



City of
Peterborough

COMMITTEE OF ADJUSTMENT

HEARING DATE: July 7, 2009

Staff Comments Regarding Files: A13/09, A26/09, A27/09, A28/09 & B06/09 & A29/09

A13/09 - 296 Stewart Street - John Hunter

This application was heard by the Committee on April 7, 2009 and was adjourned to this hearing date to permit the applicant to retain a licensed Architect to prepare and submit drawings that would demonstrate how all units within the building can be brought into compliance with the Ontario Building Code, Fire Safety Standards and how parking and landscaping will be accommodated on the property.

The applicant has retained the services of an Architect who has indicated that he will not be able to provide the information required until after August 31, 2009. The applicant is therefore requesting a further adjournment until the first hearing date in September.

The subject property is located on Stewart Street, south of Charlotte Street within the Charlotte Street Business District of the Central Commercial area. The property is zoned C.5 Commercial but has been developed and used for residential purposes. City records recognize there being eight residential units and one commercial unit on the main level of the building. The records include a number of complaints regarding the living conditions the standard of maintenance and disrepair of the units dating from 1995 through to the present. It was recently reported that an additional unit was being constructed in the basement without a building permit.

The applicant would like to increase the number of residential units within the building on the property from 8 to 11 including the conversion of the one commercial unit that was cited by municipal records. No expansion to the exterior of the building is being proposed. The C.5 Commercial District zoning regulations require that a dwelling be located on the second storey or higher. A variance is therefore requested to permit the use of all levels of the building for residential purposes. A variance to section 6.25 of the by-law is also required to permit two new dwelling units in a basement where the ceiling is less than one metre above grade.

Referring to the survey and floor plans accompanying the application, the building consists of four levels including the basement. The plans illustrate the proposal to create two new units within the basement. The plans also illustrate the conversion of the front of the building on the main level from a commercial unit to an apartment and the construction of a third new unit in the attic. Staff have visited the site and examined the drawings and are concerned with the practical feasibility of creating the two units in the basement in accordance with the Building Code, that would be facilitated by the variance requested. In addition, staff is concerned with the existing development from a fire safety

perspective. It should also be noted that the Peterborough Utilities services Inc. commented requiring that the existing 5/8 inch water service to the property be upgraded to serve the proposed number of units in the building.

The site survey (Exhibit A), illustrates that the building occupies most of the property with an asphalted area in the front and to the south side of the building. The asphalted area may accommodate accessible parking spaces for up to five motor vehicles across the front of the property associated with the legal non-conforming use of the building for the eight dwelling units and the one, former commercial unit. There is no landscaping on the property or amenity space on the property associated with the residential use.

The Business District designation of the Official Plan anticipates residential uses in the area. New construction should be designed to be compatible with adjacent residential uses and have a pedestrian scale and orientation. In the case of the subject property it may be appropriate to permit the use of the entire building for residential purposes and the impact may be minor from a land use perspective, however it is unfortunate that the number of units that have already been created have resulted in an incompatible development standard, the possibility of unsafe conditions from a fire safety stand point and that no landscaping or pedestrian orientation to the street front is afforded as is required by the Official Plan. The access to parking, specifically five motor vehicles across the front of the property is unacceptable. Staff would recommend that an urban landscaping plan for the street front profile be prepared for the property and the property be subject to site plan control to implement the design. Staff would also recommend that a variance be granted to reduce the number of motor vehicle parking spaces on the property by one to allow space in relation to the street front for appropriate landscaping to be established subject to site plan approval.

Staff is of the opinion that it may be premature to grant the variances described to permit any more apartment units before it can be demonstrated that the building can be developed to building and safety design standards for both the existing and new units. Staff would have no objection to the Committee adjourning the application to the first hearing date in September to allow the architect to provide a complete set of architectural drawings, approved by a qualified professional to demonstrate how the fire safety and building code can be complied with regarding all units within the building before variances are granted to permit any new apartments.

Should the Committee choose to grant the variances as described, Staff would recommend that the variances be granted subject to the following considerations as conditions:

- 1) Application for a building permit based on drawings prepared by qualified professionals to demonstrate how all apartment units within the building will be brought into compliance with the Ontario Building Code and Fire Safety Standards.
- 2) The property be subject to a development agreement requiring performance security to address parking, landscaping and snow removal to the satisfaction of the Planner of Urban Design.

- 3) The existing water service to the building be upgraded to the satisfaction of the Peterborough Utility Services Inc. considering the number of units in the building.
- 4) Payment of a Parks Levy to be determined by the Parks Levy review Committee for the additional apartment units and the conversion of the one commercial unit within the building.
- 5) Payment of cash in lieu of parking in an amount of \$5,199.65 required in relation to each of the additional residential apartment units.

It is advised that the Committee require these conditions for approval to be satisfied by January 1, 2010 after which this decision should lapse and be void.

A26/09 – 480 Brioux Avenue - Chris Springett

The owner is in the process of constructing an addition to the front of the dwelling and is seeking a variance to reduce the minimum building setback from the street line from 6 metres (19.75 ft) to 4.1 metres (13.75 ft). Brioux Avenue is a local street with a substandard road allowance width of 18 rather than 20 metres. The substandard street width would permit the dwelling to be set back the same distance as the building on the adjacent property. Staff noted that the dwellings on the adjacent properties are setback slightly greater than the addition to the building on the subject property and therefore the variance is required. Staff also noted that there was a variety of building designs and setbacks of dwellings along Brioux Avenue such that Staff is of the opinion that the impact of the variance would be minor.

Subject to concerns raised by neighbouring property owners, Staff would not object to the Committee granting the variance as described provided the owner obtain a building permit and complete the construction in compliance with the Building Code by January 2010 or this decision should lapse.

A27/09 61 Argyle Street - Paul-Marc Abrioux

The building on subject property was constructed in 1880 on an irregular shaped parcel of land. The parcel once formed part of the land holdings associated with the former bible college once operating in the vicinity. Now the subject property consists of a private residence on a separate parcel of land. The owner would like to construct an expansion to the second storey of the building located 3.7 metres (12.3 ft) from the rear lot line as illustrated on the Plan attached as Exhibit C. A variance is therefore requested to reduce the minimum building setback from the rear lot line from the 7.6 metres (24.9 ft) to the 3.7 metres as described.

Staff visited the site and noted that the dwelling on the adjacent lot to the rear is setback well from the shared rear lot line and therefore the spatial separation between the two dwellings to the rear and the dwelling on the subject property would exceed 16 metres. The standard rear yard setback would result in a typical spatial separation of 15 metres. Staff considered the long established location of the building on the property in relation to the development of the adjacent properties and the intent of the by-law regarding spatial separation between buildings. Staff is of the opinion that the impact of the variance to

permit the second storey would be minor.

Subject to concerns raised by neighbouring property owners, Staff would not object to the Committee granting the variance as described.

A28/09 & B06/09 - 562 Otonabee Drive - Estate of Cornelius Hendriks

This is an application to convey the ownership of a 30 metre by 39 metre parcel of land upon which a dwelling exists separately from the balance of the lands consisting of approximately 0.77 Hectares (1.9 acres) of vacant land to the east. The purpose is to separate and sell the smaller parcel with the dwelling on it. The retained property is to be sold in time for development of a small subdivision. Referring to the plan attached as Exhibit D, the parcel with the dwelling on it is zoned separately from the balance of the land and has 30 metres of frontage on Otonabee Drive. While municipal sewer and water services are available to the property, the location of private wells and septic system in relation to the line of severance is unclear. Staff would therefore recommend that the dwelling be connected to municipal sewer and water service as a condition for approval of the severance and the private well and septic system be abandoned.

The land to be retained may be accessed from a street stub off of Milford Drive across a "one foot reserve" held by the City. The purpose of the "one foot reserve" is to ensure that municipal services are available to the land through the street stub and Milford Drive when the developer is ready to pay for them. While the retained property may one day arrange for services through the street stub, it may be accessed through the street stub for maintenance purposes at the discretion of the City. Legally the property would not abut a public street therefore a variance is required to Section 6.5 of the zoning by-law that would require a lot to abut a public street in order for the severance to take place.

Considering the zoning of the property to be severed and the prospective development potential of the retained lands independent of the parcel with the dwelling on it, Staff would have no objection to the Committee granting the consent together with the variance as described subject to the following conditions:

- 1) All buildings located on the retained property are to be removed,
- 2) All portions of buildings that cross the proposed line of severance are to be removed to the extent that the remaining structures will conform with the setback regulations of the applicable zoning district,
- 3) The dwelling on the property known municipally as 562 Otonabee Drive is to be connected to municipal water and waste water services, and any well on either the severed or retained property is to be plugged and sealed in accordance with MOE standards by a licensed well contractor.

A29/09 – 504 Chamberlaine Street - Bernard & Jovita Bishop

The owner has constructed a second storey addition to the rear portion of the dwelling that is located 0.37 metres (1.21 ft) from the west side lot line. A variance is therefore requested to reduce the minimum building setback from the west side lot line from 1.21

meters (3.96 ft) to 0.37 meters (1.21 ft) to recognize the second storey addition as constructed.

The subject property is a narrow 7.7 metre (22 ft) wide by 50 metre (165 ft) deep property with a shared driveway access to parking to the rear of the dwelling. The owner added to the building anticipating the need for more space but is now in the process of selling the property. Staff have been contacted by neighbours in the vicinity who have experienced problems with on street parking in the neighbourhood particularly during the winter affecting snow removal. The neighbours have identified that the problem is from the rental of the expanded dwelling to tenants and perhaps their visitors who park on the street instead of the limited parking on the subject property.

Staff visited the property and noted the modest scale and standard of development of the subject property and others in the vicinity as appropriate opportunities for affordable home ownership. Staff, however, would not have supported the variance to the side lot line to expand the legal, non-conforming development of the property unless there was a demonstrated hardship to justify the addition. According to neighbouring property owners, the impact of the expansion has been manifested in the form of parking difficulties associated with the management of the property as a rental unit. This condition may or may not continue under new ownership if the property is sold.

While the by-law requires two parking spaces per dwelling unit, the property may function adequately as an owner occupied, single unit dwelling. While staff would rather not recommend against the variance that would require the addition constructed without a permit to be removed, staff would suggest that the Committee consider the response to the notice of the application by neighbouring property owners.

Should the Committee choose to grant the variance, they may consider the following conditions for approval to be fulfilled by January 2010 or the decision should lapse:

- 1) the owner obtaining a building permit for the addition and the structure being determined to be in compliance with the Building Code, and
- 2) establishment of an eaves trough along the west side of the building with a down spout to conduct storm water onto the subject property so as not to affect the neighbouring property.

Respectfully submitted,



Richard Straka
Planner Policy & Research



R. Waldron, C.E.T., CBCO
Manager, Building Division

DISTANCES SHOWN ON THIS PLAN ARE IN FEET AND CAN BE CONVERTED TO METRES BY MULTIPLYING BY 0.3048 .

LOT 11

SOUTH OF CHARLOTTE STREET
WEST OF GEORGE STREET

PIN 28090-0048(LT)

PART 1 PLAN 45R8119

No.306
2½ STOREY
BRICK
DWELLING

CHAIN LINK FENCE
ON LINE

ASPHALT DRIVE (N88°06'E P1)
N88°09'50"E (MEAS.)

FENCE POST
ON CORNER

PIN 28090-0203(LT)
12' WIDE RIGHT OF WAY

N88°09'50"E
0.14'

SSIB (E&P) WT.

115.05' (P1 & SET)

48.37' (MEAS.)
2.73'
(49.50' INST. No.507040)

PIN 28090-0062(LT)

STEWART STREET

BEARING REFERENCE LINE

N2°53'W
43.33'

(P1 & MEAS.)

PIN 28090-0192(LT)

(INST. No.507040 & SET)

N2°53'W
50.25'

IB (E&P)

22.73'
ASPHALT

22.81'

INTERLOCKING BRICK WALK

4.38'

FRAME ADDITION

4.27' (P1 & MEAS.)

2½ STOREY
BRICK & FRAME
DWELLING
No.296

PIN 28090-0049(LT)

WOOD STEP

0.9' WIDE EAVE

CONCRETE FOUNDATION ON LINE (P1 & MEAS.)

2 STOREY
BRICK AND
CONCRETE BLOCK

INTERLOCKING BRICK STEPS

CONC. STEP

LOT LINE

0.9' WIDE EAVE

7.00'
ASPHALT

15.54'

BOARD FENCE

0.3'

1.44'

1.15'

1.08'

0.95'

7.00'

N87°10'20"E (P2 & SET)

METAL SHED

1.2' ASPHALT

115.13'

FOUNDATION ENCROACH

N3°01'10"W

7.00'

(INST. No.607206 & MEAS.)

N2°53'W
41.00'

IB (E&P)

ASPHALT

No.294

1½ STOREY
FRAME
DWELLING

PIN 28090-0050(LT)

METAL SHED

FOUNDATION ENCROACH

N3°01'10"W

14.40'

IB (873)

PART 14
LOT LINE
PLAN 45R3396

PART 15

PART 13

PART 16

PART 15

PART 14

PART 13

PART 12

PART 11

PART 10

PART 9

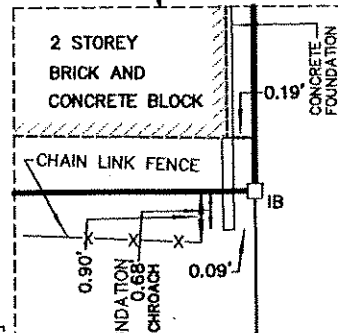
PART 8

PART 7

PART 6

LOT 11

NORTH OF KING STREET
WEST OF GEORGE STREET



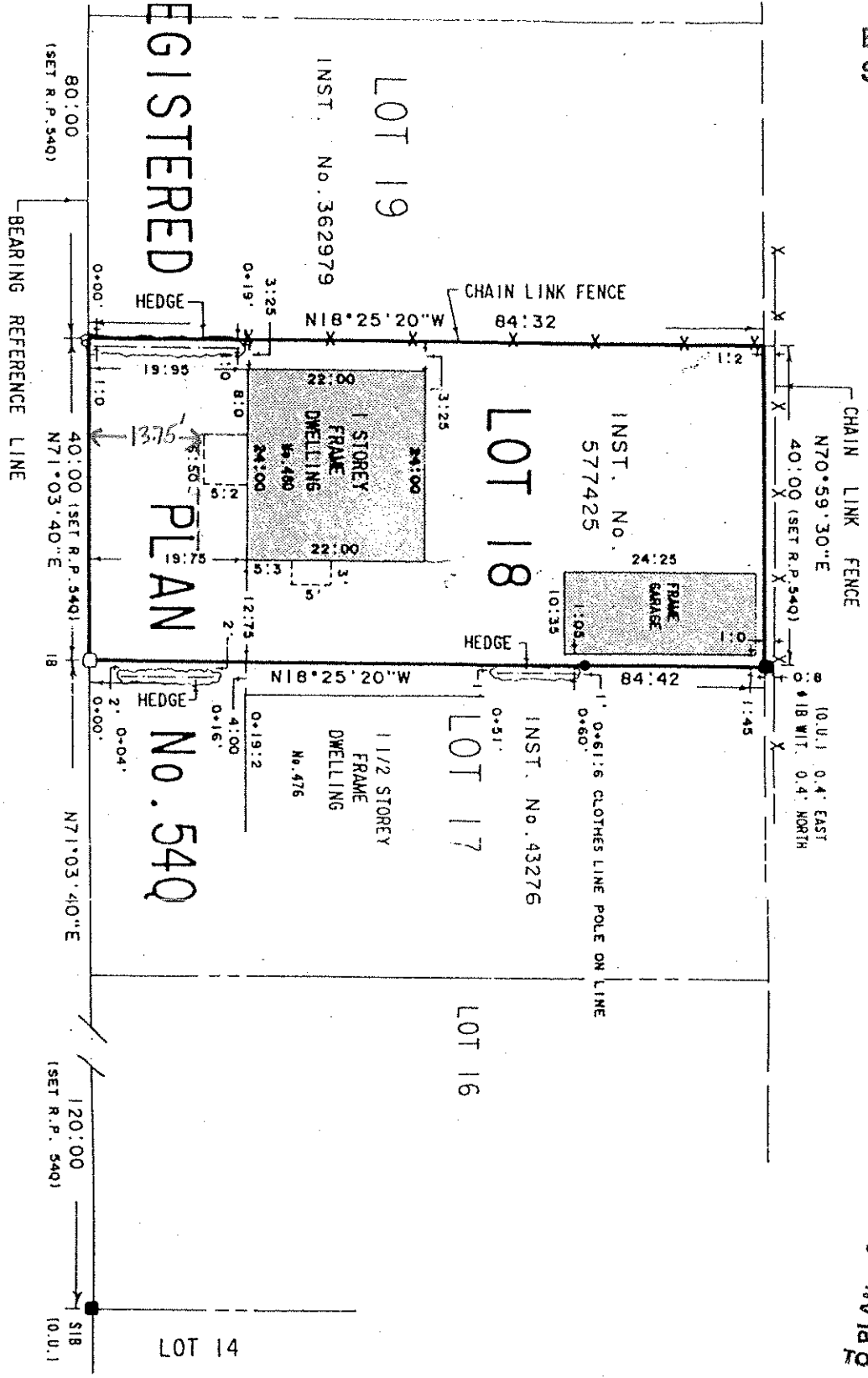
ENLARGEMENT
NOT TO SCALE

SUBJECT TO RIGHT OF WAY (AS IN INST. No.507040)

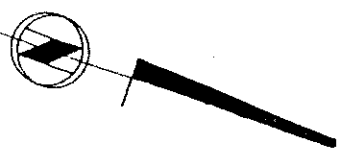
12.0'

LOT No. 20

INST. No. 465163



CITY OF PETERBOROUGH SERVICES
 PLANNING & DEVELOPMENT
 RECEIVED
 JUN -3 2009
 TO: _____
 FILE: _____



PLAN OF SURVEY
 REGISTERED PLAN
 LOT 18,
 CITY OF PETERBOROUGH
 COUNTY OF PETERBOROUGH

SCALE: 1 INCH EQ

ELLIOTT AND PARR (P)
 1994

(REG'D PLAN No. 540)

BRIDGEMAN AVENUE

REGISTERED PLAN

REGISTERED PLAN No. 540

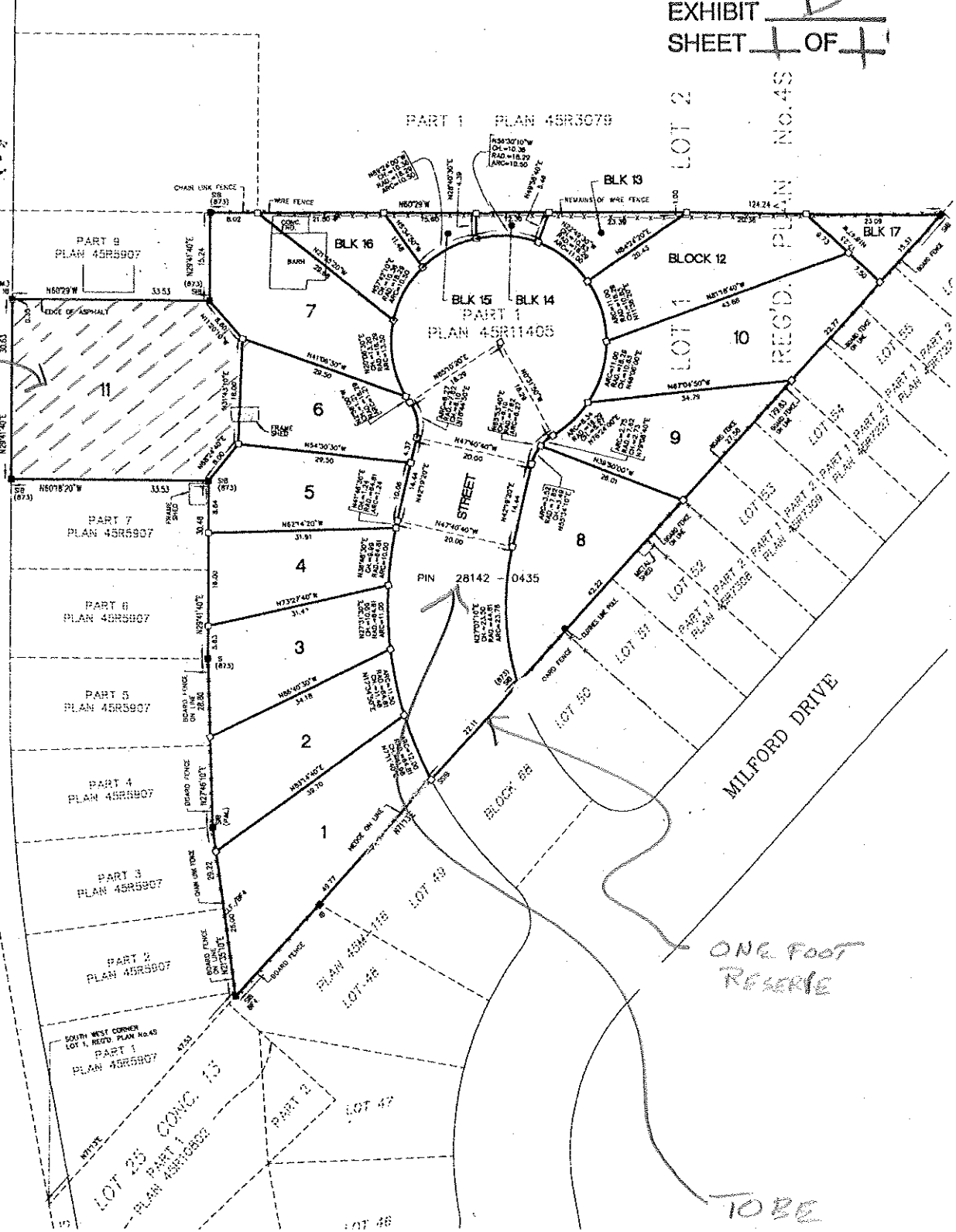
PLAN NO. 45

PART 1 PLAN 45R3079

LOT 2

TO BE SEVERED

OTONABEE DRIVE



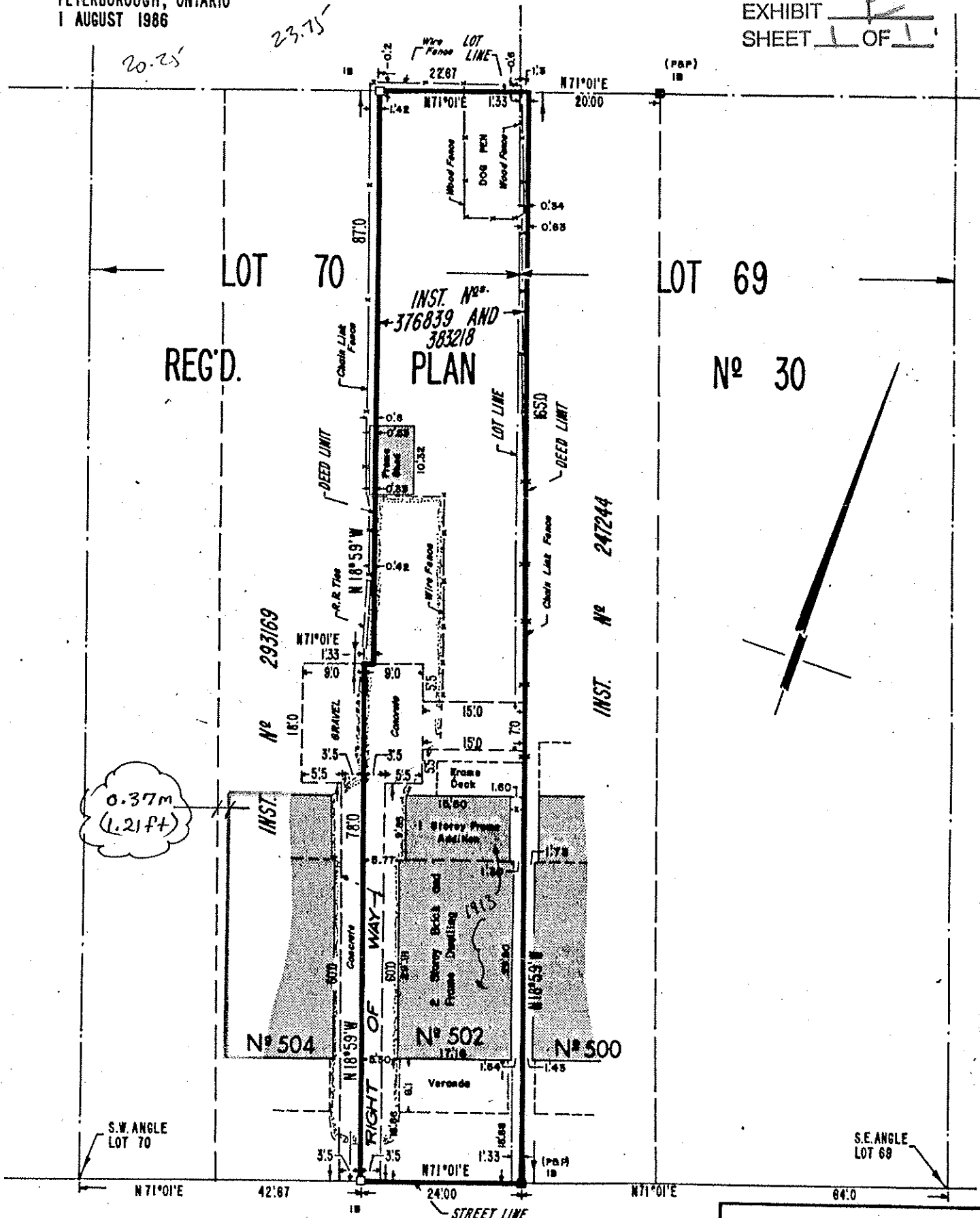
ONE FOOT RESERVE

TO BE RETAINED

W.A. BENINGER
ONTARIO LAND SURVEYOR

PETERBOROUGH, ONTARIO
1 AUGUST 1986

EXHIBIT E
SHEET 1 OF 1



0.37m
(1.21ft)

W.A. BENINGER LIMITED
ONTARIO LAND SURVEYORS
414 WATER STREET
PETERBOROUGH, ONTARIO