovered lower-level deck and associated stairs, and the addition of a roof cover over the existing upper-deck area. This would result in further gross floor area encroaching into the required side yard setback.



819 Wilson Ave

PLAN 795 LOT 24
CAMPBELL S/S
(Huron)

Township of Huron-
Kinloss

Roll Number:
410716000518023

Learn more

Additional information about the application is available online at <https://www.brucecounty.on.ca/active-planning-applications>. 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: Benito Russo

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 July 15, 2024 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 Meeting.

Stay in the loop

If you'd like to be notified of the decision of the Committee of Adjustment on the proposed application(s), 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

Only the applicant, the Minister, a specified person (being a utility and transportation company) or public body that 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. Appeals must be accompanied by payment of the fee charged by the Tribunal as payable on an appeal from a Committee of Adjustment decision to the Tribunal.

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

Site plan

