

Planning Justification Report for Minor Variance Application

208 Downie Island, Township of Leeds and the Thousand Islands

Subject: Minor Variance Application for Proposed Accessory Structure within the 30m Waterway Setback

Property Address: 208 Downie Island

Application Number: D00-2023-075

Roll Number: 0812812025496000000

Application Overview

This report provides a comprehensive planning justification in support of a minor variance application for the construction of an accessory structure (shed) at 208 Downie Island. The shed is proposed to be set back 17.4 meters from the high-water mark of the St. Lawrence River, which is non-compliant with the 30-meter setback requirement stipulated in Section 3.32(b) of the Township Zoning By-Law 07-079. The property is zoned Island Residential (IR) with the surrounding area designated as "Rural" in the Official Plan. The proposed shed will be a storage structure with an area of less than 15 square meters and will be located on a level, well-elevated site, positioned farther back from the water than the existing cottage structure.

1. Site Context and Existing Conditions

The property at 208 Downie Island is located adjacent to the St. Lawrence River and is subject to the Island Residential zoning under Township Zoning By-Law 07-079. The property features a significant portion of land that lies outside of the 30-meter waterway setback, which would typically allow for the potential relocation of the shed to a compliant location. However, the site's steep topography, uneven terrain, and the presence of a hydro easement restrict the possibility of moving the structure farther back into the property, where it would be rendered essentially unusable due to its remoteness from the existing cottage and waterfront access.

The proposed shed location is strategically chosen to be situated farther from the water than the existing cottage, in a level area that is well elevated from the high-water mark. This location provides accessibility to the shed while maintaining proximity to the existing primary dwelling, the water only access while it minimizes disturbance to the natural landscape.

2. Site Constraints and Challenges for Relocation

While there is land available outside of the 30-meter setback, relocating the shed to this area is not a feasible option due to the following constraints:

- **Steep Topography and Uneven Terrain**

The property's uneven terrain and steep slopes would make relocating the structure deeper into the property both impractical and inefficient, resulting in a location that is remote and inconvenient for use. The further back relocation would render the shed practically inaccessible from the current primary dwelling and waterfront recreational access structures.

- **Hydro Easement**

A hydro easement runs across the property, which limits structures in that area. This further limits the ability to shift the shed further inland without conflicting with the easement or rendering the shed remote to regular usage.

Given these challenges, the proposed location closer to the existing structures and further from the water remains the most suitable and functional site for the shed.

3. Provincial Policy Statement (PPS)

The Provincial Policy Statement (PPS) 2020, issued under the Planning Act, provides guidelines to ensure sustainable land use planning. Relevant policies that support the minor variance application include:

- **4.1 – Natural Heritage**

The PPS stresses the need to protect natural heritage features and their functions. The proposed accessory structure is situated in an area that minimizes disturbance to natural features, as it is set back from the water, behind the current cottage and not within sensitive environmental areas. Its location on a well-elevated, level site ensures minimal impact on the surrounding natural landscape

- **4.2 – Water**

Development near waterbodies must avoid negative impacts on water quality and water resources. The proposed structure will not introduce any adverse impacts on water quality, as it is a small, low-impact storage shed, with no plumbing or sewage systems. Its location will have no impact on surface water or ground water features.

- **2.1 (6) - Planning for People and Homes**

“Planning authorities should support the achievement of complete communities by ... improving accessibility for people of all ages and abilities by addressing land use barriers which restrict their full participation in society and improving social equity and overall quality of life for people of all ages and abilities.” While the location of the accessory structure is not outside the 30m setback, a minor variance has been requested, as it has been placed within a reasonable distance from the existing main cottage structure to allow reasonable access and use for aging family members with declining mobility to maintain access to shed storage facility.

4. Township Official Plan (OP)

The Township's Official Plan designates the property as "Rural," with additional special policies regarding woodlands and the highly vulnerable aquifer. The following policies from the OP are relevant:

- **4.2 Accessory Uses, Buildings, or Structures**

The use of the accessory structure for storage is essential and should be permitted.

- **6.1.4.2 Waterfront Development**

The OP encourages responsible development in the waterfront areas to maintain or complements the character of the existing development and preserve the ecological and natural features of the lands, water, and shoreline. The proposed shed is designed to blend into the natural landscape and is positioned to minimize any environmental impact, consistent with the goals of the OP.

- **6.1.4.2 (3) Waterfront Development**

It is the intent of this Plan that new development in waterfront areas be directed to lands that are physically suitable for development in their natural state, in an effort to maintain the area's unique character. The shed has been placed in a natural level opening, without alteration of surface soil or alteration in rainwater drainage or natural elements.

- **6.1.4.2 (5) Waterfront Development**

It is understood that new development should generally be setback 30 metres if possible/feasible, otherwise as far back, with minimum disturbance of the native soils and very limited removal of the shoreline vegetation beyond that required for development. As outlined in the official plan, we have complied, while being unable to adhere to the proposed reduction to the 30 m minimum setback, we shall by a) being consistent with any applicable policies in the Provincial Policy Statement and related implementation guidelines; b) maximizing the setback through shed design and orientation whilst still keeping the accessory structure usable; and c) minimize disturbance to native soils with no disturbance at all to any shoreline vegetation in accordance with other policies of this Plan.

- **6.1.4.2 (8) Waterfront Development**

The placement of the accessory structures within the 30 m water setback is supported by the Official Plan where a) They are a reasonable size for the intended use; and b) Suitable methods to minimize negative impacts on surface water, riparian lands, and the littoral zone are incorporated into the design of the development. The structure has been placed with minimal disruption and no negative impact on surface water. It is of reasonable size, less than 15 square metres in size, and is exempt from the requirement for a building permit.

- **5.2 – Environmental Protection**

The OP stresses that development should not disturb sensitive areas, particularly near watercourses. The proposed location of the shed, 17.4 meters from the water, is

appropriate given the size and function of the structure. No significant vegetation removal or disturbance to the environment is required. After pre-consultation with Cataraqui Conservation, it has been decided the structure meets the flooding and erosion hazard setbacks required under Ontario Regulation 41/24 and Conservation staff can issue a retroactive permit for the structure in its current location.

- The OP encourages maintaining setbacks to protect both the environment and public interest. While the proposed variance reduces the setback by 12.6 meters, this reduction is small and does not interfere with the overarching goals of the OP. The location of the shed ensures minor environmental impact and respects the intent of the waterfront development policy.

5. Zoning By-Law 07-079

As per Section 3.32(b) of Township Zoning By-Law 07-079, any building or structure located adjacent to a watercourse must be set back a minimum of 30 meters from the high-water mark. The proposed shed's location, 17.4 meters from the St. Lawrence River, does not meet this setback requirement and we are requesting relieve of 12.6 meters. Several factors support the granting of the minor variance:

- **Intent of the Setback**
The 30-meter setback is designed to protect the shoreline and water quality. The proposed shed is located on a site that is both well elevated (6.5m) from the water and distant from environmentally sensitive areas. The shed's minimal size and its non-intrusive design ensure that it does not interfere with the natural environment or the waterway.
- **Minor Variance Criteria**
The Township's Zoning By-Law allows for minor variances if the general intent of the by-law is maintained. The requested variance is small and its impact minor in nature with low-impact nature of the shed. There are no negative impacts on surrounding properties and the structure does not block views or access to the water.
- **Cataraqui Conservation**
Cataraqui Conservation has reviewed the application and confirmed that the proposed structure complies with the required flooding and erosion hazard setbacks under Ontario Regulation 41/24. This ensures that the proposed shed does not pose a risk of flooding or erosion, allowing Township staff to issue a retroactive permit for the structure in its current location.

6. Pre-Consultation and Agency Comments

A pre-consultation meeting (DRT-2023-075) was held with the Township Planning Department and relevant agencies. The following comments were received:

- **Township Planning Department:** The property is zoned Island Residential (IR), and the 30-meter setback requirement is noted under Section 3.32(b) of the Zoning By-Law. The proposed variance would reduce the setback by 12.6 meters, but the overall impact is deemed minor.
- **Township Building Department:** Provided the shed remains under 15 square meters and is used for storage, it is exempt from requiring a building permit. No objections were raised.
- **Cataraqui Conservation:** The structure meets the flooding and erosion hazard setbacks required under Ontario Regulation 41/24. Cataraqui Conservation staff have offered to issue a retroactive permit for the structure in its current location.

7. Planning Rationale and Justification

The proposed minor variance meets the criteria set out in Section 45 of the Planning Act, as it is:

1. **Minor:** The requested setback reduction is minimal and its impact is minor, not substantially affecting the intent of the Zoning By-Law.
2. **Desirable for appropriate development:** The location of the shed enhances the property's functionality, maintaining accessibility to the primary dwelling while minimizing environmental impact.
3. **Consistent with the Zoning By-Law:** The variance maintains the general intent of the Zoning By-Law by ensuring the shed remains a low-impact structure located in an elevated area, away from environmentally sensitive areas.
4. **Consistent with the Official Plan:** The proposed structure complies with the Official Plan policies that promote responsible development near waterbodies, balancing development needs with environmental protection.

8. Conclusion

In conclusion, the proposed minor variance for the accessory shed at 208 Downie Island is consistent with the relevant policies of the Provincial Policy Statement, Township Official Plan, and the Township Zoning By-Law. The variance is minor in nature and necessary due to site-specific constraints such as steep topography and a hydro easement. The shed will be set farther from the water than the existing cottage structure, is appropriately located on a level, accessible and elevated site and will not negatively impact the natural environment or surrounding properties.

We respectfully request that the Planning Staff of Township of Leeds and the Thousand Islands **approve** the minor variance application for the proposed shed, recognizing its minimal impact on the waterway and the environment.

Thank you.

Prepared By:
Craig Bolton, Applicant

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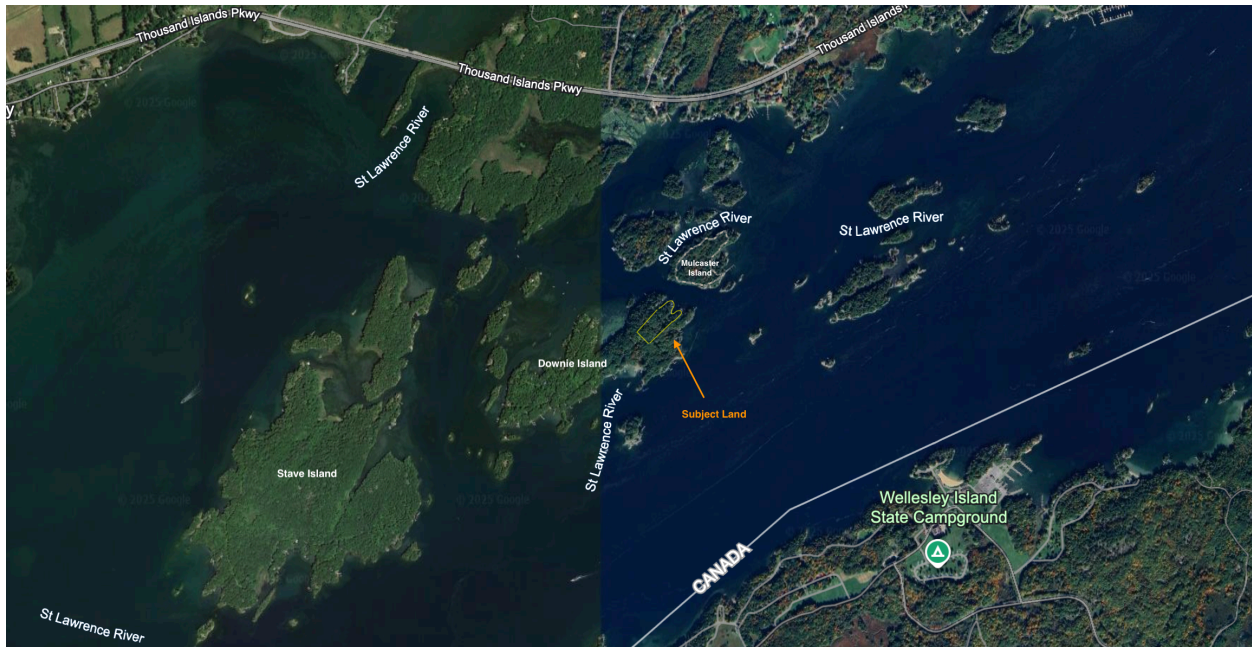


Figure 1.1 and 1.2 Location Map





Figure 2. Location of Accessory Structure (shed).



Figure 3. Accessory Structure Shed. Build in manner to blend with existing cottage structure style.



Figure 4. Accessory Structure located behind existing cottage structure & deck.

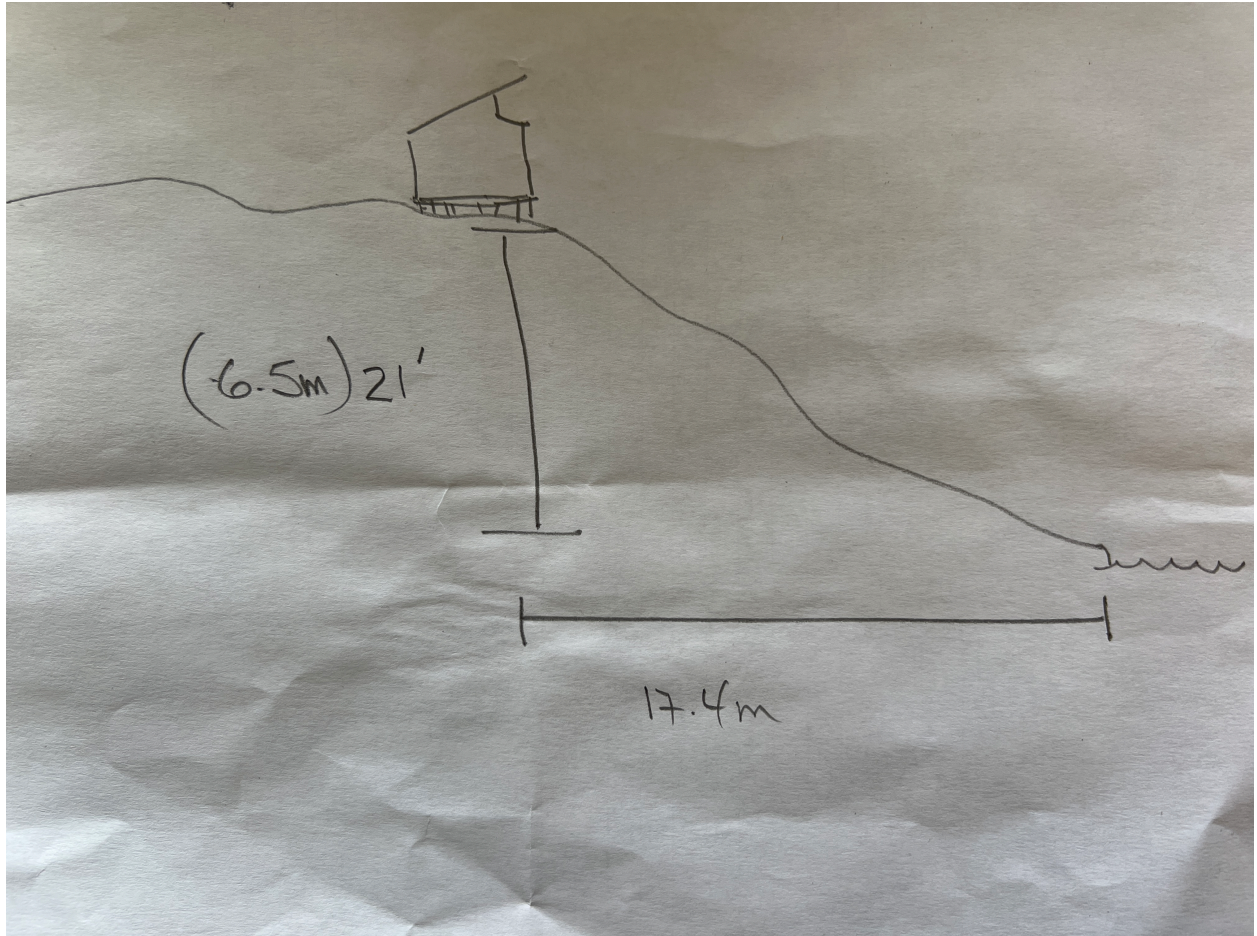


Figure 5. Elevation of Accessory structure (6.5m) above water.



Figure 5.1 Photo of Accessory Structure (6.5m) above water and blending into natural environment