



**Agenda  
Committee of Adjustment**

June 19, 2019

6:00 pm

Municipal Operations Centre  
408 James Street South, St. Marys

Pages

1. **CALL TO ORDER**
2. **DECLARATION OF PECUNIARY INTEREST**
3. **AMENDMENTS AND APPROVAL OF AGENDA**

**RECOMMENDATION**

**THAT** the June 19, 2019 Committee of Adjustment agenda be accepted as presented.

4. **ACCEPTANCE OF MINUTES**

3

**RECOMMENDATION**

**THAT** the May 15, 2019 Committee of Adjustment minutes be approved and signed by the Chair and the Deputy Secretary / Treasurer.

5. **REPORTS**

5.1 Minor Variance Application (File A03-2019)

by

7

Kevin Currah

553 Jones Street East, Registered Plan 235, Lot 68 and Part L

**RECOMMENDATION**

**THAT** the Application for Minor Variance by Kevin Currah (Application No. A03-2019) affecting a parcel of land described as 553 Jones Street East, Registered Plan 235, Lot 68 and Part Lot 67, and Registered Plan 225, Part of Park Lot 3 N/S Jones, in the Town of St. Marys, to expand a legal non-conforming use be **APPROVED**, subject to the following conditions:

1. This approval is granted only to the nature and extent of this Application being the installation of an above ground swimming pool and an attached deck with stairs on the north side of the existing single detached dwelling.
2. The property owner shall obtain a building permit within one (1) year of the Committee's decision.

6. **UPCOMING MEETINGS**

July 3, 2019 - Tentative

7. **ADJOURNMENT**

**RECOMMENDATION**

**THAT** this Committee of Adjustment meeting adjourn at \_\_\_\_\_pm.



**MINUTES**  
**Committee of Adjustment**

May 15, 2019

6:00pm

Boardroom, Municipal Operations Centre

Present: Steve Cousins (Chair)  
William Galloway  
Dr. James Loucks  
Paul King  
Stephen Glover

Staff Present: Mark Stone, Planner  
Morgan Dykstra, Recording Secretary

Applicant: Marianne DeBradandere

**1. CALL TO ORDER**

Upon arrival of the applicant, Chair Cousins called the meeting to order at 6:14 p.m.

**2. DECLARATION OF PECUNIARY INTEREST**

None declared.

**3. AMENDMENTS AND APPROVAL OF AGENDA**

**Moved By** William Galloway

**Seconded By** Paul King

**THAT** the May 15, 2019 Committee of Adjustment agenda be accepted as presented.

**CARRIED**

**4. ACCEPTANCE OF MINUTES**

Paul King, advised that under Section 5.1, paragraph three, the term right of way should be replaced with easement. Furthermore, in paragraph two it should be noted that the easement provides a parking right in addition to a right of way easement.

**Moved By** William Galloway  
**Seconded By** Stephen Glover

**THAT** the April 17, 2019 Committee of Adjustment minutes be approved as amended and signed by the Chair and the Secretary / Treasurer.

**CARRIED**

## **5. REPORTS**

### **5.1 Minor Variance Application (File A02-2019) by Marianne DeBrabandere 256 Church Street South, Part of Lot 18, w/s of Church Street, Registered Plan**

Mark Stone provided an overview of Minor Variance Application A02-2019 for 256 Church Street South as outlined in the staff report.

The applicant, Marianne DeBrabandere spoke to the application. Ms. DeBrabandere noted that other municipal Zoning By-law parking requirements for similar residential uses support this application (as noted in the staff report). Ms. DeBrabandere also noted that the Town's Zoning By-law only requires one additional parking space for an accessory apartment and suggested that this standard should apply to converted units.

Stephen Glover inquired if the dimensions north of the sidewalk on page 31 of the agenda are correct. Ms. DeBrabandere noted the existing cedar hedge may be encroaching the proposed parking space 1, and will require some pruning.

Mr. Glover asked if the telecom box is located on the applicant's property. M. Stone responded that the telecom box is on Town property.

Mr. Glover inquired if the applicant will maintain the proposed evergreens on Town property. Ms. DeBrabandere responded that the applicant maintains the property to the best of their ability.

M. Stone noted that if any of the proposed evergreens are removed, the applicant will need to replace the evergreens in accordance with the required development agreement.

Chair Cousins asked why the applicant did not meet the conditions of Minor Variance Application A02-2017 before the deadline. Ms. DeBrabandere responded that the conditions of the original application

took longer than expected to complete, and therefore, the application expired.

The Committee discussed current parking arrangements at the property. The driveway will be gravel.

Chair Cousins asked if there were further questions.

None were presented.

The Committee reviewed the staff recommendations.

**Moved By** William Galloway

**Seconded By** Dr. James Loucks

**THAT** the Application for Minor Variance for relief from the following provisions of Zoning By-law by Marianne DeBrabandere (Application No. A02-2019) affecting a parcel of land described as 256 Church Street South, Part Lot 18, w/s of Church Street, Registered Plan No. 225 in the Town of St. Marys to permit the conversion of the existing 2-unit converted dwelling into a 3-unit converted dwelling:

- Minimum lot area for a 3-unit building: 599 square metres whereas Section 11.7.2(b) requires a minimum of 740 square metres
- Minimum lot frontage for a 3-unit building: 16 metres whereas Section 11.7.3(b) requires a minimum of 20 metres
- Parking requirements: 1 parking space for the additional dwelling unit (for a total of 4 parking spaces for the 3 converted dwelling units) whereas Section 5.21.1.1A requires a minimum of 2 parking spaces per converted dwelling unit. (Note: a total of 3 parking spaces were required at the time that the 2 converted dwelling units were established – 1.5 per unit. The current requirement for 2 spaces per converted dwelling units was established as part of housekeeping amendment).

be **APPROVED** as the request conforms to the general intent and purpose of the Official Plan and the Zoning By-law, is considered minor in nature, and is desirable for the appropriate development or use of the subject property, subject to the following conditions:

1. This approval is granted only to the nature and extent of this Application being relief for: minimum lot area for a 3-unit building measuring 599 m<sup>2</sup>; minimum lot frontage for a 3-unit building

measuring 16 metres; and 1 parking space for an additional dwelling unit.

2. The property owner shall obtain a building permit within one (1) year of the Committee's decision.
3. The lot shall not be used for home occupation or any other business.
4. The property owner is required to install and maintain a parking area on the property in accordance with the approved landscape/grading plan and the Town's Zoning By-law.
5. The property owner is required to install and maintain landscaping south of proposed parking space number four (as shown on the landscape/grading plan) to reduce the impacts of headlights on adjacent properties.
6. The property owner shall submit to the Town a lot grading/drainage plan to demonstrate that any grading associated with the parking area will be completed in such a way that future runoff is not directed towards adjacent properties.
7. The property owner is required to enter into a development agreement with the Town to ensure proper installation of all works associated with the approved landscape/grading plan, and to ensure the owner (and subsequent owners) maintain these works accordingly.

**CARRIED**

**6. UPCOMING MEETINGS**

To be confirmed.

**7. ADJOURNMENT**

**Moved By** William Galloway

**Seconded By** Dr. James Loucks

**THAT** this Committee of Adjustment meeting adjourn at 6:35 p.m.

**CARRIED**

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Steve Cousins, Chair

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Grant Brouwer, Secretary - Treasurer

# INFORMATION REPORT

<b>To:</b>	Chair and Members of Committee of Adjustment
<b>Prepared by:</b>	Mark Stone, Planner
<b>Date of Meeting:</b>	19 June 2019
<b>Subject:</b>	<b>Minor Variance Application (File A03-2019) by Kevin Currah 553 Jones Street East, Registered Plan 235, Lot 68 and Part L</b>

## RECOMMENDATION

**THAT** the Application for Minor Variance by Kevin Currah (Application No. A03-2019) affecting a parcel of land described as 553 Jones Street East, Registered Plan 235, Lot 68 and Part Lot 67, and Registered Plan 225, Part of Park Lot 3 N/S Jones, in the Town of St. Marys, to expand a legal non-conforming use be **APPROVED**, subject to the following conditions:

1. This approval is granted only to the nature and extent of this Application being the installation of an above ground swimming pool and an attached deck with stairs on the north side of the existing single detached dwelling.
2. The property owner shall obtain a building permit within one (1) year of the Committee's decision.

## REPORT

The 0.14 hectare (0.35 acre) irregularly shaped subject property is located on the north side of Jones Street East, between Charles Street South and Waterloo Street South as shown on the General and Specific Location Maps provided as Attachment 2.

There is an existing legal non-conforming single detached dwelling on the subject property and an existing detached garage/shed that was permitted to be constructed as an enlargement/extension of the legal non-conforming residential use in accordance with a Committee of Adjustment decision in 2008.

The Town has now received an Application for Minor Variance requesting permission to enlarge/extend the existing legal non-conforming residential use to permit the installation of a 7.3 metre (24 ft) round above ground swimming pool and an approximately 11.6 m<sup>2</sup> (125 ft<sup>2</sup>) attached deck with stairs on the north side of the existing single detached dwelling. The *Planning Act* provides the Committee of Adjustment with the authority to permit the enlargement or extension of a legal non-conforming use. The applicant has submitted a sketch of the property (refer to Attachment 3) showing the proposed deck and swimming pool.

The applicant has indicated that the swimming pool will be used by his family for recreation but has also indicated that the pool will be used by his spouse for therapeutic exercise to assist with a medical condition.

## **SURROUNDING LAND USES:**

**North:** Commercial  
**South:** Low density residential  
**East:** Low density residential  
**West:** Low density residential

## **PLANNING CONTEXT**

### **Official Plan**

The subject property is designated Highway Commercial according to the Town's Official Plan. The Highway Commercial designation "is generally found in the peripheral areas of the Town with the uses focused along Queen Street, both east and west of the commercial core of St. Marys and James Street South" and is intended for uses that cater to the travelling public.

The subject property has been zoned (as discussed below) to conform with the Highway Commercial designation in accordance with the implementation requirements of Section 7.3 of the Official Plan. Section 7.3.2.1 defines 'non-conforming uses' as "those uses legally existing on the date of adoption of this Plan that are not in conformity with the policies or land use designations of this Official Plan or the provisions of the implementing Zoning By-law". Section 7.3.2.2 states that such uses "should generally cease to exist in the long run so that the land affected may revert to a use in conformity with the intent of this Official Plan and the provisions of the implementing Zoning By-law". However, the Official Plan allows for non-conforming uses to continue.

Section 7.3.2.3(a) states that the Town should evaluate the possibility of acquiring the property or relocating the use and if these options are not feasible, extensions and enlargements of non-conforming uses may be handled through Section 45(2) of the Planning Act. Section 7.3.2.3(f) states that prior to approving an application and to safeguard the interests of the general public, the Committee of Adjustment shall consider the following:

- i) the proposed extension or enlargement of the established non-conforming use shall not unduly aggravate the situation already created by the existence of the use, especially with regard to the policies of this Plan and the requirements of the Zoning By-law;
- ii) whether the proposed extension or enlargement will be in appropriate proportion to the size of the non-conforming use established prior to the passing of the Zoning By-law;
- iii) the characteristics of the existing non-conforming use and the proposed extension or enlargement shall be examined with regard to noise, vibrations, fumes, smoke, dust, odours, lighting, and traffic generating capacity. No variance shall be granted if one or more of such nuisance factors are present and are cause for the incompatibility of the use with the surrounding area;
- iv) the adequacy and availability of municipal services or the adequacy of private water supply and sewage disposal facilities;
- v) the traffic and parking conditions of the vicinity shall not be adversely affected by the application, and traffic hazards will be kept to a minimum by appropriate design of loading and unloading facilities and access points to and from the site, and improvement of sight conditions, especially in proximity to intersections;
- vi) the proposed extension or enlargement and, where feasible, the established non-conforming use, shall provide for areas of landscaping, buffering or screening and appropriate setbacks for buildings and structures, and devices and measures to reduce nuisances, and where necessary regulations may be applied to alleviate adverse effects caused by outside storage,

lighting, and advertising signs in order to improve the compatibility of the use with the surrounding area.

- vii) Council or the Committee of Adjustment shall not be obligated to grant permission to extend or enlarge a non-conforming use under any circumstances.
- viii) It shall be the policy of the Town to notify property owners in the vicinity of each application for an extension or enlargement of a non-conforming use prior to a final decision on the request in order to obtain their views and satisfy the requirements of the Planning Act, RSO 1990.
- ix) In accordance with Section 45 of the Planning Act, RSO 1990, the Committee of Adjustment may impose conditions that it considers appropriate to the approval of an application for the extension, enlargement, or change in a legal non-conforming use.

The proposed addition is minor in nature and will complement the existing legal non-conforming use. In addition, the use will not have any negative impacts on nearby uses.

### **Zoning By-law**

The subject property is zoned Highway Commercial Zone (C3-H) according to the Town's Zoning By-law No. Z1-1997, as amended. The C3-H Zone permits a wide range of commercial and other similar or related uses. The purpose of the "-H" Holding Symbol is to ensure that any required site plan review and/or approvals are in place prior to any commercial development commencing. The existing residential use of the subject property is considered legal non-conforming.

### **COMMUNICATIONS**

Notice of the public hearing was given by first class mail to all land owners within 60 metres (200 feet) of the land affected by the proposed minor variance, to those agencies as prescribed by Regulation, and signage advertising the meeting was posted on the property.

At the time of preparing this report, no comments from Town departments, agencies or the public had been received.

### **PLANNING ANALYSIS**

The four tests under Section 45(1) of the Planning Act do not apply to applications for expansion of legal non-conforming uses under Section 45(2) of the Planning Act.

However, staff has reviewed the proposal in the context of the policies of the Official Plan. The addition of an above ground pool and deck will not impact the residential character of the neighbourhood. The proposal is an appropriate and desirable minor expansion of the residential use that has existed on the property for many years.

### **SUMMARY**

The proposal is minor in nature, is a reasonable expansion to the existing legal non-conforming residential use, and generally conforms to the policies of the Official Plan with respect to extensions and enlargements of non-conforming uses. It is recommended that the Committee approve the Application for Minor Variance subject to the conditions listed in the Recommendations section of this report.

### **ATTACHMENTS**

- 1) Application for Minor Variance

2) General and Specific Location Maps

3) Property Sketch

**REVIEWED BY**

**Recommended by the Department**

A handwritten signature in black ink, appearing to read 'MSW', written over a horizontal line.

Mark Stone  
Planner



Corporation of the  
the Town of St. Marys

Application for Minor Variance ☐  
(Under Section 45 (1) of the Planning Act)  
Application for Permission ☐  
(Under Section 45 (2) of the Planning Act)

File No. A 03-2019

#### Instructions

Each application must be accompanied by the application fee in the form of either cash or a cheque payable to the Town. **An accurate scaled drawing of the subject land must be submitted.**

If the applicant is not the owner of the subject land, a written statement by the owner which authorizes the applicant to act on behalf of the owner as it relates to the subject application, must accompany the application (See Section 11.0).

In addition, the applicant may be required to submit a more detailed site plan in accordance with Section 41 of the Planning Act.

#### Completeness of the Application

The information in this form that **must** be provided by the applicant is indicated by **black arrows (➤)** on the left side of the section numbers. This information is prescribed in the Schedule to Ontario Regulation 200/96 made under the **Planning Act**. The mandatory information must be provided with the appropriate fee and a scaled drawing. If the mandatory information is not provided, the Town will return the application or refuse to further consider the application.

To ensure the quickest and most complete review, this information should be submitted at the time of application. In the absence of this information, it may not be possible to do a complete review within the legislated time frame for making a decision. As a result, the application may be refused.

#### Approval Process

Upon receipt of an application, the required fee and other information (as required) the Secretary of the Committee of Adjustment will determine whether the application is complete. Once complete, a notice of hearing will be circulated as required by the Ontario Planning Act. The applicant is encouraged to attend the hearing to present the proposal. The applicant will be provided notice of any decision made by the Committee concerning the application. If no notice of appeal is given within twenty days, the decision of the Committee is final and binding.

#### For Help

To help you complete the application form, please consult the Building Department in the Town Hall. You can also call the Building Department at (519) 284-2340.

Please Print and Complete or (✓) Appropriate Box(es)

#### 1.0 Application Information

➤ 1.1 Name of Owner(s) An owner's authorization is required if the applicant is not the owner (See Section 11.0) P.O. Box 2136 N4X 1A1.

Name of Owner(s) Kevin Currah	Home Telephone No. 519 870 8355	Business Telephone No. 519 870 8355
Address 553 Jones St East St. Marys	Postal Code N4X 1A1	Fax No.

1.2 Agent/Applicant - Name of the person who is to be contacted about the application, if different than the owner. (This may be a person or Company acting on behalf of the owner.)

Name of Contact Person (and Company)	Home Telephone No.	Business Telephone No.
Address	Postal Code	Fax No.

#### ➤ 2.0 Location and Size of the Subject Land

Street No. 553	Name of Street/Road Jones St E	Registered Plan No. 235	Lot(s)/Block(s) 68, 67, RP235
Reference Plan No. 225	Part Number(s) 3	Concession Number(s)	Lot Number(s) Part of 3 N/S Jones
Lot Frontage 27.53	Average Width 29.465	Average Depth 46.03	Lot Area 0.14 HA

➤ 2.1 Is there a mortgage or charge in respect of the subject land? ☐ Yes ☒ No If yes, give the names and addresses of any mortgages or charges

➤ 2.2 Are there any easements or restrictive covenants affecting the subject land? ☐ Yes ☐ No If yes, describe the easement or covenant and its effect.

Bell Canada Easement in north east corner.

➤ 2.3 When were the subject lands acquired by the current owner?

Aug 30 2005

#### ➤ 3.0 Proposed and Current Land Use

➤ 3.1 What is the proposed use of the subject land?  
residential

➤ 3.2 What is the current use of the subject land?  
residential

➤ 3.3 How is the subject land currently designated in the Official Plan?  
Highway commercial

➤ 3.4 How is the subject land currently zoned in the applicable Zoning By-law?  
Highway Commercial (HC3-H)

➤ 3.5 What is the nature and extent of relief from the Zoning By-law requested?  
extension of legal non conforming residential use to for attached deck and above ground pool.

➤ 3.6 Why can the proposed use not comply with the provisions of the Zoning By-law?  
existing residential use in commercial zone.

RECEIVED

3.7 Provide the following details for all buildings, both existing or proposed. (Attach an additional page if necessary)

	Existing Buildings	Proposed Buildings		Existing Buildings	Proposed Buildings
3.7.1 Front Yard	13.23m	23.06m	3.7.5 Height		
3.7.2 Rear Yard	23.16m	13.4m	3.7.6 Dimensions		
3.7.3 Side Yard	4m	4m	3.7.7 Gross Floor Area		
3.7.4 Side Yard	10.5m		3.7.8 Date Constructed		

4.0 Previous Industrial or Commercial Uses

4.1 Has there been an industrial or commercial use on the subject land or adjacent land? If Yes, specify the uses and dates. ☐ Yes ☒ No

4.2 Is there reason to believe the subject land may have been contaminated by former uses on the site or adjacent sites? ☐ Yes ☒ No

4.3 What information did you use to determine the answers to the above questions? general knowledge.

4.4 If Yes, to (4.1), (4.2) or (4.3), a previous use inventory showing all former uses of the subject land, or if appropriate, the adjacent land, is needed.  
Is the previous use inventory attached? ☐ Yes ☒ No

5.0 Status of Other Applications under the Planning Act

Is the subject land also the subject of an application for an Official Plan Amendment, Consent, approval of a Site Plan, Minor Variance, Zoning By-law Amendment or Zoning Order Amendment? ☐ Yes ☒ No If Yes, indicate the type of application, the file number and the status of the application.

6.0 Servicing

6.1 Indicate the existing/proposed servicing type for the subject land.

Sewage Disposal	Existing	Proposed	Water Supply	Existing	Proposed
a) Public piped sewage system	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	a) Public piped water system	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b) Public or private communal septic			b) Public or private communal well(s)		
c) Individual septic system(s)			c) Individual well(s)		
d) Other			d) Other		
Storm Drainage	Existing	Proposed	Road Access	Existing	Proposed
a) Sewers	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	a) Arterial Road		
b) Ditches or swales			b) Collector Road		
c) Other			c) Local Road	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

7.0 Justification

7.1 Indicate how the proposed development will be compatible with the surrounding land uses. (attach an additional page if necessary)

restaurant use only. is proposed. and is in keeping with surrounding residential uses.

8.0 Other Information (attach an additional page if necessary)

for our children to enjoy swimming.  
for my who has psoriatic arthritis, swimming  
is the best exercise for her.

9.0 Application Drawing

Please submit an accurate, scaled drawing of the proposal showing the following information:

- a) The subject land, including its boundaries and dimensions, and the location, and nature of any easement or restrictive covenants which affect the subject land;
- b) The uses of adjacent and abutting land;
- c) The location of all existing as well as proposed buildings and their dimensions, uses, and setbacks from lot lines;
- d) The location of all natural and man-made features on the land and the location of an of these features on adjacent and abutting lands;
- e) Scale and north arrow.

► 10.0 Affidavit or Sworn Declaration

I, Leslee Stacey of the Town of St. Marys in the County/Region of Perth  
make oath and say (or solemnly declare) that the information contained in the documents that accompany this application is true.

Sworn (or declared) before me at the Town of St. Marys

in the County/Region of Perth

this 27 day of May, 2019

Leslee Stacey  
Commissioner of Oaths

Leslee Lea Stacey,  
a Commissioner, etc.,  
Province of Ontario, for the  
Corporation of the Town of St. Marys.  
Expires September 17, 2021

Kevin Curran  
Applicant

► 11.0 Authorization of Owner for Agent to Make the Application

I (we), \_\_\_\_\_ of the \_\_\_\_\_ in the County/Region of \_\_\_\_\_  
am the owner of the land that is the subject of this application for a Minor Variance/ Permission and I (we) hereby authorize  
\_\_\_\_\_ to act as my (our) agent in the application.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Owner(s)

12.0 ACKNOWLEDGEMENT

With the filing of this application, the applicant is aware of, and agrees, that if the decision of the Council of the Town of St. Marys regarding this application is appealed by a third party (a party other than the applicant), all costs incurred by the Corporation of the Town of St. Marys for legal counsel and other associated costs to represent the Corporation of the Town of St. Marys in defending the decision before the Ontario Municipal Board will be solely the responsibility of, and paid for by the applicant.

Dated at the Town of St. Marys

in the County/Region of Perth

this 27 day of May, 2019

Kevin Curran  
Applicant

# GENERAL LOCATION MAP

553 Jones East

Registered Plan 235, Lot 68 and Part Lot 67, and  
Registered Plan 225, Part of Park Lot 3 N/S Jones

Town of St. Marys



Subject Property



June 5, 2019

## SPECIFIC LOCATION MAP

553 Jones East

Registered Plan 235, Lot 68 and Part Lot 67, and  
Registered Plan 225, Part of Park Lot 3 N/S Jones

Town of St. Marys



Subject Property



June 5, 2019

MINOR VARIANCE APPLICATION A07-2008

553 JONES STREET EAST, ST. MARYS

