



City of
Peterborough

Committee of Adjustment Hearing Date: January 27, 2015

Staff Comments re: Files B11/14, B01/15, A01/15, A02/15, A03/15, B02/15, A04/15, A05/15, A06/15, A07/15 and A08/15

B11/14 – 1154 Chemong Road – 1865088 Ontario Limited (Wendy's Portage Place)

A letter was provided by the proponent advising staff that the application is withdrawn.

B01/15, A01/15 & A02/15 – 591-593 Sherbrooke Street – Gordon & Donna King

The properties known municipally as 591 and 593 Sherbrooke Street have inadvertently merged in title. The owner would like to have each property under separate ownership, so referring to Exhibit A attached to the Staff report, a consent is requested to convey the easterly 8.38 metre wide property known municipally as 591 Sherbrooke Street from the balance of the property known municipally as 593 Sherbrooke Street together with a 0.6 metre wide by 18 metre long easement for maintenance of the west wall of the dwelling on 591 Sherbrooke Street.

The following variances are also requested for the proposed lots to be created:

East Lot, Part 2:

- i) Reduce the minimum lot width from 9 metres to 8.2 metres per unit;
- ii) Reduce the minimum lot area per unit from 370 sq metres to 349 sq metres
- iii) Reduce the minimum building setback from the west side lot line from 1.2 metres to 0.5 metres
- iv) Increase the maximum lot coverage by a parking area and driveway from 20% to 24%

West Lot Part 1:

- i) Reduce the minimum building setback from the west side lot line from 1.2 metres to 0.78 metres, and
- ii) Increase the maximum distance that a platform deck may project into a side yard setback from 0.9 metres to 0.15 metres.

Staff visited the subject property and noted that the two properties although narrow, appear to function independent of each other. Access to parking located in the rear of each of the two properties is available from Monaghan Road. Staff considered the pre-existing condition of the two properties under separate ownership along with the fact that the two properties can function independent of each other based on the available parking to the rear of each lot.

Staff is of the opinion that the impact of granting the variances would be minor so, subject to concerns raised by neighbouring property owners, Staff would not object to the Committee granting the variances and the consents as described.

A03/15 – 555 Neal Drive and 2023 Bensfort Road – 128425 Canada Inc.

The subject property is a large piece of land located close to the south limits of the City. It has split zoning, the majority being City M1.2 Industrial Zoning with a minor portion being Hamlet Residential Zoning. The City annexed land to the south of the subject property from Otonabee South Monaghan Township in 2013 that included a portion of the subject property and land with split zoning and designation inherited from the Township.

While the majority of the subject property is zoned and designated by the City for industrial purposes, a minor front portion of the subject property and adjacent property is zoned Hamlet Residential by Otonabee-South Monaghan. Staff visited the subject property, and it is apparent that the use of the subject property and adjacent land is either vacant or used for general industrial purposes.

The owner is constructing an addition to the building on the property and would like to create a driveway to the south side of the addition to access the rear of the property with large trucks, as illustrated on Exhibit B. Because of the remnant, residential zoning that applies to a portion of the subject property and to a portion of the land south of the subject property, a variance is requested to reduce the minimum required width of landscaped open space from 12 metres to 8.93 metres in relation to the residentially zoned land to allow the driveway between the building and south lot line. Staff reviewed the proposed location of the driveway which is actually abutting the Hamlet Residential zoning district at the front portion of the subject property. Staff would therefore advise that the variance should be to reduce the minimum required width of landscaped open space from 12 metres to 0 metres in relation to the residentially zoned land.

Considering the actual and anticipated use of the property to be for industrial purposes, the application is for a variance to merely address the reduced landscaping in relation to obsolete zoning that will have to be updated at some point. In the meantime, Staff is of the opinion that the impact of the reduced landscaping to allow a driveway would be minor considering the existing use and current state of development of the property.

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

B02/15 – 943 Weller Street - Darlene & Paul Shaughnessy

Referring to the plan attached as Exhibit C, the subject property is a remarkably large, residentially zoned lot located at the southeast corner of Weller Street and Wallis Drive. The owner would like to sever the southerly 25 metres of the property to create a new lot for potential development of a single unit dwelling.

Considering the zoning regulations applied to the property, both the proposed severed and retained portion of the property would and could conform to the zoning regulations.

According to the Official Plan, both Weller Street and Wallis Drive are high capacity collector streets with a required width of 26 metres to potentially accommodate service infrastructure and left and or right turning lanes at intersections. Currently the Weller Street road allowance is 21 metres wide and Wallis is 19.2 metres. Considering the subject property is a corner lot in relation to the intersection of two high capacity collector

streets, Staff would recommend that a widening of the road allowance be taken to achieve the proportionate share of the 26 metre requirement as described by the City's Official Plan.

Staff would therefore recommend the proposed severance be approved subject to the following conditions:

- 1) Conveyance, free of encumbrances and no cost to the City, of a 3 metre wide strip of land along the road frontage in relation to Wallis Drive and a 3 metre wide strip of land along the road frontage in relation to Weller Street together with a 8 metre by 8 metre daylight triangle at the intersection of the two streets,
- 2) Payment of a tree levy in the amount of \$325.00, and
- 3) Payment of a parks levy of an amount to be determined by the Parks Levy Review Committee.

A04/15 – 635 Stewart Street – Mike and Jennifer Howson

The subject property is a corner lot with R.3 Residential zoning. In 1983, the Committee of Adjustment approved variances to allow the use of the dwelling on the property as a duplex. In 1985, an addition was constructed on the south side of the original building.

The current owner is now requesting the following variances to acknowledge the use of the dwelling containing three dwelling units:

- i) reduce the minimum required lot area per dwelling unit from 230 sq metres per unit to 152 sq metres.
- ii) reduce the minimum required lot width per dwelling unit from 6 metres to 4.86 metres.

The subject property is located in a residential area two blocks north of the Central Area. Historically, many of the dwellings in the vicinity were converted as multiple unit residences for students who attended classes at Trail College of Trent University, remnants of which still operate in the vicinity.

Referring to the survey information attached as Exhibit D, it is apparent that the original dwelling is legal non-conforming considering its location on the property leaving space for the addition with potential for parking two motor vehicles with access from Stewart Street and three in the rear yard to the west side of the dwelling with access by way of a right-of-way along the west side of the property. The property therefore can potentially accommodate the parking for 5 motor vehicles to support the three units with no apparent impact on adjacent property owners. Staff also noted that there is an encroachment agreement regarding the storage garage that encroaches onto the Edinburgh Street road allowance.

Considering the way the property is developed and may function, Staff is of the opinion that the impact of the variances to allow the third unit would be minor. Staff would suggest the Committee consider the response to the public notice to determine if there are issues with the way the property functions or is managed.

Subject to concerns raised by neighbouring property owners, Staff would not object to the Committee granting the variances as described subject to the following conditions:

- i) Payment of a parks levy of an amount to be determined by the Parks Levy review Committee for the additional apartment unit,
- ii) Establishment and maintenance of five motor vehicle parking spaces on the property including two parking spaces on the property relative to Stewart Street by July 31, 2015 failing which this decision will lapse and be null and void, and
- iii) Installation of appropriate water service connection, including metres for the three residential units, to the satisfaction of the Peterborough Utilities Services Inc.

A05/15 – 315 Pearl Avenue – Jason Wilcox and Clarissa Morawski

The owner is proposing to remove the existing verandah attached to the rear of the dwelling and construct a new one storey addition in its place. A variance is therefore requested to reduce the minimum building setback from the north side lot line from 1.2 metres to 1 metre to allow the proposed, one storey addition.

Staff explored the possibility of increasing the setback of the proposed new structure from the lot line to comply however the proponent wished to maintain the size of the proposed addition and the symmetry of its location in relation to the existing building, which is established 0.73 metres from the side lot line as illustrated on the plans attached as Exhibit E.

Staff visited the site, considered the established standard of development in the neighbourhood and is of the opinion that the variance requested is minor, and, subject to concerns raised by neighbouring property owners, Staff would not object to the Committee granting the variance as described.

A06/15 – 100 Dublin Street – Tony Storey

The owner is proposing to construct a 37 sq metre addition to the rear of the semi-detached dwelling unit that would extend 4.8 metres to the rear of the dwelling as illustrated on the Plan attached as Exhibit F. The owner is therefore requesting a variance to reduce the minimum building setback from the west side lot line from 1.2 metres to 0.3 metres to allow a proposed 7.6 metre wide, one storey addition.

The subject property is the east half of a semi-detached dwelling located at the corner of Dublin Street and the north end of the Harvey Street Road allowance. Because the property backs onto the Otonabee River, the property is subject to the Environmental policies of the Official Plan. Staff reviewed the proposal with Otonabee Conservation considering the proximity of the addition to the Otonabee River and determined that a “scoped Environmental Review” was all that was necessary. It was determined that the proposed addition would be located more than 20 metres from the high water mark of the river, the structure was beyond the flood plain and regulated limits of the river, and there was adequate separation distance from the top of bank in relation to the river that would not be disturbed.

Staff visited the subject property and considered the proposed development in relation to the adjacent property and the Otonabee River. Staff is concerned with a variance to reduce the minimum setback from the west lot line to 0.3 metres (1 ft) from what could be a two storey addition. A setback of one foot would present a challenge to construct and maintain the exterior wall of the building. It would also be difficult to establish and maintain the grade away from the foundation to a swale on the property lines.

Instead, and subject to concerns raised by neighbouring property owners, Staff would not object to a variance to reduce the minimum building setback of 4.87 metre by 7.62 metre addition to 0.6 metres from the west side lot line on the condition that the owner enter into an agreement with the City to not alter or destabilize but maintain the vegetation and the grades including the top of the bank beyond a distance of 34 metres from the street line.

A07/15 – 769 Borden Avenue – Lansdowne Mall Inc.

The owner is requesting relief from Section 4.2C(i) and 6.40 of the By-law to permit a temporary tent structure on the property and reduce the minimum required number of motor vehicle parking spaces by 88 spaces from 1,951 to 1,863. The purpose is to allow the annual establishment of a seasonal garden centre in the parking lot between April 1 and July 15, located as illustrated on Exhibit G.

The application for a temporary garden centre has been before the Committee a number of times since 2004 as the Committee considered changing circumstances regarding the size, location redevelopment of the mall and garden centre as well as the number of parking spaces available associated with the mall.

Temporary structures associated with the seasonal garden centre were permitted and are proposed the basis of the following parking scenarios:

Year	Parking Scenario	Number of spaces
2008	shortfall	57
2009	surplus	182
2011	surplus	70
2013	shortfall	78
2015 Proposed	shortfall	88
2014 LEA Consulting Ltd. Report	<i>determined shortfall</i>	149

Since the additions to the mall, including the Loblaws Superstore expansion and The Keg freestanding restaurant, Lansdowne Mall Inc. may be approaching a more stable state considering their land holdings and site plan development. The last decision of the Committee, File A16/13, granted relief to reduce the number of parking spaces to by 78 parking spaces to 1,873 to permit the garden centre for two seasons and allow for completion of the parking area and the storm water management facilities. At the time of the application, it was suggested that the completed site plan was to incorporate the land known as 780 Erskine Avenue, formerly occupied by the Re Use It Store, upon it being vacated. It was contemplated by the proponent that the use of the additional property may be considered as a part of the parking area associated with the mall and support the garden centre.

While a Parking Study prepared by LEA Consulting has been provided with this application offering the opinion that there is adequate parking available on the property to support the retail activities on the mall property including the seasonal garden centre, Staff cannot agree with the proposal to reduce the parking by 88 spaces as a minor variance.

Staff have consulted with other municipalities in how they deal with seasonal garden centres in conjunction with malls. It was found that the parking requirements for malls are the same as other municipalities and no other municipality surveyed grant relief for parking to the extent that is being proposed even on a seasonal basis. Because there is nothing unique about this mall that would warrant relief from the City's parking requirements, and alternative solutions may be available considering the land base, staff cannot support the variance to the parking requirements as described.

Utility Services Division commented indicating that while work on a plan for improvements to the flood regime is ongoing, however the plan will not be finished until later this year. It remains to be seen how long it will take to implement the planned improvements.

The matter of a comprehensive plan for the mall property exploring alternative parking opportunities as well as the unresolved flood regime continue to exist as outstanding issues that should be considered before a decision is made to permit a seasonal garden centre on a continuous basis.

Should the Committee see fit to grant the relief as described, Staff would recommend that it be for no more than one season allowing the circumstances to be reviewed again in the future.

A08/15 – 400 Ashburnham Drive – Len and Susan Vass

The subject property is located on the east side of Ashburnham Drive, on the south edge of the City limits. It has been used for residential purposes and a contractor's establishment for some time.

There are now seven buildings on the property including the stone foundation of an old, dilapidated, storage building without a roof. Some buildings are used in association with the legal non-conforming residential use and others used by a wood stove heating contractor as permitted by the subject property's industrial zoning. Besides a residence and the storage buildings associated with the contractor's establishment, a large, 2.5 storey building with a 216.63 sq metre footprint exists located at the south corner of the property. This building is currently vacant and has been for some time. The two buildings most recently added to the property include a large, 150 sq metre storage garage that was permitted in 2005 as an accessory structure to the contractor's business. The second building is an open-sided cabana constructed in 2007 located next to an inground swimming pool. The cabana was not constructed under a building permit.

The property has been zoned M3.2 Industrial since 1998. This zoning permits a contractor's establishment but not a residential use. Today, the 150 sq metre storage garage is used as an accessory building to the residential use, rather than as an accessory to the industrial use. In addition to recognizing this change in use, the owner would like a building permit to add sides and complete the cabana as an enclosed structure, accessory to the residential use. The owner is therefore requesting a variance to acknowledge the use of the two accessory buildings on the property associated with the established, residential use of the property including the existing 150 sq metre garage and the partially completed, 35 sq metre poolside cabana.

Section 45 of the *Planning Act* allows the Committee to permit, by granting variances, the expansion of a legal non-conforming use. Official Plan policy would also permit a non-

conforming land use “to enlarge provided that it does not adversely affect the residents and other properties of the area”.

The developed portion of the subject property is surrounded by an extensive amount of vacant land. To the north, the vacant land is owned by the City. To the south is vacant wetland owned by the owner of the subject property under separate title, and across Ashburnham Drive there are industrial lands, including the City’s recycling facility, which have their access onto Pido Road.

The undeveloped eastern portion of the subject property is subject to the City’s Natural Areas policies. Staff reviewed the owner’s proposal with the Otonabee Regional Conservation Authority and determined that, because this development application only considers development within the westerly 120 metres of the property, that there would not be an adverse impact on the natural areas that would result from recognizing the expanded residential use of the two existing accessory buildings on the property.

Subject to a legitimate concern being raised at the Committee meeting, Staff does not object to the Committee granting relief from the By-law to recognize the expansion of the 150 sq metre garage and 35 sq metre poolside cabana as accessory buildings associated with the residential use, subject to the following conditions:

- 1) The owner entering into an agreement not to develop or alter vegetation or grades on the property beyond 120 metres east of Ashburnham Drive.
- 2) The owner provide the City with a survey, satisfactory to the City, showing the location of each encroachment located within the Ashburnham Drive right-of-way and enter into an encroachment agreement with the City;
- 3) The owner receiving satisfactory final inspections on any open building permits associated with buildings and structures on the subject property.
- 4) All of the above conditions must be satisfied within one year of this decision or the benefit of this decision will lapse and become null and void.

(Sgd.) Richard Straka, Planner Policy & Research

(Sgd.) Dean Findlay, C.Tech., CBCO, Chief Building Official

STEWART STREET

STREET LINE

145.62'

PART 2 -- PLAN 45R-7115

STREET

EDINBURGH STREET

P.I.N. 28108-0063(LT)

P.I.N. 28108-0058(LT)

LOT 12

STREET

EDINBURGH STREET

SOUTH OF

STREET

GEORGE STREET

WEST OF

AN 45R-7115

PART 1
45R-7330

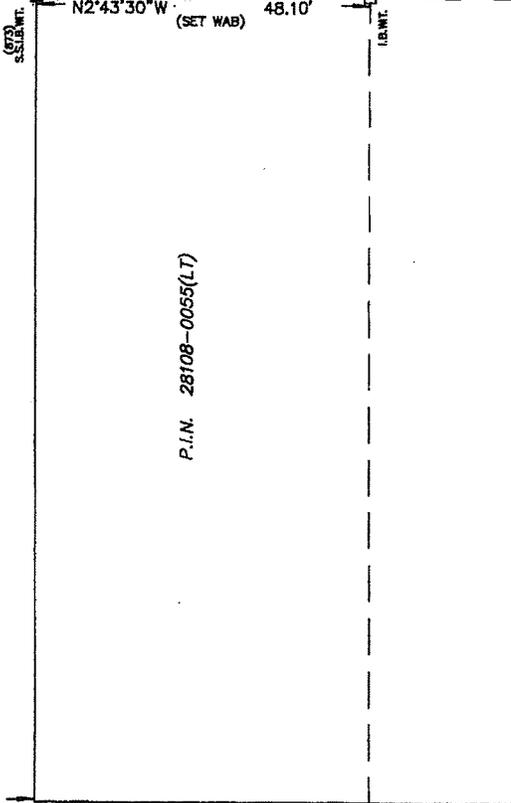
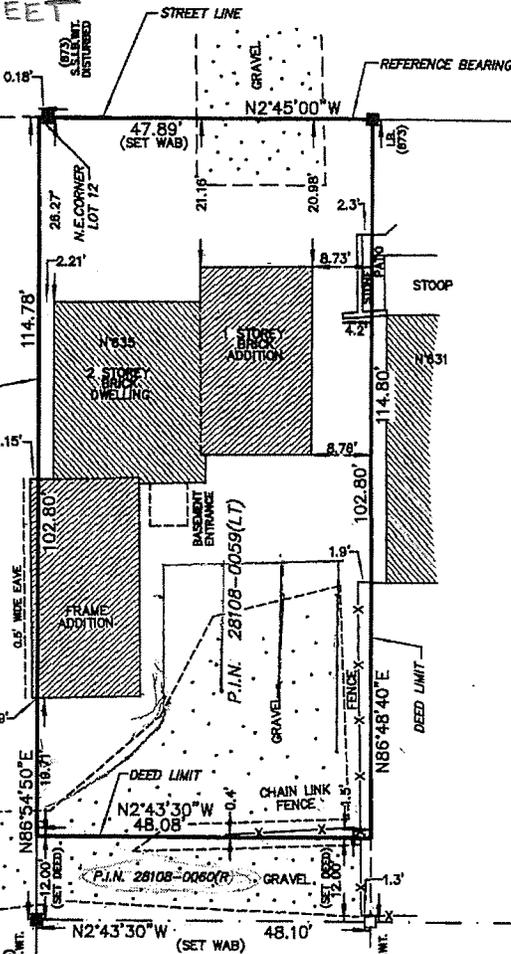
A04/15

635 Stewart Street

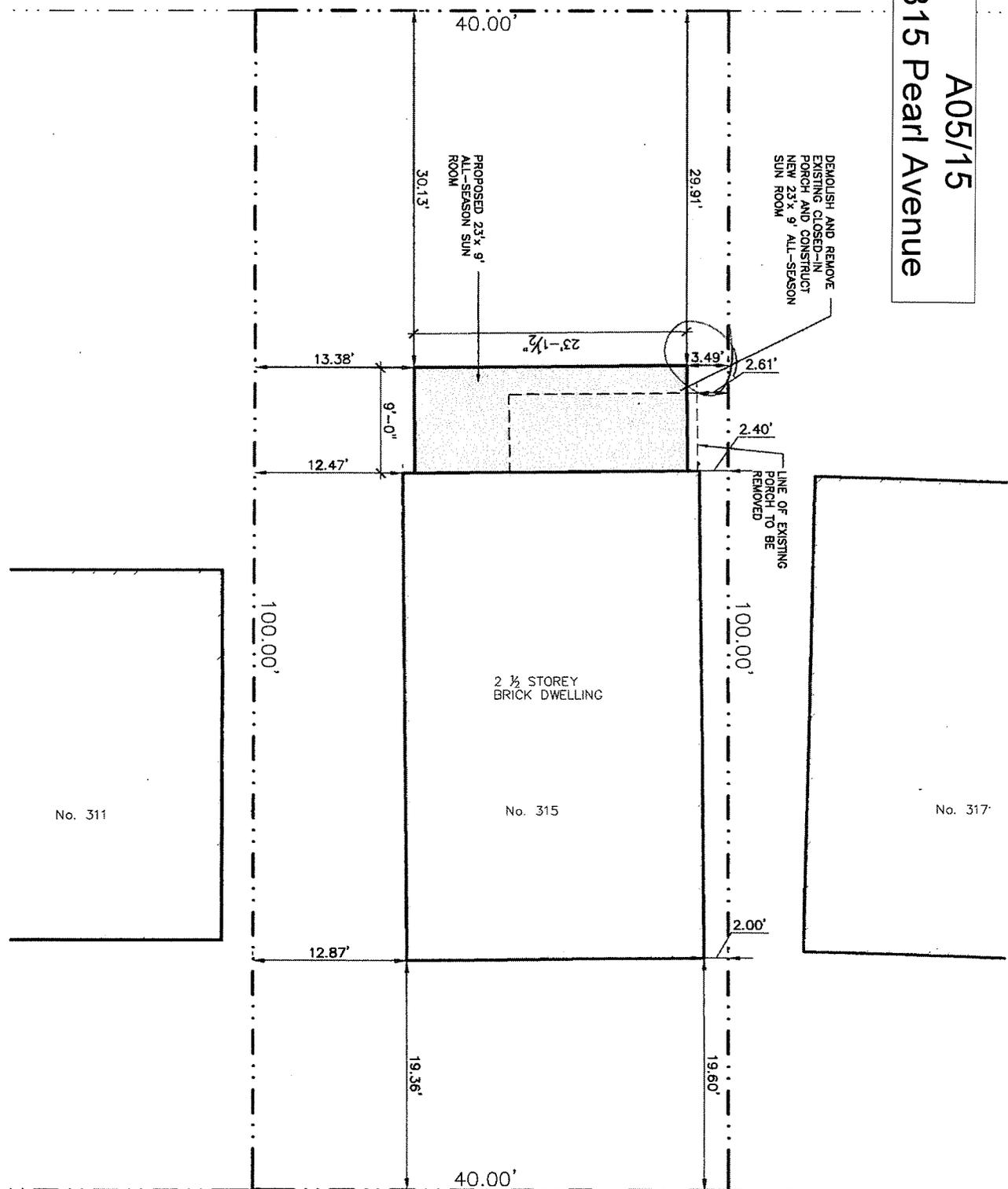
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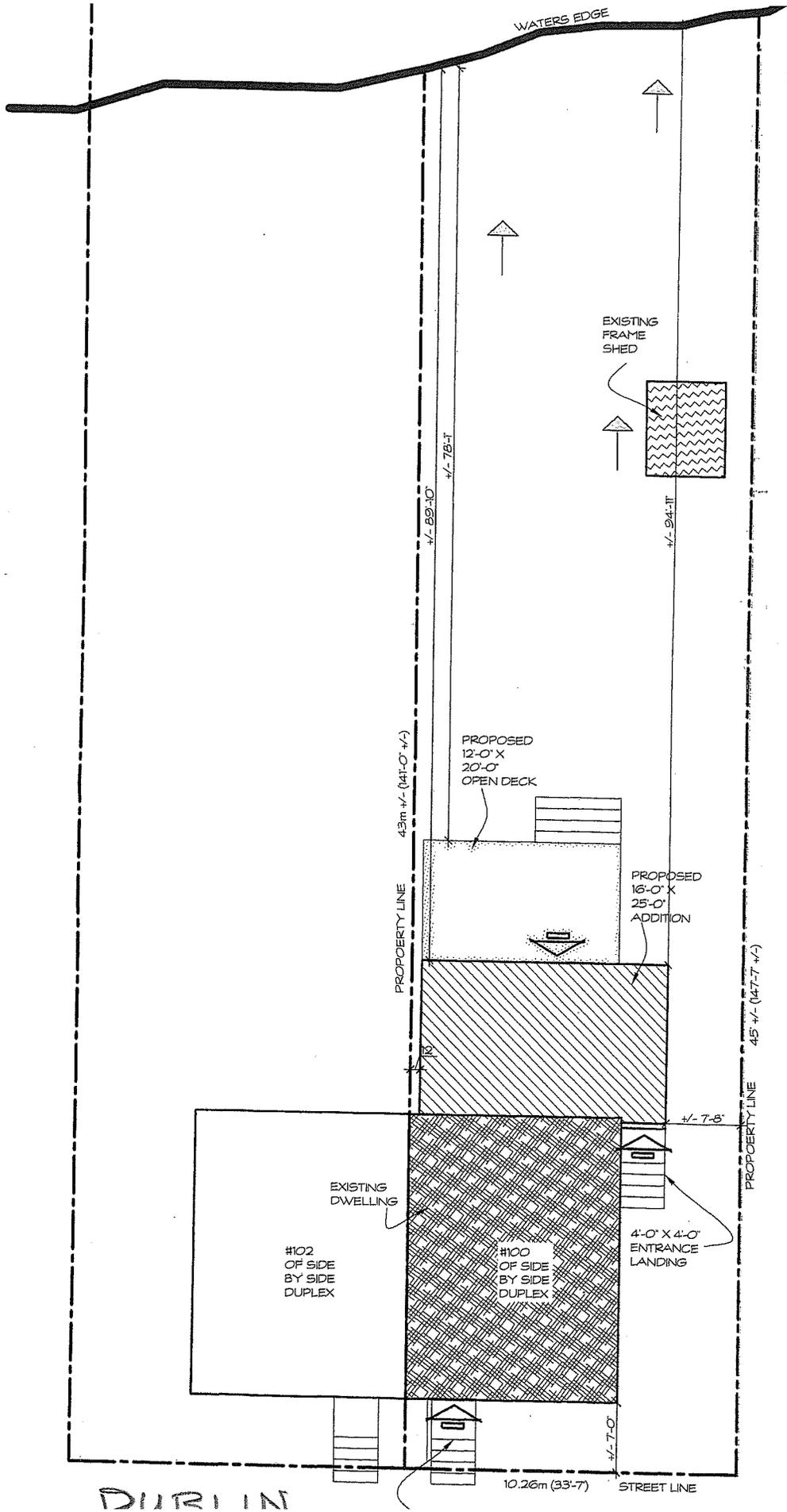
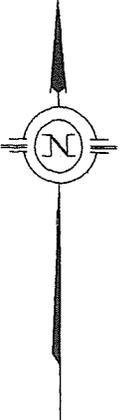
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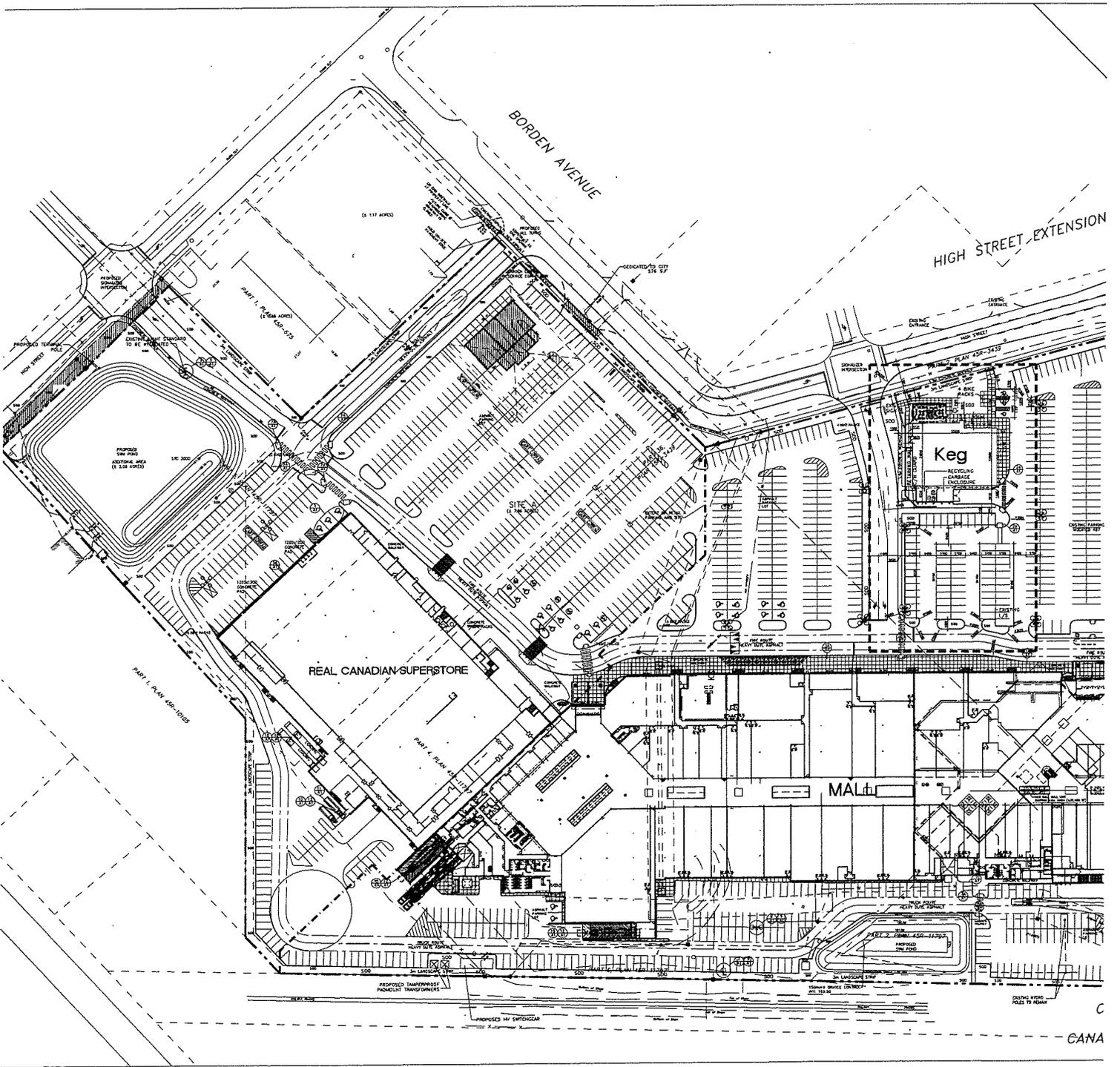
A05/15
315 Pearl Avenue



PEARL AVENUE



DURIN



AN

CANA



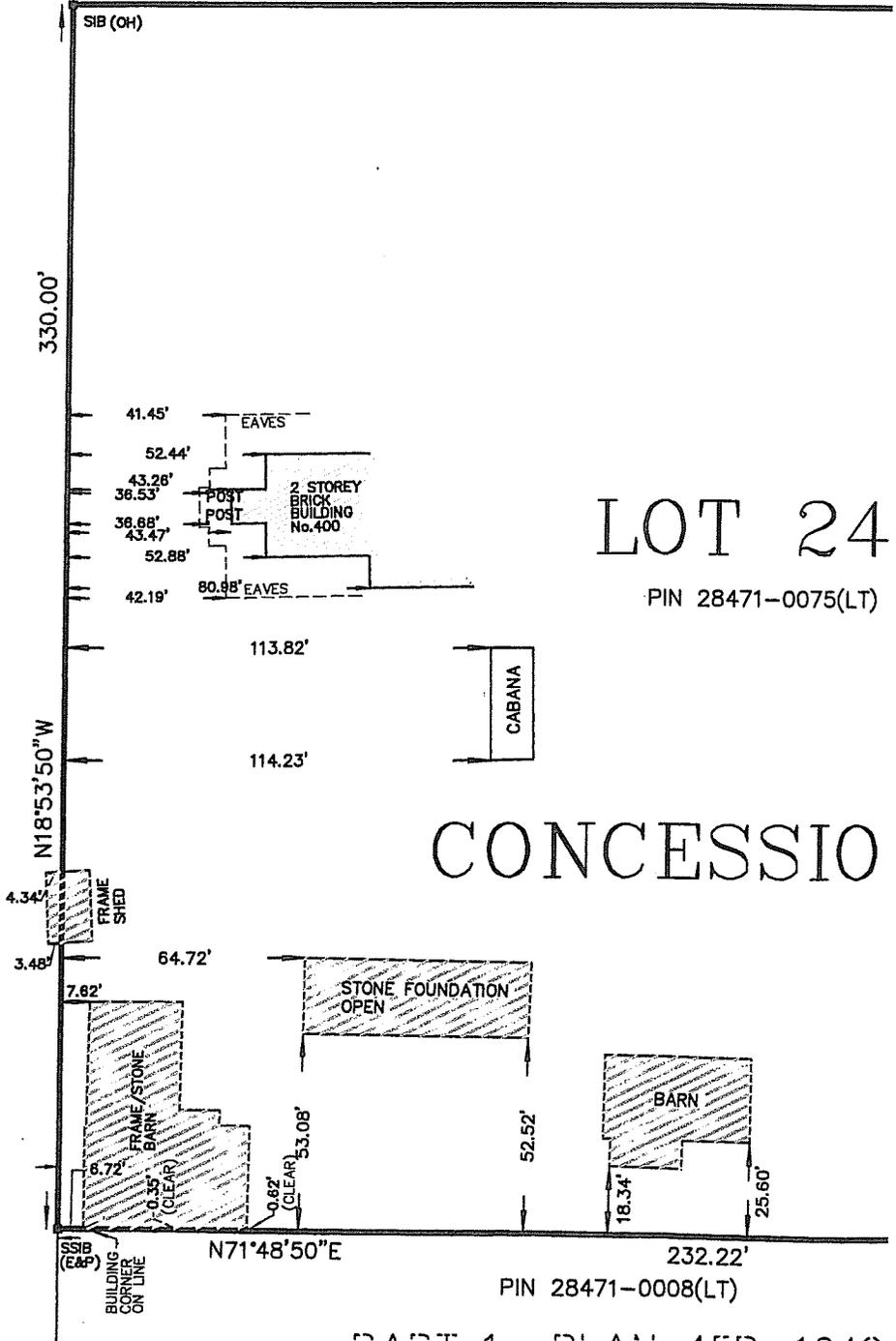
SCALE: 1 INCH EQUALS 50 FEET
ELLIOTT AND PARR (PETERBOROUGH) LTD.

PETERBOROUGH, ONTARIO
16 DECEMBER, 2014

SHAWN M. O'CONNOR
Ontario Land Surveyor

PART 2 PLAN 45R--3409
PIN 28471-0072(LT)

ROAD ALLOWANCE BETWEEN CONCESSIONS 12 AND 13
66' ASHBURNHAM DRIVE
PIN 28471-0001(LT)



LOT 24

PIN 28471-0075(LT)

CONCESSION

PIN 28471-0008(LT)

PART 1 PLAN 45R 1040