



Municipality of North Grenville

To: **Committee of Adjustment** Meeting Date: April 16, 2025

Subject: A-02-25 116 Clothier Street E Report No: PD-2025-023

Prepared by: Phil Mosher, Deputy Director of Planning

Recommendation(s)

THAT the Committee of Adjustment grant relief for the property located at 116 Clothier Street East Part of Lot 5, Plan 11, geographic Town of Kemptville, now the Municipality of North Grenville from the following sections of Comprehensive Zoning By-law 50-12:

1. To provide relief from Section 6.25[c] of the Comprehensive Zoning By-law to allow an addition and deck to be constructed at a setback of 1.8 metres from the regulatory flood line; and,
2. To provide relief from Section 13.2 of the Comprehensive Zoning By-law to interpret lot coverage as applying to the entire lot area.

Subject to the following conditions:

- That this decision be contingent upon obtaining a Section 28 permit from RVCA in support of the general development plan most appropriately depicted in Drawing A10, prepared by Lockwood Brothers Construction and dated December 16, 2024.
- That an erosion and sediment control plan be submitted in support of the application (Section 5.3.1[d][iv]);
- That the development enter into a site plan control agreement (Section 5.3.1[f]);
- That the owner and the Municipality discuss options for purchasing, acquiring, managing or providing access for waterfront lands for recreational purposes – trails (Section 6.4)
- That the development be generally in keeping with the submitted Site Plan drawing prepared by Lockwood Brothers Construction, Drawing A10 and dated December 16, 2024.

because the request is minor, the intent of the Comprehensive Zoning By-law and Official Plan are being maintained, and the variances are within the parameters for reconstruction in the Floodplain Hazards designation.

Executive Summary

Purpose

- To seek variance from provisions of the Zoning By-law to allow additional living space, including additional outdoor living space, and a detached shed to be constructed at the subject property.

Key Findings

- The majority of the subject property is located within an area subject to flooding as identified by the Municipality's Official Plan.
- A portion of the lands, about 351 m² is located outside of the floodplain and all construction is proposed outside the regulatory floodplain.
- An existing natural feature is a steep slope, described in the submitted slope stability assessment.
- While all construction is proposed to occur outside the floodplain, it is proposed within 15 metres of the regulatory flood line and also within an area identified as a geotechnical hazard based on partner mapping products from Rideau Valley Conservation Authority. Based on the distance to the regulatory flood line, a variance application is triggered.
- A variance is also required to increase lot coverage. North Grenville's Zoning By-law determines that lot coverage is calculated within each distinct zone category.
- Section 6.25[d] of the Zoning By-law allows reductions to development setbacks associated with slopes where a geotechnical investigation has been prepared which details the extent of the physical hazard.
- The applicant has been in discussions with the Municipality since Fall, 2024 as this application was prepared.

Financial Implications

- Depending on if the Committee supports discussions for potential land acquisition, this application may result in financial implications to the Municipality.

Background/Analysis

Commencing in November, 2024, the applicant began discussing plans with municipal staff to construct an addition to the existing single-detached dwelling at the subject property.

Municipal staff noted that a minor variance would be required based on the proposed proximity to the floodplain. It was also noted that lot coverage would need to be varied due to Section 3.5 (More than one zone on a lot) provisions of the Comprehensive Zoning By-law.

A final version of the development proposal was submitted in March, 2025 with the application for minor variance.

Based on a review of the Municipality's Official Plan and zoning information, and the Counties' Official Plan, the following has been identified:

- The subject property is designated Residential and Floodplain Hazards in accordance with Schedule "B" of North Grenville's Official Plan and "Rural" and "Urban Settlement Area" pursuant to Schedule "A" of the United Counties of Leeds and Grenville Official Plan.
- It is currently zoned Residential – Density 3 (R3) and Flooding and Erosion Protection (FEP) in accordance with Schedule "C" of the Municipality's Comprehensive Zoning By-law.

The Property

- The subject property is located within "Urban Service Area 1" and is just adjacent to the "Downtown Commercial Core" in the geographic Town of Kemptville.
- It is located about 200 metres east of the Clothier Street / Prescott Street intersection or Rotary Park.
- The property has frontage of approximately 16 metres on Clothier Street East and a depth of approximately 107 metres.
- The property backs onto the Kemptville Creek and is considered to be a waterfront lot.
- The area of the property is approximately 2711 m² with about 351 m² being located within the R3 zone category.
- The property also borders an unopened road allowance that would be considered to be a continuation of Barnes Street.
- A site visit was undertaken to the property on December 5, 2024.

Provincial Policy Statement

The Provincial Planning Statement 2024 (PPS) provides overarching policies for growth and development in Ontario. The PPS provides direction for growth on properties affected by natural hazards within Section 5. Of note, this property enjoys certain non-complying rights by being an existing dwelling within 15 metres of the regulatory flood line as well as being on an existing slope.

Section 5.3 of the PPS states that “[d]evelopment and site alteration shall not be permitted within...areas that would be rendered inaccessible to people and vehicles during times of flooding hazards [or] erosion hazards...unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard.”

Of note for this application, the “Slope Stability Assessment” submitted with this variance application has assessed the nature of the slope hazard. In the opinion of the author,

“the subject slope at the site, with consideration for the above described proposed site development, is adequately stable and no limit of hazard lands for the subject slope at the site is required.”

It is important to note that the document cannot be reduced to just the quote above. Any development at this property will be required to enter into a site plan control agreement with the Municipality which will require full adherence to the submitted slope stability assessment.

With the use of appropriate conditions, and site plan control, staff is confident that this application is consistent with the PPS.

United Counties of Leeds and Grenville Official Plan

The subject site is designated as “Urban Settlement Area” pursuant to Schedule “A” of the Counties’ Official Plan.

Importantly, Section 5.2.2 deals with flooding hazards, steep slopes, unstable soils, unstable bedrock and erosion hazards. The Counties’ OP directs development outside these hazardous areas. It further notes that local municipal Official Plans will identify hazards and provide associated policies. Subsection [e] of 5.2.2 echoes the PPS stating that development shall not be permitted within areas that would be rendered inaccessible to people and vehicles during times of flood hazards and erosion hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and natural hazard.

Subsection [f] of 5.2.2 states that minor additions to existing buildings or structures will only be permitted on an existing lot of record in an erosion hazard if it has been demonstrated that there is no alternative building envelope on the outside the erosion hazard and subject to the policies of the UCLG Plan.

Subsection [m] of 5.2.2 states that the stable top of the slope will be determined by a qualified Professional Engineer, in consultation with the local municipality and applicable Conservation Authority. It notes further that the required setback, if any, will reflect the degree, severity and extent of the hazard.

Subsection [n] of 5.2.2 provides authority to request geotechnical studies or engineering analysis to determine the feasibility of proposed development adjacent to hazardous lands.

Staff are of the opinion that the proposed variance does not contravene policies of the United Counties' Official Plan.

North Grenville Official Plan

With respect to the Official Plan of the Municipality of North Grenville, the subject site is designated Residential and Floodplain Hazards. The lands are also adjacent to the Kemptville Creek Provincially Significant Wetland, although development is proposed a sufficient distance from the wetland and this policy is not considered further.

Most importantly to this application, "erosion hazards" are described in Section 5.3 of the Official Plan. Subsection [a] of 5.3 provides that where detailed geotechnical engineering information is available or has been provided, the erosion hazard limit shall be defined based on the findings of the engineering recommendations. It is noted that these findings must be completed in accordance with the MNRF Technical Guidelines for Natural Hazards.

Section 5.3.1 [c] states that "development on existing lots of record containing erosion hazards and slopes shall...only proceed where an assessment, approved by the Conservation Authority, prepared by a qualified geotechnical engineer, determines the property can be safely developed."

The Plan goes further, noting that "...a geotechnical evaluation must contain erosion control measures associated with all structural, landscaping and surface drainage components of the development of the property."

Section 5.3.1[d] states that "additions to existing buildings and structures...shall only be considered when:

- i. The addition is supported by a geotechnical evaluation, approved by the Conservation Authority;
- ii. The addition does not extend further into the erosion hazard limit than the existing structure;
- iii. The addition generally does not exceed 30% of the floor area footprint that existed as of May 11, 2009; and,
- iv. The addition incorporates all identified erosion control measures associated with all structural, landscaping and surface drainage components of the development of the property."

Section 5.3.1[f] states that "[w]here development on existing lots of record or additions to existing buildings and structures on erosion hazards and slopes is appropriate, such development shall be subject to site plan control."

Section 6.4 of the Official Plan discusses public ownership and acquisition of natural heritage lands. It should be noted that certain areas may be desirable for public ownership or accessible for recreational uses where appropriate. In such cases, the Municipality shall explore options for purchasing, or otherwise acquiring, managing, or providing access to these lands.

In the opinion of staff, this application is consistent with the Municipal Official Plan, specifically Section 5.3.1. Namely, the proposed addition does not extend further into the erosion hazard limit (the proposed addition occurs on an existing deck). Also, the addition size does not exceed 30% of the floor area footprint of the existing dwelling. The submitted slope stability report identifies required erosion control measures, and staff proposes an appropriate condition of this variance application to require the development enter into a site plan control agreement as per Section 5.3.1[f] of the Official Plan.

It should be noted that an application has been submitted to RVCA to evaluate the geotechnical investigation, but the results of that permit have not been received. Therefore, staff would propose that if the Committee of Adjustment approves this application, a condition be added requiring a successful RVCA permit be obtained.

In addition to the RVCA permit condition, staff also proposes the following conditions:

- That an erosion and sediment control plan be submitted in support of the application (Section 5.3.1[d][iv];
- That the development enter into a site plan control agreement (Section 5.3.1[f]);
- That the owner and the Municipality discuss options for purchasing, acquiring, managing or providing access for lands for recreational purposes – trails (Section 6.4)
- That the development be generally in keeping with the submitted Site Plan drawing prepared by Lockwood Brothers Construction, Drawing A10 and dated December 16, 2024.

Comprehensive Zoning By-law 50-12

The subject property has dual zoning and is located on lands zoned Residential – Density 3 (R3) and Flooding and Erosion Protection (FEP) Zone as per Land Use Schedule “C” of the Comprehensive Zoning By-law.

Existing buildings and uses that were lawfully established prior to the date of the passage of the Zoning By-law are a permitted use, therefore the dwelling as it exists, has grandfathered rights. Certain zone regulations (15 metres from the regulatory floodline, lot coverage in the R3 zone) are currently not met at the subject property and cannot be met given the size of the property. These standards will need to be formally varied in the decision of the Committee of Adjustment if construction is to occur.

Staff are of the opinion that the requested variances are in keeping with the Municipal Zoning By-law.

Four Tests

Minor Variances must satisfy the four tests as outlined in the *Planning Act* to be permitted. It is the opinion of Staff that the four tests are met in the following ways:

- 1) The application is minor in nature: The request relates to constructing an addition in keeping with the Municipality’s Official Plan, and not in excess of the 30% floor area footprint requirement.
- 2) The application meets the intent of the Zoning By-law: the proposed minor variance has an appropriate geotechnical report which supports the proposed addition. In addition, lot coverage can be interpreted for the entire property for this addition. Any existing non-compliance with the Zoning By-law is not exacerbated by this application.
- 3) The application meets the intent of the Official Plan: the proposed minor increase in floor area is within allowable limits for a property that contains a slope hazard. The proposed renovation is not located closer to the normal highwater mark than currently exists but occupies existing deck area. Finally, the development will be subject to site plan control as a condition.
- 4) The application is appropriate and represents good land use planning. It allows a minor increase in floor area for non-conforming and non-complying property. Future erosion protection measures as outlined in the slope report will safeguard construction.

Relevance to Strategic Priorities

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| Strategic Pillar | Pillar #2 - A Strong, Connected, and Vibrant Community |
| Goal | Goal #2.3 - Build and Grow in a Connected Way |
| Key Action | Action #2.3.3 - Promote development policies that incorporate connectivity and coordination with the surrounding area |

Options and Discussion

1. Approve the recommendation – **RECOMMENDED, subject to conditions**
2. Do not approve the recommendation – Not Recommended

Financial Impact

This item has been identified in the current budget: Yes No N/A

This item is within the budgeted amount: Yes No N/A

Staffing implications, as they relate to implementing Council’s decision on this matter, are limited to the existing staff complement and applicable administrative policies as approved by Council.

Internal/External Consultation

Public agencies are circulated in accordance with the Planning Act.

Comments received after the report is published will be circulated to members of the Committee and summarized at the Public meeting.

Planning Division circulates all Planning Act applications internally for further review by Municipal Departments and comments have been incorporated into the report. At the time of writing, the following had been received:

- A no comment email from UCLG
- A no comment email By-law
- A request for information from a member of the public

Any comments received after the report will be circulated to members.

Communications

Implementing the decision of the Committee is subject to the Provisions of the Planning Act and will not require further communication resources to implement the decision of the Committee.

Attachments

- Attachment 1 – Zoning Map
- Attachment 2 – Official Plan
- Attachment 3 – Development Site Plan
- Attachment 4 – Slope Stability Assessment