

180 SHELDON LANE

MINOR VARIANCE

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April 3, 2024

John Jardine

Municipal Planner
Planning Department
Municipality of Hastings Highlands

**RE: 180 Sheldon Lane, Municipality of Hastings Highlands
Minor Variance Application (File No. A-27-2023)
Planning Opinion Memo**

Dear Mr. Jardine,

Fotenn has been retained by the applicant to prepare this Planning Memo for the lands located at 180 Sheldon Lane (the “subject site”), located on the east side of Salmon Trout Lake in the Municipality of Hastings Highlands.

The Municipality of Hastings Highlands is part of the County of Hastings. As such, the County of Hastings Official Plan (OP) establishes the general land use policy framework for the subject site. The site is designated “Rural and Waterfront”, as per Schedule OP-A of the County of Hastings Official Plan. The subject site is zoned ‘Limited Service Residential (LSR) Zone’ under Zoning By-Law 2004-035.

Purpose of Memo

The purpose of this memo is to review the proposed development and provide a professional planning opinion regarding the appropriateness of the proposed variances for the subject site. Fotenn is in receipt of correspondence between the Applicant and the Town’s Planning Staff, originally submitted application materials and revised architectural drawings. Staff reports prepared by the municipality have also been reviewed as part of the preparation of this memo. Accordingly, this memo includes an outline of the application history to-date, including the original development application, a summary of the previous Staff report, nearby approved applications, and an analysis of the four tests for a minor variance.

Application History

It is our understanding that the applicant submitted a Minor Variance (MV) application in November 2023 (file no. A-27-2023) to permit the construction of a two-storey accessory garage structure, for storage purposes. No living spaces are proposed within the proposed garage.

Prior to the MV application, an application for consent to permit a lot addition for the subject site (file no. B54/19) was approved by the County of Hastings. At the time of the consent application, the intent of the lot addition was to accommodate a future accessory garage on the newly acquired lands.

The 2023 Minor Variance application was scheduled for a hearing before the Committee of Adjustment (COA) on November 9, 2023. During this meeting, the applicant presented the proposal, seeking to gain relief for the proposed accessory garage from the provisions pertaining to site alteration within 30 metres of a steep/unstable slope, lot coverage for accessory structures, setback to a lot line, and maximum building height. It should be noted that at the November meeting, there was a miscommunication between Municipal Staff and the applicant regarding the building height. In their report, Staff noted that the height of the structure to the midpoint would be approximately 26 feet; however, it was intended that the overall height of the building (to the peak) would be 26 feet – resulting in a substantially lower midpoint height of approximately 22.5 feet.

During the November meeting, the Committee of Adjustment voted to defer the application to a future Committee hearing in order to allow the application time to review the Zoning By-law. The application was ultimately rescheduled to be heard by the Committee of Adjustment at the March 14th, 2024 meeting.

Revised building plans were submitted in advance of the March 14th meeting, which demonstrated a building height of 22'6" to the midpoint of the roof. Municipal Planning Staff prepared a report (dated February 1st, 2024) for the Committee of Adjustment outlining the intent of the application, requested variances, and Staff's recommendations to the Committee. In their February 1st Report, Staff noted that the proposed accessory garage would require relief from the following zoning provisions:

- 1) **Section 5.9.2 (ii)** – No development or site alteration within a minimum distance of 30 metres from a steep and/or unstable slope;
- 2) **Section 5.25.1 a)** – The total square footage of the footprints of all accessory buildings on a lot shall not exceed five (5) percent of the total lot area;
- 3) **Section 5.25.4** – An accessory building shall not be closer to any lot line than the minimum distance required (10 metres from the front lot line); and
- 4) **Section 8.3 (b) (iv)** – The maximum building height for an accessory building is 4.5 metres (14.8 feet) from the established grade to the midpoint of the roof.

The above-noted variances were outlined in a report by Municipal Staff in a planning report to the Committee of Adjustment, dated February 1st, 2024. Staff ultimately concluded that three (3) of the requested variances meet the four tests of a minor variance (setback from slope, front lot line setback, and maximum lot coverage) and recommended they be approved provided that no living, sleeping, dining/washroom space or facilities be permitted in the detached garage. Staff also concluded in the report that the proposed variance to the maximum building height be deferred, as in their opinion the proposed height does not meet the four tests of a minor variance.

We have reviewed the opinions presented by Staff in their February 1st report to Committee, and we agree that variances 1 – 3 are appropriate and should be approved. However, it is our opinion that the fourth variance (pertaining to maximum building height) is also appropriate and should be approved. A detailed review of the proposed building height variance is outlined below.

In addition to the planning rationale contained herein, a revised set of architectural plans have been prepared in consideration of public and technical comments received regarding the application. Changes to the proposed plans are discussed in greater detail below.

Revised Concept Overview

Revised plans for the proposed garage have been prepared in response to public and technical comments received to-date. No changes to the original concept plan are proposed as it relates to the location or footprint of the proposed garage.

The revised architectural drawings illustrate a decrease to the overall height of the building from approximately 7.6 metres (25.1 feet) to 7.2 metres (23.6 feet) (as measured to the peak of the roof). For zoning purposes, the midpoint of the roof now has a height of approximately 6.3 metres (20.7 feet), whereas it was previously measured at 6.85 metres (22.5 feet). The represents a decrease of approximately 0.55 metres (1.8 feet) from the previous concept.

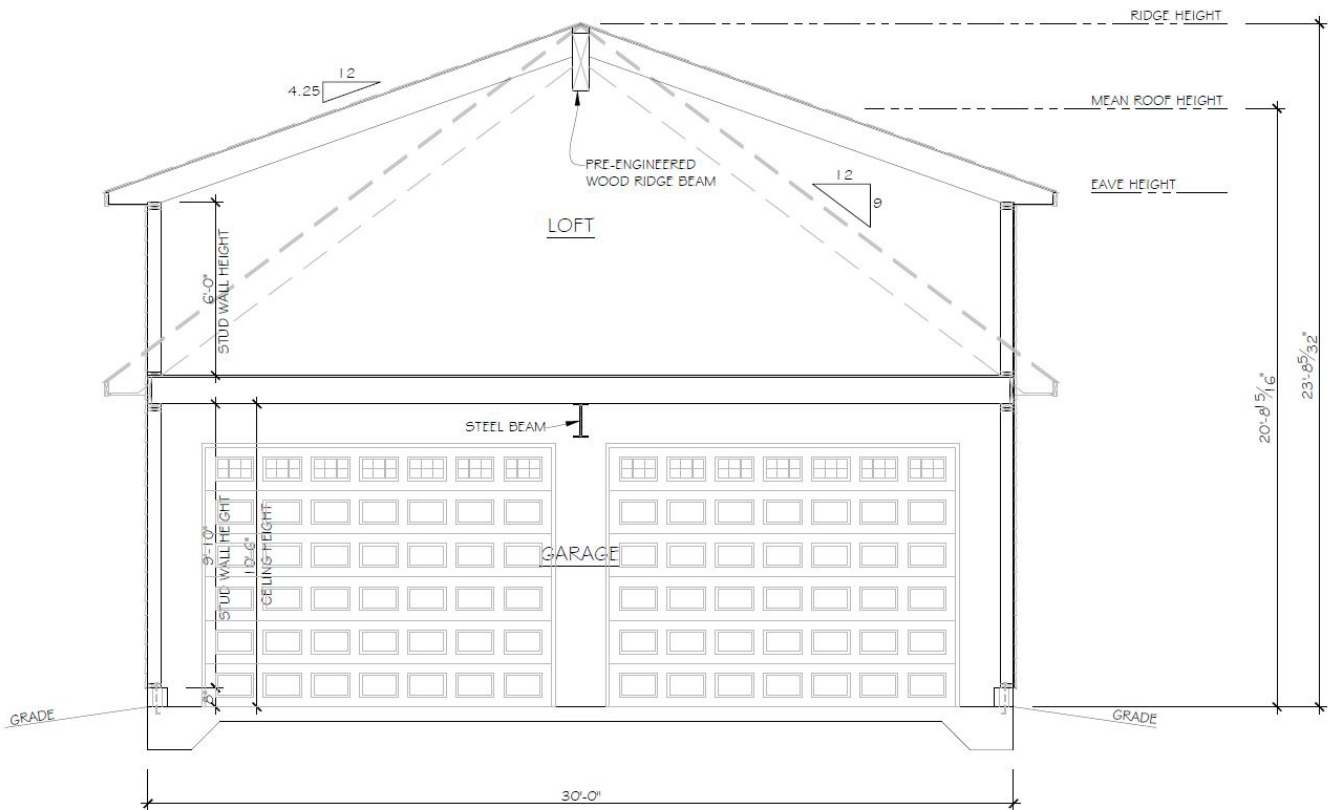


Figure 1: Proposed accessory garage elevation.

A vegetated row of native planting species are proposed along both sides of the garage to help blend it into the landscape, and to partially obscure views of the structure from adjacent properties.

In determining the height of the proposed garage, Fotenn examined other structures in the vicinity of the subject site, as well as recent approvals for variances to maximum building height in the surrounding area. It was identified that there are numerous two-storey garages in the immediate vicinity, including two-storey garage structures at 156 Sheldon Lane and 310 Sheldon Lane, among others.

In a review of past approvals by the Committee of Adjustment, it was identified that a variance to the maximum garage height was approved for the property located at 374 Sheldon Lane in September 2023 (file no. A-21-2023). The approved variance supported by Municipal Planning Staff permits a maximum height for the future garage of approximately 7.75 metres (25.5 feet) measured to the midpoint of the roof, resulting in an actual height building height of 8.5 metres (28 feet) to the peak of the roof. In comparison, the revised proposed accessory garage for 180 Sheldon Lane is proposed to be approximately 1.45 metres (4.75 feet) shorter to the midpoint of the roof, and 1.3 metres (4.26 feet) shorter to the peak of the roof.

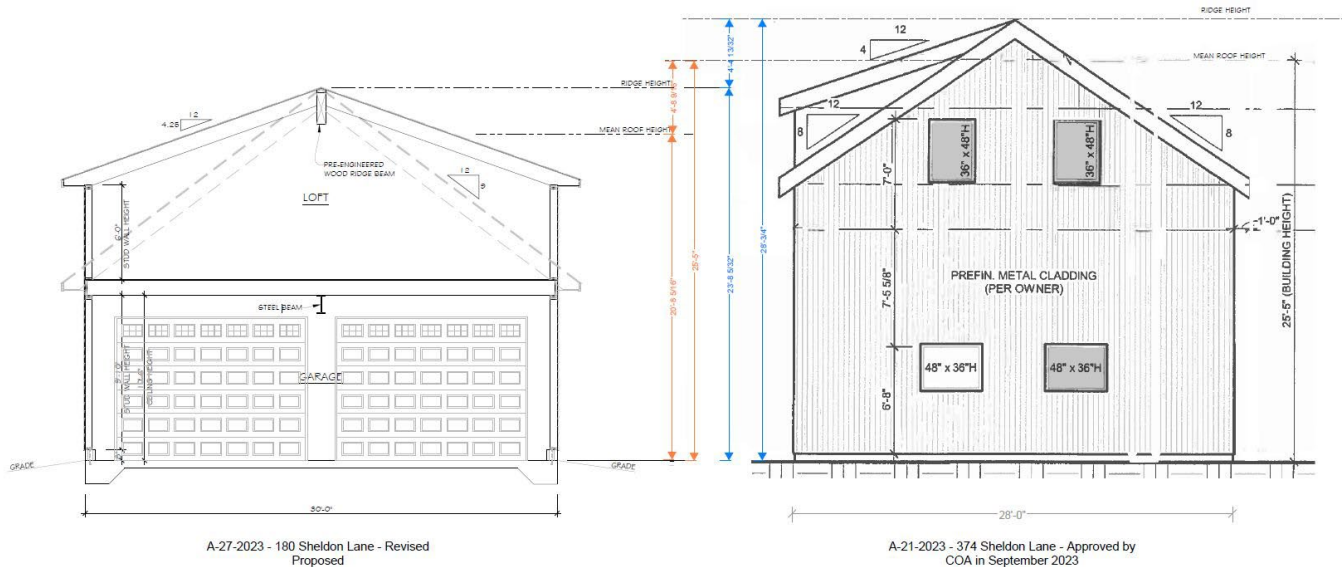


Figure 2: Proposed Development compared against approved elevations for 374 Sheldon Lane (A-21-2023).

Accordingly, it is our opinion that the proposed building height is appropriate in the context of the surrounding area.

Minor Variance – Maximum Building Height

As discussed above, we have reviewed Municipal Staff's opinion regarding variances 1-3 (as outlined above) and agree with Staff's recommendations for approval. As no changes to the structure's location or footprint are proposed, no further detailed assessment for variances 1-3 is provided herein.

This review and planning rationale is therefore limited to the requested relief to the maximum height permissions under the Hastings Highlands Zoning By-law 2004-035. The proposed height variance has been assessed based on the four tests for a minor variance, as described in Section 45(1) of the Planning Act as follows:

Test #1: Is the general intent and purpose of the Official Plan maintained?

Test #2: Is the general intent and purpose of the Zoning By-law maintained?

Test #3: Is the variance minor?

Test #4: Is the variance desirable for the appropriate development or use of the lands in question?

Regarding the fourth and final variance to maximum building height for an accessory structure, we have prepared a detailed review of the four tests for a minor variance and outlined our opinions below. Whereas the previous garage design measured 6.85 metres (22.5 feet) to the midpoint of the roof, the revised concept has a height of approximately 6.3 metres (20.7 feet) to the midpoint of the roof. Based on the revised architectural plans for the accessory garage, the proposed variance to maximum building height is as follows:

- 4) **Section 8.3 (iv)** – The maximum building height for an accessory building in the Limited Service Residential (LSR) Zone is 4.5 metres (14.8 feet) from the established grade to the midpoint of the roof. Notwithstanding Section 8.3 (iv), a maximum height of 6.4 metres (21 feet) shall be permitted.

Planning Act – Four tests of a Minor Variance

Test 1: Is the general intent and purpose of the Official Plan maintained?

The Municipality of Hastings Highlands is part of the County of Hastings. As such, the County of Hastings Official Plan (OP) establishes the general land use policy framework for the subject site. The site is designated “Rural and Waterfront”, as per Schedule OP-A of the County of Hastings Official Plan.

Section 5.4 of the County OP provides policy direction for lands designated Rural and Waterfront on Schedule OP-A. Permitted uses in the Rural and Waterfront designation includes rural development that respects traditional features of the landscape and generally maintains the character of the area, limited low density residential uses, agricultural uses, and various other small scale commercial and industrial uses.

Section 5.4.5 of the OP provides policy direction regarding the pattern of development and waterfront. Section 5.4.5.3 outlines the following relevant planning principles, which are intended to guide future development within the Rural and Waterfront designation:

- a) *Development should not take place on lands having environmental constraints and is discouraged in areas possessing important natural characteristics unless it can be demonstrated that there will be no negative impact on the feature or its ecological function in accordance with the policies of this Plan;*
- b) *The natural landscape should prevail with built form blending into the landscape;*
- c) *Lot lines should respect traditional features of the landscape, such as historic fencelines, treelines and topography, and generally maintain the rural character of the area;*
- d) *Natural shorelines and vegetative buffers will be retained, maintained and/or restored;*
- e) *Native species should be used for buffers and where vegetation is being restored;*
- f) *Measures such as changes to proposed lot lines and increased setbacks should be utilized to help address potential negative impacts to natural heritage features and the environment;*
- g) *Structural development will maintain a low structural profile and will not create a new skyline or ridgeline above the existing tree canopy;*
- h) *Building mass and coverage should be limited in relation to the size and frontage of the property and be in keeping with the character of the surrounding area; and,*

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- i) *Building envelopes, including the careful siting of shoreline structures, and the associated activity area should be defined and located in the most appropriate locations on the property, leaving the remainder of the property generally in its natural state.*

The proposed development will not have any negative impacts on natural environmental features or the shoreline. A row of native tree species are proposed to be planted along either side of the proposed garage, to assist in blending the garage into the landscape and obscuring views of the structure. The height of the proposed garage is measured at 20'9" (to the midpoint) and will not project above the tree canopy. The size and location of the garage has been reviewed and has been determined to be appropriate by Municipal Staff. We concur with these findings and note that the garage is in keeping with the character of the area, which features multiple two-storey garages (including a recent approval for a new garage which is greater than 25 feet in height). No existing vegetation is required to be removed to accommodate the proposed garage, and new plantings will be introduced to improve the natural state of the property.

The proposed height of the garage structure is consistent with the general intent and purpose of the Rural/Waterfront designation. The proposal will not adversely impact the rural character of the area, as there are numerous examples of similar existing structures along Sheldon Lane. Furthermore, Staff and Committee recently approved a variance in September 2023 to permit a significantly taller structure with a height of 25.6 feet (file no. A-21-2023). At that time, the proposed building height was determined to be consistent with the rural character of the area.

It is our professional opinion that the requested variance maintains the general intent and purposes of the County of Hastings Official Plan.

Test 2: Is the general intent and purpose of the Zoning By-law maintained?

The subject site is zoned 'Limited Service Residential (LSR) Zone' under Zoning By-Law 2004-035, which permits a detached garage as an accessory structure. As noted in the initial application and in the February 2024 Staff report, the proposed development does not conform to the applicable height regulation of the Zoning By-law. The maximum building (measured to the midpoint of the roof) is 4.5 metres (14.8 feet), whereas the proposed garage will have a height of 6.3 metres (20.7 feet). This represents a variance of approximately 1.8 metres (5.9 feet).

The intent of the maximum building height provision in the Zoning By-law is to ensure that new development is compatible with the character of the surrounding area, and that there are no adverse impacts to adjacent lands as a result of building heights.

As discussed above, there are numerous examples of similar two-storey structures within the surrounding area, including structures located at 156 and 310 Sheldon Lane, respectively. Furthermore, in September 2023, the Committee of Adjustment approved a variance for the property located at 374 Sheldon Lane to permit a garage with a maximum height of 7.8 metres (25.6 feet). As noted by Staff in their September 2023 report, the height of the proposed garage (at 7.8 metres in height) maintains the character of the neighbourhood and does not represent a larger-than-normal garage in the neighbourhood. The approved variance for 374 Sheldon Lane exceeds the height of the proposed garage for the subject site by approximately 1.5 metres (4.9 feet).

Given these contextual circumstances, it is evident that the proposed garage is consistent with the character of development along Sheldon Lane. The proposed structure will maintain a low structural profile and will not diverge from the pattern and scale of development on adjacent lands. The proposed native tree plantings will further serve to blend the structure into the fabric of the neighbourhood and will help to screen the structure from view.

Regarding potential impacts to adjacent lands, the location of the garage will ensure minimal impacts to adjacent properties. Generally speaking, impacts to adjacent lands which should be contemplated from a planning perspective include matters such as shadowing, intrusive overlook, loss of privacy, increased light pollution, or the reduced ability to

enjoy a property. The proposed development will not result in any adverse impacts to adjacent lands. At 6.3 metres (20.7 feet) in height, the garage will not generate any significant or unreasonable shadowing impacts on adjacent lands. As the garage is not intended as a living space, there will be no loss of privacy or intrusive overlook concerns into neighbouring dwellings. The garage will not be a significant source of light during nighttime hours. The proposal will not have any anticipated impacts on the ability to enjoy neighbouring properties, as the garage is located between the neighbouring dwelling and the road. As such, there will be no impacts to views or access to the shoreline. Proposed native tree plantings will help to blend the garage into the fabric of the neighbourhood and provide partial visual screening for neighbours. The proposed garage will assist in screening dust and noise generated by vehicles along Sheldon Lane for the adjacent property at 156B Sheldon Lane.

It is our professional opinion that the requested variances maintain the general intent and purposes of Zoning By-law 2004-035.

Test 3: Is the variance minor?

The determination of whether an application is minor is not a mathematical consideration. Rather, this test is intended to assess the degree of any impacts resulting from the minor variance application, including the cumulative impact of multiple variances.

The proposed variance to the maximum height regulation is required to accommodate the proposed garage structure on the subject lands. The proposed garage will have a height of 6.3 metres (20.7 feet), therefore requiring relief of approximately 1.8 metres (5.9 feet). This represents a minor overall increase the height of the structure and the variance will not result in impact to the function of surrounding properties, as there will be no impacts to views of the waterfront and no anticipated shadowing impacts on the adjacent property. As discussed above, there are no anticipated privacy impacts since the proposed garage is a non-living space.

The proposed garage may have tangential benefits of noise mitigation, screening of dust, and visual screening between the adjacent property (168B Sheldon Lane) to the road.

When examined cumulatively, the proposed variance to the maximum height regulation will not result in any significant impacts to the neighbourhood and adjacent properties. Accordingly, the proposed variances are considered minor in nature and will largely maintain the established nature of development in the surrounding neighbourhood.

It is our professional opinion that the proposed variances are minor in nature.

Test 4: Is the variance desirable for the appropriate development of the lands in question?

The requested variance is required to permit construction of an accessory garage structure with a second storey, having a total height of approximately 6.3 metres (20.7 feet) to the midpoint of the roof and 7.2 metres (23.6 feet) to the peak.

The proposed development is desirable for the subject site in order to accommodate safe and secure storage on the property. The purpose of the garage structure is to accommodate storage space for things such as boats, snowmobiles, maintenance equipment, and outdoor furniture, among other things typical for a rural property.

As the owner's property area is already limited in size in comparison to neighbouring lots, it is entirely reasonable that the owner desires to construct a garage to contain recreational belongings for functional purposes. There are no other alternative locations for the garage, and there is insufficient area to expand the footprint of the garage to eliminate the need for a second storey.

The two-storey structure is in keeping the established character of the area, in which numerous properties have accessory garages measuring two-storeys in height. From a neighbourhood context, garages support owners' ability to help maintain the attractive character of the area by providing a safe and secure facility to store belongings and keep items out of view from the public. New native tree plantings will provide visual screening and help to contribute to the natural character of the area, further contributing to the desirability of the proposal. Approval of the requested height variance will facilitate the owner's use of their property in a manner that is functional, reasonable and is desirable for the rural context of the property.

It is our professional opinion that the requested variances are desirable for the appropriate development of the subject lands.

Conclusion

The Applicant is seeking approval from the Town of Hastings Highlands to vary the maximum height permission of an accessory garage structure for the property municipally known as 180 Sheldon Lane. In their February 2024 Staff Report, Staff have recommended approval of 3 out of 4 requested variances. We agree that the 3 variances are appropriate and should be approved.

The outstanding variance to be addressed pertains to maximum building height for the accessory garage. The plans for the garage have been revised to further reduce the overall height of the structure to 6.3 metres (20.7 feet) to the midpoint of the roof and 7.2 metres (23.6 feet) to the peak.

It is our opinion that the proposed variance to the maximum building height is appropriate in so far as it maintains the general intent and purpose of the Official Plan and of the Zoning By-law, is minor in nature, and is desirable for the appropriate development of the subject lands. The proposed development represents good land use planning and is consistent with the rural character of the area and surrounding development.

Should you have any questions or require any additional information, please do not hesitate to contact the undersigned at 613.542.5454 ext. 221 or via e-mail at weekes@fotenn.com.

Respectfully,



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