



City of
Peterborough

Committee of Adjustment

Hearing Date: November 5, 2019

Staff Comments Regarding Files: B20/19, A47/19, and A54/19

1. File Numbers: B20/19 and A47/19
Address: 47 Robinson Street
Applicant: Kevin M. Duguay
Owners: Troy Ellis and Deborah Loman

The subject property is located on the south side of Robinson Street, east of the intersection of Burnham Street and Robinson Street. The subject property is zoned R.1, R.2, R.3 – Residential District and is designated ‘Low Density Residential’ in the City’s Official Plan.

The owner of the property is seeking consent from the Committee of Adjustment to sever the easterly 10.97 metres (Exhibit A). This will create a new lot for future residential development. The proposed severed lot will have deficient lot frontage, lot depth, and lot area with respect to the R.1 zoning district. Application A47/19 has been filed to seek variances from the zoning provisions as they pertain to the proposed severed lot.

Analysis – B20/19 (Severance)

The subject property is located within a settlement area, as defined by the Provincial Policy Statement (PPS). The PPS directs growth and development to settlement areas. Land use patterns in settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources while being appropriate for and efficiently use infrastructure and public service facilities that are planned or available (PPS Section 1.1.3.2). Additionally, Section 1.6.6.2 of the PPS states that “Intensification and redevelopment within settlement areas on existing municipal sewage services and municipal water services should be promoted, wherever feasible.”

The Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan) states that the majority of growth forecasted to the horizon of the plan is to be allocated to settlement areas that have a delineated built boundary, have existing or planned municipal water or wastewater services, and can support the achievement of a complete community (Growth Plan Section 2.2.1.2(a)). The application supports the achievement of complete communities by assisting with the provision of a range and mix of housing options and densities (Growth Plan Section 2.2.6.2(c)). The proposed severance conforms to the Growth Plan as it will provide for an additional building lot within the existing built up area of the City.

The subject property is designated “Low Density Residential” in the Official Plan. Objectives of the Residential designation include encouraging “infill residential development in residential areas where the impacts of development on existing uses can be minimized and where development can efficiently utilize existing municipal services and facilities” and “encourage residential intensification to increase the supply of housing through better use of existing resources, buildings and under-utilized sites”. The creation of a new lot for a single detached dwelling will assist the City in achieving the objectives of the “Residential” designation as set out in Section 4.2 of the Official Plan.

The subject property is zoned R.1, R.2, R.3 in the City’s Zoning By-law. As the property is currently being utilized for a single-detached dwelling, the provisions of the R.1 zoning district apply. The retained lands comply with the provisions of the R.1 Zone, following removal of the deck structure on the east side of the existing dwelling. Further, in order to provide a driveway to the severed lot, the existing utility pole will be moved to the easterly limit of the proposed retained lot. The owner has been in communication with Peterborough Distribution Inc. (PDI) regarding the relocation of the utility pole which will occur at the owner’s expense. The proposed severed lot will be deficient in lot frontage, lot depth and lot area. A minor variance was applied for through application A47/19 to seek relief from R.1 regulations 7.2(b), (c) and (d) of the Zoning By-law.

Analysis – A47/19 (Minor Variance)

The applicant is proposing the following variances from Regulations 7.2 (b), (c) and (d) to the R.1 Zone as it pertains to the proposed severed lands to permit the creation of a new lot for the development of a single-detached dwelling:

- a) A reduction to the minimum lot area from 370 square metres to 321 square metres;
- b) A reduction to the minimum lot frontage from 12 metres to 10.973 metres; and
- c) A reduction to the minimum lot depth from 30 metres to 29.294 metres.

The neighbourhood is primarily residential in use, with public service facilities located to the northeast and northwest. Residential lots in the surrounding area have a great degree of variation in lot area, frontage, and depth. In the immediate vicinity, lots range in frontage from 11.49 to 25.47 metres, depth from 20.22 to 69.59 metres, and in area from 228.46 to 2,124.12 square metres.

As part of the submission, the applicant provided a conceptual plan that depicts how the proposed severed lot could be developed from a practical standpoint, showing a footprint for where a single-detached dwelling could be located within the building setbacks and associated parking (Exhibit B). Staff is of the opinion that the requested variances are minor in nature and represent a desirable and appropriate use of the land.

The subject property is designated “Residential” on Schedule A to the Official Plan. The Residential designation encourages infill and intensification where the impacts of development on existing uses can be minimized and where development can efficiently utilize municipal services and facilities. The proposed variances maintain the intent and purpose of the Official Plan.

The subject property is zoned R.1, R.2, R.3 in the City's Zoning By-law. As the proposed lot is intended to be developed with a single-detached dwelling, the provisions of the R.1 zoning district apply. The intent of the lot frontage, depth, and area provisions in the Zoning By-law is to ensure that a lot is of suitable size and dimension to support a single-detached dwelling. The conceptual plan submitted as part of the application depicts how the lot can be developed with a single-detached dwelling and associated parking spaces. The proposed variances maintain the intent and purpose of the Zoning By-law.

Agency Comment

The Otonabee Region Conservation Authority (ORCA) has reviewed the applications and is of the opinion that the proposal is consistent with Section 2.1 (Natural Heritage), 2.2 (Water), and 3.1 (Natural Hazard) of the Provincial Policy Statement.

Peterborough Utilities Commission (PUC) has provided comment and has indicated that development charges are applicable.

The Development Engineer has reviewed the application and noted that sanitary, water and utility services are required for the severed lot.

Recommendation

With respect to consent for severance application B20/19, staff recommends that the Committee of Adjustment **approve** the application, conditional upon the following:

- i) That minor variance application A47/19 is approved by the Committee of Adjustment;
- ii) Confirmation that the deck structure located on the east side of the existing dwelling is removed to ensure compliance with the minimum building setbacks;
- iii) The payment of a Parks Levy for the newly created lot, in an amount to be determined by the Parks Levy Review Committee;
- iv) The payment of a Tree Levy in the amount of \$138.96 for the newly created lot;
- v) That the owners enter into a development agreement with the City, agreeing to:
 - a. Provide building plans for approval by the Planner of Urban Design prior to the issuance of a building permit to ensure compatibility of building design on the severed lands;
 - b. Submit a lot grading and drainage plan for approval by City staff prior to construction of the new dwelling on the proposed severed lot; and
 - c. Relocation of the existing utility pole to the easterly limit of the retained lot, at the owner's expense, to permit the driveway;
- vi) Prior to registering the Reference Plan, the applicant shall, at its cost, submit for approval a draft Reference Plan to the Secretary-Treasurer, showing the proposed severed parcel. Upon registration of the approved Reference Plan, two copies of the registered reference will be provided to the Secretary-Treasurer;

- vii) A closed polygon vector file of the Part boundaries shown on the Reference Plan is to be provided in Autodesk DWG NAD83 UTM CSRS CGVD28 projection Windows-readable format to the satisfaction of the City of Peterborough Geomatics/Mapping Division. It is recommended that the applicant's Ontario Land Surveyor consult with the City of Peterborough Geomatics/Mapping Division to confirm acceptable standards and formatting. The Surveyor should contact the Secretary-Treasurer for instructions on how to submit this document.
- viii) That the applicant provides the Secretary-Treasurer with a draft of the Transfer/Deed of Land; and,
- ix) That if the above conditions are not satisfied within 365 days of the circulation of the Committee's decision that this consent will lapse.

With respect to minor variance application A47/19, staff recommends that the Committee of Adjustment **approve** the application, conditional upon:

- i) Submission of the registered Transfer/Deed of Land related to File Number B20/19.

2. File Number: A54/19
Address: 1201 Armour Road
Applicant: Kevin M. Duguay
Owners: Catherine and Dawson Bick

The subject property is located on the west side of Armour Road adjacent to the Otonabee River. The property is zoned OS.2 – Open Space District and is designated 'Major Open Space' in the City's Official Plan. The property is recognized as a legal non-confirming single-detached residential use by the City of Peterborough's Building Division. A legal non-confirming use means that the use, a single-detached residential dwelling, was legally established prior to a by-law being in place that prohibited the use. In this case, it has been determined that a residential dwelling was established on the subject property in 1955 and has remained continuous since that time.

Section 3.2 of the City's Official Plan provides policy direction for legal non-confirming uses. According to this section, "these uses would normally be expected to change to uses in accordance with the provisions of the Official Plan. However, to avoid undue hardship for the owner of the property the non-confirming use may be recognized and/or permitted to extend or enlarge provided it does not adversely affect the residents and other properties of the area."

The applicant is seeking permission under Section 45(2)(a)(i) of the **Planning Act** to expand a legal non-confirming use to permit the construction of a canopy to provide weather protection when using the door at the southeast part of the dwelling.

Since the single-detached dwelling use of the property is considered legal non-confirming, any changes are governed by the **Planning Act** through a request for permission from the Committee of Adjustment. Section 45(2)(a)(i) of the **Planning Act** provides that the

Committee of Adjustment may permit “the enlargement or extension of the building or structure, if the use was made of the building or structure on the day the by-law was passed ... continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed”.

The test for a request for permission is not the four tests of a minor variance, but rather a looser test that requires the Committee to evaluate the impact of the proposed development on the neighbourhood. When making this evaluation, the Committee will need to consider whether the proposal will have an adverse impact on the surrounding area.

The existing dwelling is located within a cluster of four residential dwellings located between Armour Road and the Otonabee River. The proposed expansion to accommodate the canopy is not anticipated to have an adverse impact on the surrounding area. The canopy represents an additional building coverage of less than one percent in an area of the property already developed with hard landscaping.

Agency Comment

The Otonabee Region Conservation Authority (ORCA) has reviewed the applications and is of the opinion that the proposal is consistent with Section 2.1 (Natural Heritage), 2.2 (Water), and 3.1 (Natural Hazard) of the Provincial Policy Statement.

The property falls within the Peterborough Drinking Water Source Protection Area. A Section 59 Notice to engage in an activity in a vulnerable area for a municipal drinking water supply was issued by the Risk Management Official (RMO) on October 15, 2019 – Notice 2019-P025-N2a.

Recommendation

Staff has considered the residential nature of the property and surrounding neighbourhood and has determined that the proposed canopy is not anticipated to have an adverse impact on the surrounding area and will result in an improved function of the subject property. Staff recommends that the Committee of Adjustment **approve** the application for permission to expand a legal non-conforming use as shown on the Site Plan prepared by Elliott and Parr dated April 6, 2019.

Prepared By:

Concurred With:

Nolan Drumm
Planner, Policy and Research
Planning Division,
Infrastructure and Planning Services

Dean Findlay, C.Tech., CBCO
Chief Building Official
Building Division,
Infrastructure and Planning Services

BURNHAM STREET

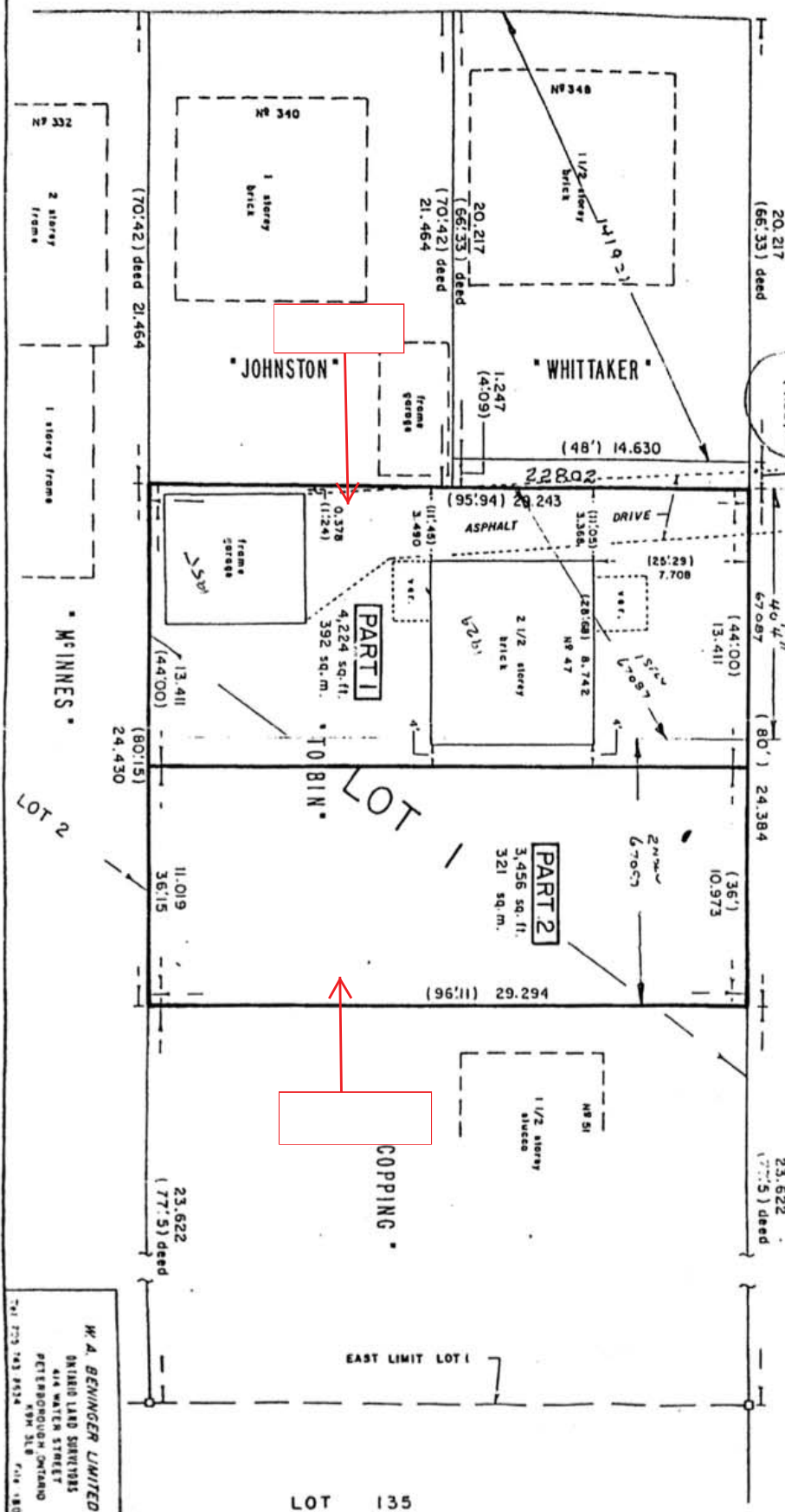
SKETCH
FOR SEVERANCE APPROVAL OF PART OF
LOT 1, south of Robinson St. and east of
Burnham St., Registered Plan 1A
CITY OF PETERBOROUGH

SCALE: (1 INCH = 20 FEET)
1 : 240
MEASUREMENTS IN BRACKETS INDICATE FEET.


PETERBOROUGH, ONTARIO
28 AUGUST, 1979

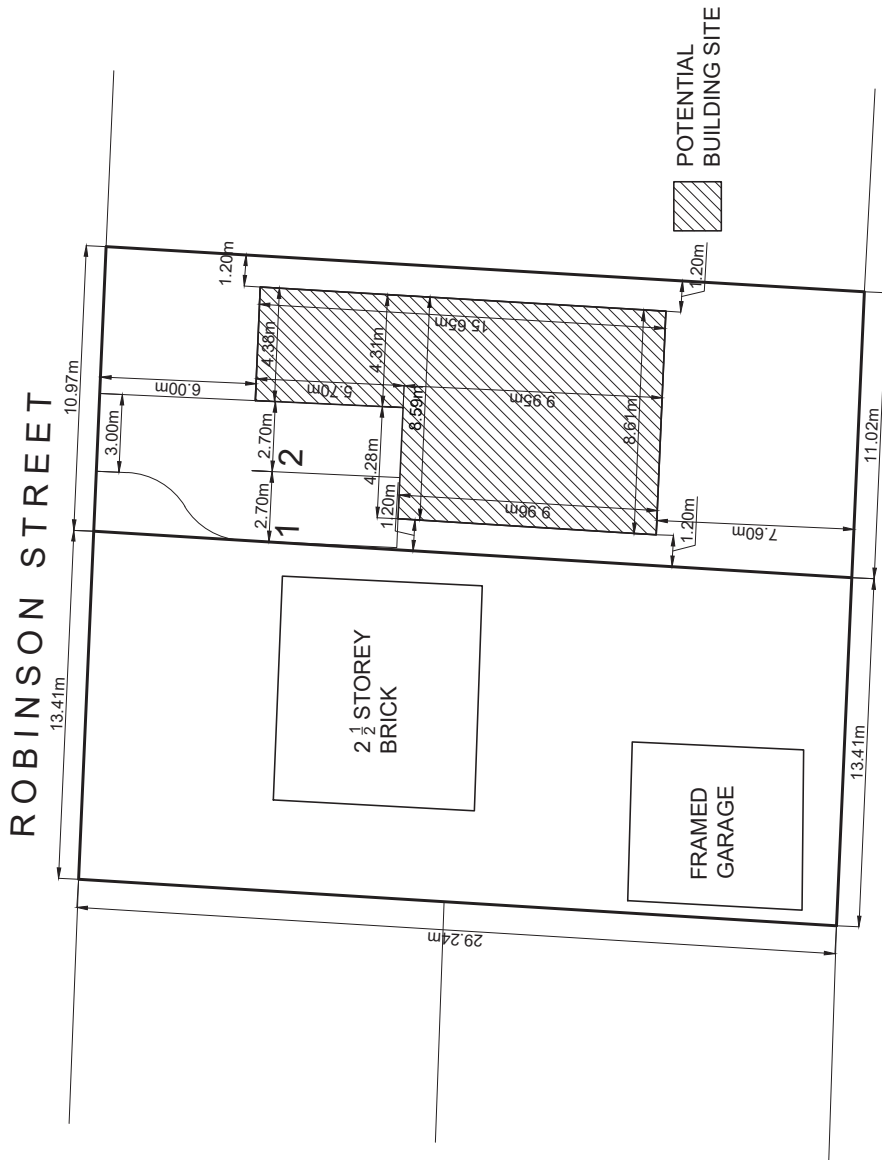
W. A. Beninger
W. A. BENINGER
Ontario Land Surveyor

ROBINSON STREET

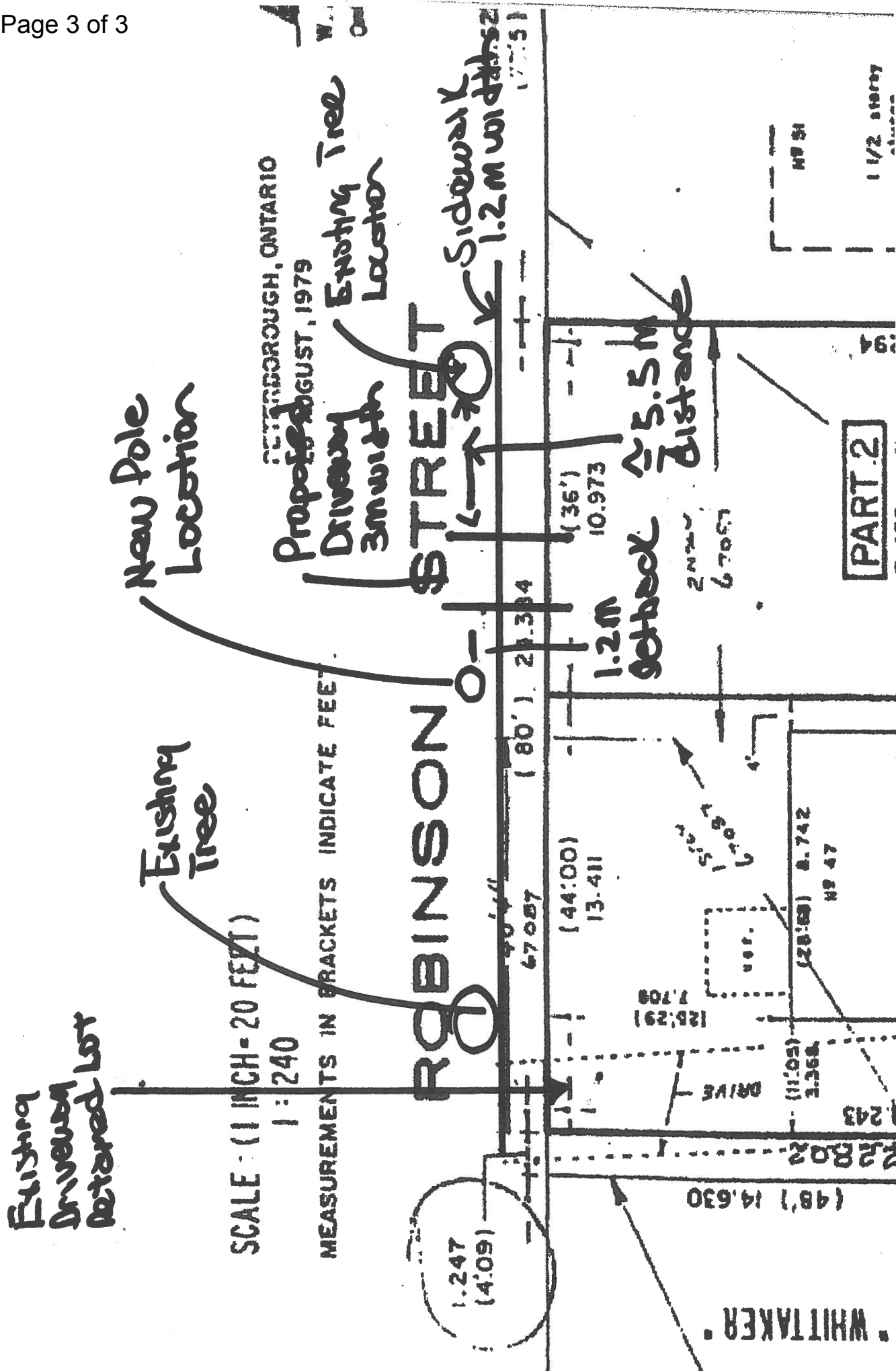


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414 WATER STREET
PETERBOROUGH, ONTARIO
K9N 3L8
Tel 773 743 4534

PLOTTED: OCT/07/2019	CLIENT: Peterborough, ON	PROJECT TITLE: SITE PLAN Robinson street Peterborough, ON	DRAWING TITLE: SITE PLAN		eco line design studio 36 Parkside street, Minden ON, K0M 2K0 BCIN 33321 email: fabiennelehmann@yahoo.ca tel: 705-875-0038 www.ecolinedesignstudio.com	Rev: October 2019	PROJECT #: Scale: As Shown Drafted by Fabienne Lehmann BCIN: 20161	SHEET #: A0
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LOT AREA: 321.51 m²
DEVELOPMENT AREA: 110.32 m²
PARKING SPACES : 2 SPACES [2.70mx5.70m]

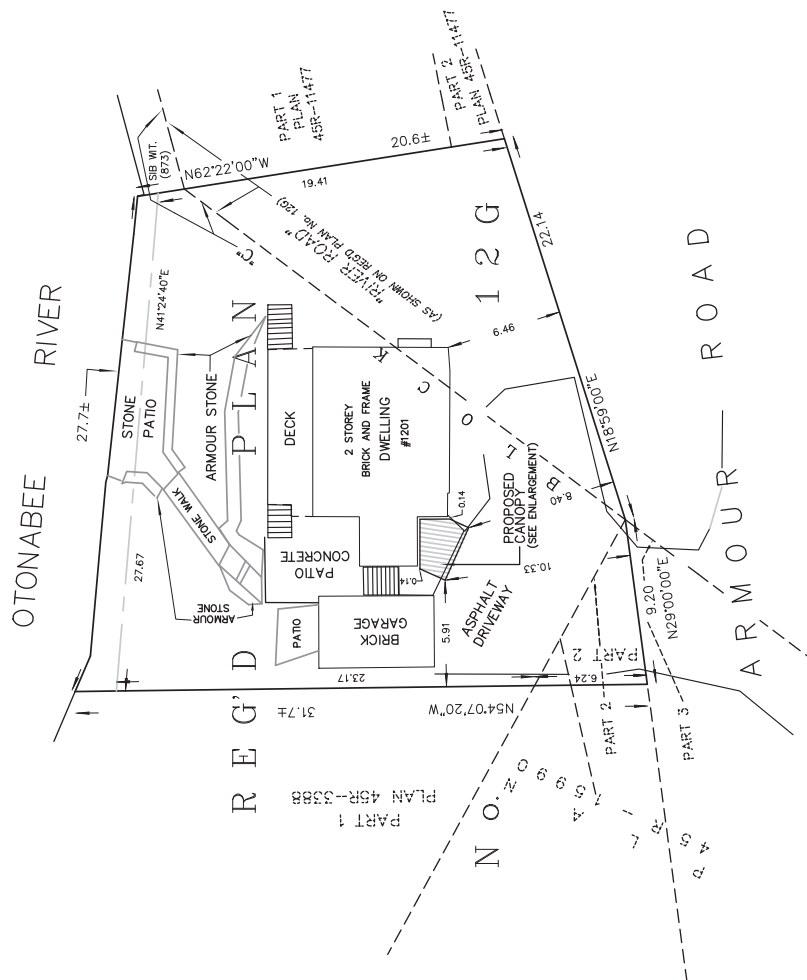


DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.


BEARING NOTE:

BEARINGS ARE GRID, DERIVED FROM THE NORTHERLY LIMIT OF PART 1, PLAN 45R-3388, AS SHOWN ON PLAN 45R-16647, HAVING A BEARING OF N54°07'20"W.

A54/19
1201 Armour Road

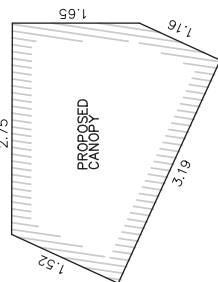


SITE PLAN OF
PART OF RIVER ROAD (CLOSED BY BY-LAW G10036)
AND PART OF BLOCK C, REGISTERED PLAN No. 12G
CITY OF PETERBOROUGH
COUNTY OF PETERBOROUGH



SCALE: 1 : 250

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APRIL 8, 2019

SHAWN M. O'CONNOR
Ontario Land Surveyor



Elliott and Parr
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CHECKED BY:	REFERENCE NO.:
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1

REFERENCE NO.: 18-19-253-01

FILE: E&P	DOURO	RP	12G
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DATED: 04/06/19

PLOTTED: APRIL 6, 2019