

STAFF REPORT

TO: Angela Loney,
Clerk Administrator, Township of Machar

FROM: Jamie Robinson, BES, MCIP, RPP
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MHBC Planning Limited

DATE: January 27, 2025

SUBJECT: Minor Variance Application – Gerald John Linde
883 Scarlett Road, Township of Machar

A. Proposal / Background

A Minor Variance application has been submitted by Gerald John Linde who owns the subject property located at 883 Scarlett Road. The subject property is shown on Figure 1.

Figure 1: Subject Property



The purpose and effect of the Minor Variance application is to permit the construction of a new single detached dwelling on the subject property that does not meet the minimum setback from a lake, the minimum front yard requirement and the minimum rear yard requirement of the Zoning By-law.

When the Notice of Public Hearing was mailed out, it was understood that the owner did not purchase the original shore road allowance based on the drawings that were submitted with the application. The owner since has provided information to the Township that demonstrates that the original shore road allowance was purchased and is now owned by Mr. Linde.

The location of the proposed single detached dwelling has not changed and based on the ownership of the original shore road allowance, the following variances to the Zoning By-law are required:

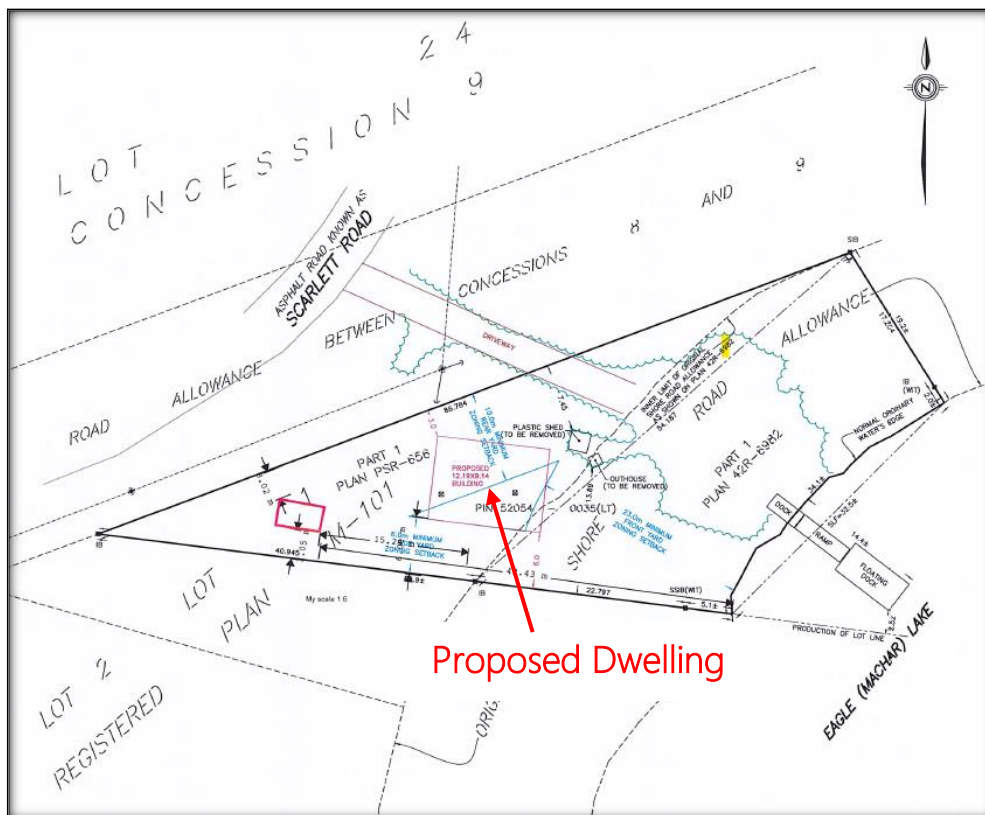
- 1) A variance is required to Section 3.27 of the Zoning By-law to permit a single detached dwelling with a minimum setback of 21.8 metres from the high water mark of Eagle Lake, where the Zoning By-law requires a minimum setback of 23 metres.
- 2) A variance is required to Section 4.2.2 c) of the Zoning By-law to permit a single detached dwelling with a minimum front yard of 21.8 metres, where the Zoning By-law requires a minimum front yard for the Shoreline Residential (SR) Zone of 23 metres.
- 3) A variance is required to Section 4.2.2 f) of the Zoning By-law to permit a single detached dwelling with a minimum rear yard of 3 metres, where the Zoning By-law requires a minimum rear yard for the Shoreline Residential (SR) Zone of 10 metres.

The general nature of the requested three variances remains the same, regardless of the purchase of the shore road allowance.

The subject property is designated as Shoreline in the Official Plan and is located within the Shoreline Residential (SR) Zone. The subject property has a lot area of approximately 1,639 square metres and a lot frontage of approximately 35 metres on the shoreline of Eagle Lake. The lot is a unique triangular shape, which reduces options for siting a dwelling in accordance with the provisions of the zoning by-law.

The owner is proposing a new single detached dwelling with an approximate floor area of 111 square metres, generally located in the west corner of the subject property. The subject property is already developed with a dock on the shoreline. The owner has indicated that the two existing structures are to be removed, including the plastic shed and the outhouse. A copy of the sketch submitted with the Minor Variance application is shown in Figure 2.

Figure 2: Application Sketch



B. The Proposed Variances

The application for Minor Variance is required to facilitate the development of a new single detached dwelling that requires the following variance to the Zoning By-law:

- 1) A variance is required to Section 3.27 of the Zoning By-law to permit a single detached dwelling with a minimum setback of 21.8 metres from the high water mark of Eagle Lake, where the Zoning By-law requires a minimum setback of 23 metres.
- 2) A variance is required to Section 4.2.2 c) of the Zoning By-law to permit a single detached dwelling with a minimum front yard of 21.8 metres, where the Zoning By-law requires a minimum front yard for the Shoreline Residential (SR) Zone of 23 metres.
- 3) A variance is required to Section 4.2.2 f) of the Zoning By-law to permit a single detached dwelling with a minimum rear yard of 3 metres, where the Zoning By-law requires a minimum rear yard for the Shoreline Residential (SR) Zone of 10 metres.

C. Regulatory Review & Analysis

C1. Provincial Planning Statement, 2024

The Provincial Planning Statement is a document that guides development in the Province. In the context of the PPS, the subject property would be considered as Rural Lands. On Rural Lands, permitted uses include residential development. The proposed single detached dwelling is considered a permitted use on Rural Lands. The proposed use is consistent with the PPS.

C2. The Four Tests of a Minor Variance

In considering this application, the Committee needs to be satisfied that the proposal is in-keeping with the “Four Tests” of a Minor Variance as is set out in Section 45 of the *Planning Act*. Based on the information provided in the application package, a review of the four tests was conducted and is summarized as follows:

1. Are the Variances in Keeping with the Intent of the Official Plan?

The subject property is located within the Shoreline designation of the Official Plan. The intent of the policies within the Official Plan for the shoreline area is to ensure that new development is consistent with the scale and character of the shoreline, in an effort to preserve the visual character of the shoreline and to provide for the protection of natural heritage features and groundwater resources. Permitted uses within the Shoreline designation include single detached dwellings.

The subject property is currently vacant and due to the size and shape of the existing lot of record, it is difficult to meet all the required setbacks in the Zoning By-law for development within the Shoreline Residential (SR) Zone. In order to preserve vegetation in the shoreline area, Section B4.4.1 of the Official Plan states that development shall be setback a minimum of 23 metres from the high water mark. Further, Section B4.4.3 of the Official Plan recognizes that variances to the setbacks may be considered where the applicant provides satisfactory evidence to the Township that demonstrates that the visual or environmental impact of the single detached dwelling will not be significant.

In regards to the proposed location of the single detached dwelling and the requested minimum front yard and minimum setback from the high water mark of Eagle Lake of 21.8 metres, the owner has attempted to push the proposed dwelling to the west corner of the subject property as much as possible, maximizing the setback from the lake with only a small corner of the proposed dwelling being located closer than the required 23 metre setback. Based on the proposed setback and the requested variance of 1.2 metres, there appears to still be adequate land within the required front yard to provide for natural vegetation and screening from the lake. There are no land use conflicts anticipated as a result of the reduced front yard on the subject property.

Section B4.4.2 provides policies to address the maintenance of character within the Shoreline Areas, including a maximum lot coverage of 10 percent of the lot area within 60 metres of the shoreline. The proposed size of the single detached dwelling is modest and respects the maximum lot coverage within 60 metres of the shoreline.

In accordance with Section B4.4.4 of the Official Plan, septic systems are required to be setback at least 30 metres from the shoreline, unless the terrain or lot depth cannot accommodate this setback. Tertiary treatment systems are permitted within 30 metres of the shoreline. There appear to be locations available on the west corner of the subject property to accommodate a septic system that meets the minimum setback of 30 metres. If the owner cannot meet this requirement, then a tertiary treatment system would be required.

The shoreline generally to the northeast of the subject property contains mapped fish habitat. The mapped fish habitat is 120 metres from the development envelope that is proposed through the application and the shoreline of the subject property already contains a dock. The subject property is also separated by an unopened road allowance that is not developed from the fish habitat area. As a result, negative impacts are not anticipated on the fish habitat area as a result of the proposed development and associated Minor Variance approval.

There are policies in the Official Plan regarding Eagle Lake and permissions for new lots are limited due to lake capacity requirements. The subject property is an existing lot of record and development on the subject property is permitted.

The proposed variances are in keeping with the intent of the Official Plan.

2. Are the Variances in Keeping with the Intent of the Zoning By-law?

The application for Minor Variance is required to facilitate the development of a new single detached dwelling that requires the following variances to the Zoning By-law. Analysis for each variance is included under each section.

- 1) A variance is required to Section 3.27 of the Zoning By-law to permit a single detached dwelling with a minimum setback of 21.8 metres from the high water mark of Eagle Lake, where the Zoning By-law requires a minimum setback of 23 metres.
- 2) A variance is required to Section 4.2.2 c) of the Zoning By-law to permit a single detached dwelling with a minimum front yard of 21.8 metres, where the Zoning By-law requires a minimum front yard for the Shoreline Residential (SR) Zone of 23 metres.

The intent of the minimum front yard requirement within the SR Zone and the minimum setback from the lake is to ensure an adequate setback from the shoreline or front lot line is required to maintain the character of the lake, as well as to require minimum front yards and setbacks from the lake to provide an opportunity for natural vegetation to be maintained between development and the shoreline.

The owner has attempted to push the proposed dwelling to the west corner of the subject property as much as possible, maximizing the setback from the lake with only a small corner of the proposed dwelling being located slightly closer than the required 23 metre setback. Based on the proposed setback and the requested variance of 1.2 metres, there appears to still be adequate land within the required front yard to provide for natural vegetation and screening from the lake. It is recommended that the approval of the Minor Variance application and the location of the proposed single detached dwelling be in substantial compliance with the sketch included in Figure 2 of this Report.

- 3) A variance is required to Section 4.2.2 f) of the Zoning By-law to permit a single detached dwelling with a minimum rear yard of 3 metres, where the Zoning By-law requires a minimum rear yard for the Shoreline Residential (SR) Zone of 10 metres.

The intent of the minimum rear yard on shoreline properties is to ensure that buildings and structures are adequately setback from the road allowance and there is sufficient space for parking and access to the building from a road. The proposed single detached dwelling has a corner of the proposed building that is to be located 3 metres from the road allowance and rear property line, however, the other portions of the building are further setback. Based on the location, there appears to be adequate space to enter the property from the existing driveway and ample space for the parking of vehicles within the subject property. It is also noted that the travelled portion of the road is approximately 15 metres from the closest point of the building.

Similar to the Official Plan, Section 3.26 of the Zoning By-law requires a minimum setback of 30 metres from the shoreline for a septic system. Where sewage systems cannot be set back 30 metres from the shoreline they shall utilize tertiary treatment systems that reduce or eliminate phosphorus and nitrate from reaching the shoreline. There appear to be locations available on the west corner of the subject property to accommodate a septic system that meets the minimum setback of 30 metres. If the owner cannot meet this requirement, then a tertiary treatment system would be required.

Other than the required variances, the proposed single detached dwelling would comply with the other provisions in the Zoning By-law and the SR Zone, including maximum dwelling height, minimum interior yards, and maximum lot coverage.

The proposed variances are in keeping with the intent of the Zoning By-law.

3. Will the Variance Provide for the Desirable Development of the Land?

The subject property is designated and zoned for shoreline residential uses. The proposed variances are required to permit a new single detached dwelling that is pushed to the western corner of the subject property. The slight reduction in the minimum required front yard and minimum setback from the lake will still provide adequate areas in front of the single detached dwelling to be maintained with existing vegetation. The

reduction to the minimum required rear yard does not impact access or parking on the subject property. The proposed variances can be considered desirable for the development of the land in this situation.

4. Is the Variance Minor?

Although we have not had an opportunity to conduct a site visit, the review of the previous three tests suggest that the proposed variance is minor in nature. Overall, the proposed single detached dwelling does not appear to have a negative effect on the character of the area and is located at a setback from Eagle Lake that is similar or further setback than other existing developments along the shoreline.

D. Recommendation

The proposed application is to permit a single detached dwelling with a minimum front yard and a minimum setback from the lake of 21.8 metres, and a minimum rear yard of 3 metres. The proposed variances have been reviewed within the context of applicable Official Plan policies, Zoning By-law regulations and the Provincial Planning Statement. In addition, the Four Tests for a minor variance under the *Planning Act* have been considered.

It is recommended that the approval apply to the proposed single detached dwelling that has a minimum front yard and minimum setback from the lake of 21.8 metres and a minimum rear yard of 3 metres, being in substantial compliance with the sketch that was submitted with the Minor Variance application.

On the basis of this review, it is recommended that the Committee of Adjustment grant the minor variances for the following reasons:

1. The variances are in keeping with the intent of the Official Plan;
2. The variances are in keeping with the intent of the Zoning By-law;
3. The variance is desirable for the appropriate development of the lands;
4. The variance is minor in nature; and
5. The application represents good planning.

We trust that the information provided in this Report will assist the Committee in making a decision with respect to the subject application.