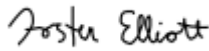



REPORT TO THE COMMITTEE OF ADJUSTMENT & PLANNING ADVISORY COMMITTEE	
Date of Report: June 26, 2025	Date of Meeting: July 9, 2025
Subject of Report: Section 45 Application A-19-2025 & Site Plan Control Application SP-26-2025 CONSTANTINE and LUMBERS	
Recommendation: Staff recommend that the Section 45 application A-19-2025 be approved as submitted with the conditions outlined in Section 8 of this report.	
Decision: Site Plan application SP-26-2025 is approved as submitted with the conditions outlined in Section 9 of this report.	
Report Prepared By:	 <hr/> Foster Elliott, Associate Planner
Departmental Approval:	 <hr/> Tom Fehr, Manager of Development Services
Chief Administrative Officer (CAO) Approval:	 <hr/> Shellee Fournier, CAO

1.0 PROPOSAL

1.1 Purpose of the Application

This is an application under Section 45 of the Ontario Planning Act requesting permission to expand a non-conforming use. The applicants are proposing to construct a 38sqm (409sqft) partial second storey addition on an existing non-conforming 1 storey 96.3sqm (1037sqft) dwelling. The dwelling height will increase from an existing 4.8m (16ft) to a proposed 8.2m (27ft) through the partial second storey. The existing dwelling is non-conforming with the required 30m water setback and 30m Natural Heritage A setback at a water and Natural Heritage A setback of 4.4m. The proposed partial second storey addition is located at a 4.4m water and Natural Heritage A setback.

This property is also subject to a Site Plan Control Application (SP-26-2025) under the authority of Section 41 of the Planning Act where the applicants are proposing to undertake the works as described above.

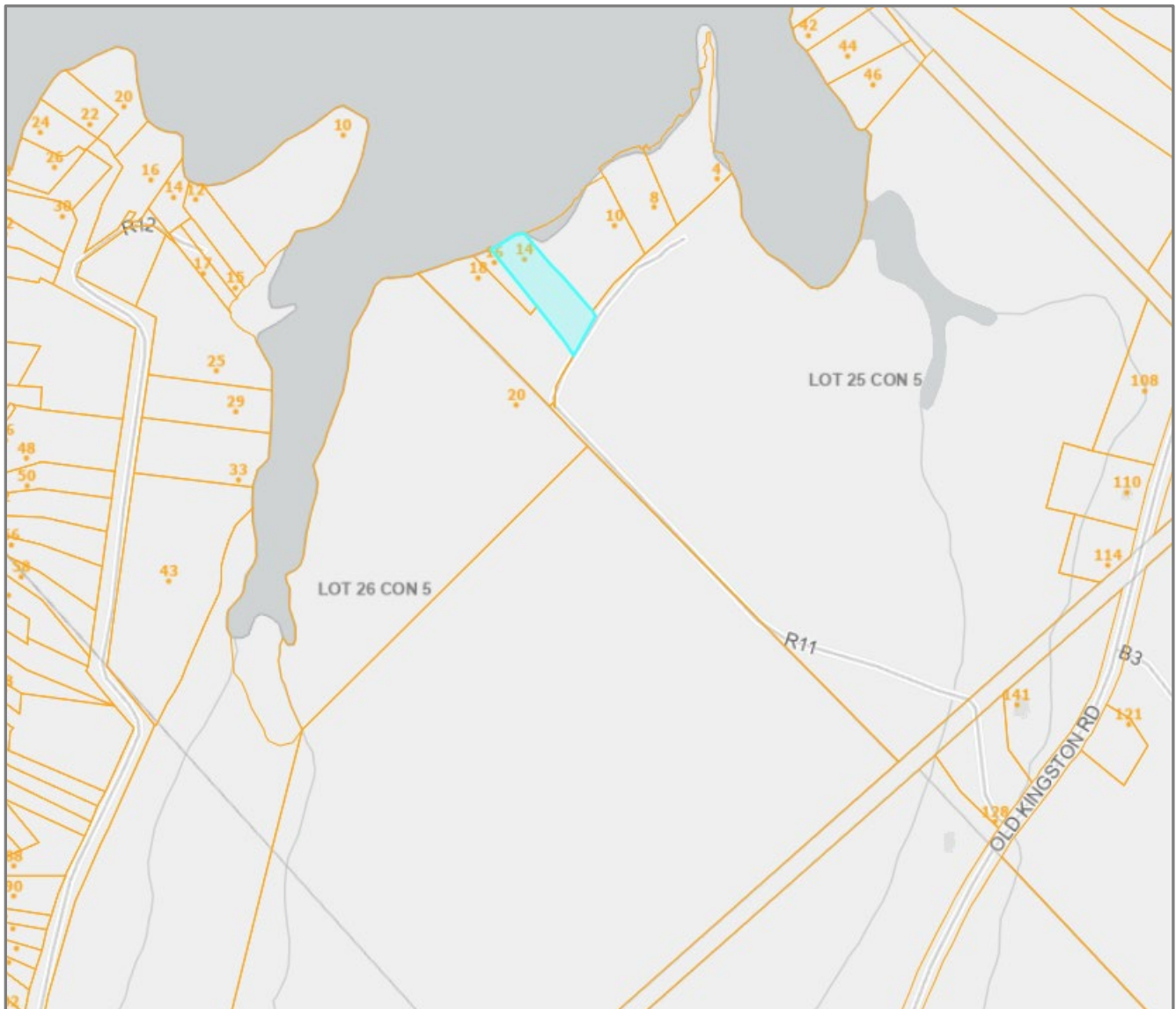


Figure 1 – Context Map

2.0 PROPERTY AND OWNER INFORMATION:

Attribute	Value
Roll Number	083182803387100
Owner Name	Joanne Constantine & John Lumbers
Location	14 R11
Area	1.18 acres
Frontage	198.00 ft Big Rideau Lake
Depth	0.00 ft
Description	SOUTH ELMSLEY CON 5 PT LOT;25 RP 28R2091 PART 1 RP;28R12008 PART 4 RIDEAU LAKE

The subject property is relatively flat. There are mature trees on the waterside of the existing dwelling, including the area where the dwelling is 4.4m from the water. The rear of the property is more open, with some smaller trees. The property is currently developed with a

dwelling (and associated servicing), marine facility, sleeping cabin, and multiple sheds. The shoreline area is generally grassed with a concrete retaining wall. Mature vegetation (cedar trees) occupy the property directly back from the immediate shoreline area for a majority of the waterfront. Surrounding property uses are residential.

3.0 AGENCY COMMENTS

3.1 Chief Building Official (CBO)

The CBO has no objections. A building permit will be required for the addition to the dwelling. The septic system performance review will be completed at the building permit stage.

3.2 Rideau Valley Conservation Authority (RVCA)

No comments have been received from the RVCA at the time of this report.

3.3 Parks Canada

No concerns with the proposal as the addition is within the existing footprint of the building.

3.4 Fire Chief

No concerns with Fire Service.

4.0 STAFF REVIEW – SECTION 45(2) PERMISSION TO EXPAND A NON-CONFORMING USE

The two tests for Section 45(2) applications are generally whether the application has negative impacts on the neighbourhood or surrounding area and whether the application represents appropriate and desirable development that is effectively “good planning.”

In evaluating these tests, Section 2.14.1 of the OP outlines the methodology and criteria by which the Township considers applications under Section 45(2) of the *Planning Act* to permit changes to non-conforming uses involving extensions or enlargements. Sections 5.1 and 5.2 of this report utilize these criteria of the OP to assess the appropriateness and impact of the proposed development.

Section 2.14.1 of the OP policies for changes to non-conforming uses involving extensions or enlargements are broken down below.

- A. Any proposed change of use or extension or enlargement of the existing nonconforming use shall not aggravate the situation created by the existence of the use.

Comment: The proposed enlargement of the dwelling is fully within the existing footprint of the dwelling which maintains the existing setbacks to the water. The increases are to install a partial second storey which includes an increase to the height of the building. As no development is proposed that goes closer to the water, this proposal does not further aggravate the extent of non-conformity of the dwelling.

- B. Any proposed extension or enlargement shall be in appropriate proportion to the existing size of the non-conforming use.
- C. Any proposed extension or enlargement shall be keeping with the scale and massing of surrounding development and neighbouring properties and shall generally maintain the overall scale and massing of the existing building(s) proposed to be extended or enlarged.

Comment: These two policies are grouped together due to their stated goals of ensuring the proposed expansion is within an acceptable scale when considering the existing non-conforming use and surrounding development. In the absence of an explicit threshold for determining “appropriate proportion” staff utilize the Zoning By-law and agency/3rd party

comments as particularly important in determining “appropriateness” of scale of the proposed extension/enlargement. In this case, the enlargement of the dwelling is fully within the same footprint, and does not violate any other building performance standard pertaining to scale of the building (height, lot coverage, floor space index, etc.) The proposed enlargement aligns with the existing scale of development on the property and neighbourhood.

- D. The impact of the proposed change of use and/or the proposed extension or enlargement shall be examined with regard to noise, vibration, fumes, smoke, dust, odours, lighting, traffic generation, visual impacts and other nuisances. Applications which would create or aggravate land use incompatibilities shall not be approved.

Comment: The impact of the proposal is not anticipated to have any adverse impacts related to noise, vibration, fumes, smoke, dust, odours, lighting, traffic generation and other nuisances other than those typically occurring during the course of construction. Visual impacts of the proposed enlargement have been considered from the water, however through retention of the existing vegetation along the shoreline as proposed in the shoreline buffer planting plan, potential negative visual impacts are considered to be minimized.

- E. Neighbouring uses will be protected, where necessary, by the provision of areas for landscaping, buffering or screening, appropriate setbacks for buildings and structures, devices and measures to reduce nuisances and, where necessary, by regulations for alleviating adverse effects caused by matters such as outside storage, lighting, advertising signs.

Comment: The proposed enlargement of the existing dwelling increases the massing and the height of the dwelling. The proposal complies with the minimum 6m interior side yard setback at 10m. The side yard setback is a real separation distance used to minimize impacts from one property to another. There is also various mature vegetation between the dwelling and the neighbouring property which is proposed to remain, and will assist as a visual buffer between the uses.

- F. Traffic and parking conditions on-site and in the vicinity will not be adversely impacted by the proposal and traffic hazards will be kept to a minimum by appropriate design of ingress and egress points to and from the site and by improvement of sight lines especially in proximity to intersections.

Comment: Traffic on site and traffic generation through this proposal are considered to be the same, as the use of the building remains as a single family dwelling. Parking conditions on site are not impacted through the proposal.

- G. Adequate provisions have been or will be made for off-street parking and loading facilities.

Comment: Off street parking is available on this property. No loading facilities are required according to the Zoning By-law.

- H. Services such as storm drainage, roads and private sewer and water services are adequate or can be made adequate.

Comment: Stormwater management is a potential impact from the dwelling’s location relative to the water. Through the collection and redirection of the stormwater runoff and

snowmelt, staff do not anticipate adverse impacts from stormwater drainage. Site Plan conditions can further assist with mitigating stormwater runoff impacts.

- I. When considering applications on or adjacent to the waterfront, the following additional criteria shall be applied:

- i) The proposed extension or enlargement is located no closer to the waterfront than the existing non-complying use, building or structure and maximizes the water setback.

Comment: The proposed enlargement to the non-conforming dwelling is located no closer to the water. As the expansion is a partial second storey to the existing dwelling with an overall increase in height of the dwelling. The water setback has been maximized considering the existing pattern of development on the lot.

- ii) The proposed extension or enlargement does not result in undue adverse impacts on adjacent properties.

Comment: As noted above, the enlargement is located at the same side yard setback as the existing dwelling. No comments have been received from the neighbouring property owner at the time of this report outlining any concerns with the proposal. Further, the dwelling and proposed addition meet the minimum required side yard setback which is used as a real separation distance to minimize land use compatibility issues.

- iii) The proposed extension or enlargement does not result in adverse visual impacts as seen from the water and/or adjacent properties.

Comment: The proposal results in a taller building through the enlargement than the existing dwelling. The application submitted indicates the existing dwelling height of 4.9m (16ft), and the proposed dwelling with the partial second storey addition is to have a height of 8.2m (27ft). The proposal includes maintenance of the existing vegetation on site which provides a visual buffer for the proposed development as seen from the water. The Site Plan Control conditions will further assist with minimizing the visual impacts.

- iv) The proposed extension or enlargement will result in environmental net gains through measures such as decreasing the amount of impervious surfaces, controlling the quality and quantity of runoff and/or enhancing riparian vegetation.

Comment: Through the site plan control requirements and conditions discussed in Section 5 of this report, environmental net gains will be obtained from this proposal. These include shoreline buffer planting/maintenance, collection and directing of stormwater away from the lake into areas that promote infiltration, and the use of erosion control measures during the construction.

- v) The proposed extension or enlargement is located outside of natural hazards (including the extent of flooding and erosion hazards); is set back from the hazard and is in a location that reduces its environmental impact as required in consultation with the relevant conservation authority; and safe access (ingress and egress) is provided.

Comment: The RVCA provides comments regarding natural hazards. At this time the RVCA has not provided comments on this application. The staff's review does not identify any natural hazards that would impact this proposal. Typically flooding and erosion hazards associated with the shoreline and wave action are reviewed for waterfront properties.

Through maintaining the existing vegetation on site, specifically along the shoreline, erosion hazards can be mitigated. Further, based on the location of the dwelling being less than 15m from the water at 4.4m, the RVCA will require a permit from their office which will enable the RVCA to review and mitigate any impacts on the development from any potential natural hazard.

- vi) The proposed extension or enlargement does not remove the ability for a future complying septic system to be located on the property away from sensitive environmental features.

Comment: The property has an existing septic system which is located outside of the 30m water setback based on the submitted site plan drawing. The enlargement does not occupy more of the property than the previous development, so therefore does not hinder the ability for the septic system to be located in conformance with the minimum 30m water setback.

- vii) The proposed extension or enlargement does not create further noncomplying standards related to lot intensity (i.e. FSI and lot coverage) or massing (i.e. height).

Comment: The proposed enlargement adds floor area but does not add lot coverage and remains within the permitted maximum of 15% floor space index for the whole lot and the area of the lot within 60m. The proposal results in 3% floor space index for the whole lot, and 4.8% for the area within 60m of the water. The height of the dwelling is proposed to be 8.2m (27ft) which is within the permitted maximum of 10m. Therefore, no non-complying standards in relation to lot intensity or height are proposed or existing. It should be noted that the existing lot coverage is conforming with the maximum permitted 10% as shown in Table 1 in Section 5 of this report.

- viii) The proposed extension or enlargement will not result in any negative impacts towards relevant environmental features. The Township may require the applicant to submit an Environmental Impact Assessment completed by a qualified professional in order to ensure there are no negative impacts that cannot be mitigated.

Comment: The applicant completed a scoped EIS under the natural heritage screening report. There is an abutting Natural Heritage A designation to the property in the lake. As the addition is fully within the existing footprint of the development, and not going closer to the wetland, the natural heritage screening report was deemed appropriate. Through mitigation measures that are outlined and recommended in the Site Plan Control portion of this report (Section 5), any potential negative impacts are mitigated through the implementation of the conditions.

- ix) The proposed extension or enlargement will be assessed on its ability to mitigate negative cumulative impacts through design measures that consider the topography, soil, drainage, vegetation and waterbody sensitivity at or near the site.

Comment: As mentioned previously, there are a number of mitigation measures that are proposed to be included in the site plan control portion of the application which will assist with any potential negative impacts from the proposal.

4.1 Appropriate use and development of the property

Considering the above comments for each policy, the appropriateness of the use and development of the property is reviewed. Staff believe that the proposed enlargement is appropriately proportionate to the existing development of the site and neighbourhood of

waterfront residential properties. The proposed enlargement does not encroach further towards the water. The proposal is not subject to any natural hazards, nor does it create any new non-compliance in terms of lot intensity (lot coverage, floor space index, or height), as the addition remains within the permitted maximums in the ZBL. Overall, that through the recommended conditions through the site plan control portion of this approval outlined in Section 5 of this report, the proposed additions are considered appropriate.

4.2 Impacts on the surrounding properties and neighbourhood

Impacts on the surrounding properties, neighbourhood and environment are considered in the policies of Section 2.14.1. Overall, staff anticipate that no negative impacts on the surrounding properties, neighbourhood and environment will occur from the proposed development provided the mitigation measures outlined in the conditions of the Site Plan Control approval are adhered to.

5.0 STAFF REVIEW – SITE PLAN CONTROL

5.1 Compliance with the Zoning By-Law (ZBL)

The property is zoned Waterfront Residential (RW). The intent of the provisions for waterfront properties as outlined in this zone are to regulate the intensity and form of development to ensure that the Township's water and lake resources are protected long-term in terms of both ecology and as a recreational, economic and cultural resource. The residential use of the property is permitted. The zoning standards are provided below in Table 1 for the proposal. Overall, pending approval of the Section 45 application for the enlargement to the dwelling, the site plan control application meets the intent of the Zoning By-Law.

Table 1: Zoning Provisions

Provision		Required	Proposed
Dwelling with Enlargement			
Setbacks (min.)	Water	30m	4.4m
	Side (East)	6m	10m
	Side (West)	6m	16.9m
	Rear	7.5m	81m
	Edge of Right of Way	6m	>81m*
Height (max.)		10m	8.2m
Floor Space Index (max.)	Total Lot	15%	3%
	Within 60m of Lake	15%	4.8%
Lot Coverage (max.)	Total Lot	10%	4.5%
	Within 60m of Lake	10%	6.1%

*The edge of the Right of way aligns with the rear lot line.

5.2 Intent and Purpose of the Official Plan

Table 2 below outlines the relevant Official Plan policies for this proposal. Through the recommended conditions of approval, the proposal conforms to the Official Plan.

Table 2: Official Plan Policies

Policy Reference	Policy	Does the Proposal Conform?	Comments/ Recommendations
2.2 Waterfront Development:	Development must be 30m from the water, unless situations of existing lots or	Yes	Existing development precludes the ability to be 30m from the water.

2.2.2 Water Setback	development preclude the reasonable ability to achieve this setback.		
2.2 Waterfront Development: 2.2.6 Non-Conforming Development	Maximize the water setback and not have the water setback further reduced. Naturalize the Shoreline Area Obtain environmental net gains from the proposal	Yes	-Adhere to Shoreline Buffer Planting Plan (SBPP) -Capture and direct stormwater runoff away from the lake -Use silt fencing to minimize soil and sediment erosion into the lake
2.6 Environmentally Sensitive Development	-Massing of structures to not dominate the natural landscape -Retain as much natural vegetation as possible particularly along shorelines -Attempt to implement a 'dark skies' policy -Stormwater management approaches that maximize natural infiltration and minimize runoff -Encourage natural materials or colours	Yes	-Adhere to shoreline buffer planting plan -Encourage Natural colours or materials on the exterior of buildings -Outdoor lighting be generally downward cast and as minimal as required -Capture and direct stormwater runoff and snowmelt away from the lake -Sediment and erosion controls to be used during construction
2.16 Land Use Compatibility	Avoid land use compatibility conflicts	Yes	No compatibility concerns identified
2.17 Cultural Heritage, Rideau Canal, and Archaeological Resources	Protect cultural heritage, Rideau Canal, and archaeological resources	Yes	-Adhere to SBPP -If articles of archeological significance are found during construction that the construction is halted and appropriate measures are undertaken
2.18 Natural Hazards	Avoid natural hazards	Yes	None identified
2.19 Human-made Hazards	Avoid human made hazards	Yes	None identified
2.20 Natural Heritage: 2.20.1 & 3.4 Natural Heritage	No development is permitted adjacent to PSW unless no negative impacts are demonstrated	Yes	Natural Heritage Screening Report as an Environmental Impact Assessment (EIA) has been completed.

A (Provincially Significant Wetland)			Recommendations: Implement mitigation measures outlined in submitted EIA.
2.20 Natural Heritage: 2.20.3 Fish Habitat	No development is permitted adjacent to Fish Habitat unless no negative impacts are demonstrated	Yes	Natural Heritage Screening Report as an Environmental Impact Assessment (EIA) has been completed. Recommendations: Implement mitigation measures outlined in submitted EIA.
2.20 Natural Heritage: 2.20.6 Woodland	No development is permitted within or adjacent to Significant Woodlands unless no negative impacts are demonstrated	Yes	Natural Heritage Screening Report as an Environmental Impact Assessment (EIA) has been completed. Recommendations: Implement mitigation measures outlined in submitted EIA.
3.8 Rural	Retain the rural and recreational flavour of Rural lands while providing for a limited amount of compatible and orderly new development.	Yes	Residential use is permitted Maintains the rural and recreational nature of Township

6.0 OTHER MATTERS OF LOCAL/PROVINCIAL INTEREST

The policies of the *Ontario Provincial Planning Statement* (PPS) have been considered in reviewing this application. The protection of water resources as outlined in Section 4.2 has been considered. These sections call for the minimizing of negative impacts, implementing restrictions on development to protect sensitive surface and groundwater features, and implementing stormwater management practices and maintaining or increasing vegetative and pervious surfaces. Section 4.1 Natural Heritage has also been reviewed due to the adjacent PSW and woodland designations. The intent of these policies is to protect the significant natural heritage features from the negative impacts of development. With the attached conditions the proposal is considered to be consistent with the policies of the PPS.

The policies of the *United Counties of Leeds & Grenville Official Plan* have also been considered in reviewing this application. The subject property is designated as Rural Lands in Section 3.3 of the Counties OP. An objective of the Rural Lands designation is to promote development opportunities of recreational dwellings that have limited impact on infrastructure demands and other environmental resources. Through the recommended conditions the proposed development under Site Plan Control is considered to be consistent with the Counties OP.

7.0 PUBLIC INPUT/COMMENTS

No public comment received at the time of writing this report.

8.0 RECOMMENDATION (SECTION 45)

- 1) That this approval is based on the following specifications and that any deviation from these specifications will require subsequent review and approval by the Township:
 - a) The dimensions and location of the proposed structure(s) shall be consistent with the approval;
 - b) All setbacks and development parameters shall be consistent with the details noted in the site plan and compliant with Zoning By-law 2023-50 where no approval has been granted;
- 2) That this approval is contingent on the owners entering into a site plan agreement with the Township through SP-26-2025; and
- 3) Future development not included in this approval will be subject to review and approval by the Township, Conservation Authority, and any other governing agency or regulations where applicable.

9.0 DECISION (SITE PLAN CONTROL)

That the site plan control application is approved as submitted subject to the following conditions:

- 1) That this approval is contingent on the approval of A-19-2025;
- 2) That this approval is based on the following specifications and that any deviation from these specifications will require subsequent review and approval by the Township:
 - a) The dimensions and location of the proposed structure(s) shall be consistent with the approval;
 - b) All setbacks and development parameters shall be consistent with the details noted in the site plan and compliant with Zoning By-law 2023-50 where no approval has been granted;
- 3) That the owners agree to register the Site Plan Agreement for this application on title of the subject property prior to the issuance of the building permit for the proposed development. All expenses pertaining to the registration are to be borne by the owners;
- 4) That the owners adhere to the submitted Shoreline Buffer Planting Plan. The owners shall encourage the development of a shoreline naturalization buffer (no disturbance area) extending up to 15m back from the high water mark;
- 5) That all outdoor lighting be downward cast, and as minimal as required to meet the required objectives;
- 6) That all materials used on the exterior of the structure are encouraged to be of a natural material or a colour reflective of the surrounding environment;
- 7) That the owners maintain all existing on-site drainage patterns with the exception of directing any stormwater runoff and snowmelt resulting from the new development away from the lake;
- 8) That sediment and erosion control measures be implemented during all stages of construction. This must include some form of silt fencing between the areas of development and the lake. This fencing must remain in place until all areas that were disrupted are fully stabilized (i.e. no bare soils remain);
- 9) All excavated material is to be disposed of away from the lake, and all construction material shall be stored in a location well away from the lake (as best as possible);
- 10) That in the event of an accidental discovery of items of archeological significance construction activities must be halted immediately and a licensed consultant archaeologist must be contacted to carry out the fieldwork in compliance with the Ontario Heritage Act [s.48(1)]. Further that if a burial site is unearthed, the appropriate authorities must be contacted (police, coroner's office, and/or Registrar of Cemeteries) and the Funeral, Burial and Cremation Services Act must be complied with; and;

11) Future development not included in this approval will be subject to review and approval by the Township, Conservation Authority and/or Parks Canada and any other governing agency or regulations where applicable.

APPENDIX A - Property Maps

Figure 2 (below) – Aerial image of subject property and adjacent lands.



Figure 3 (below) – Zoning map of the subject property and surrounding area

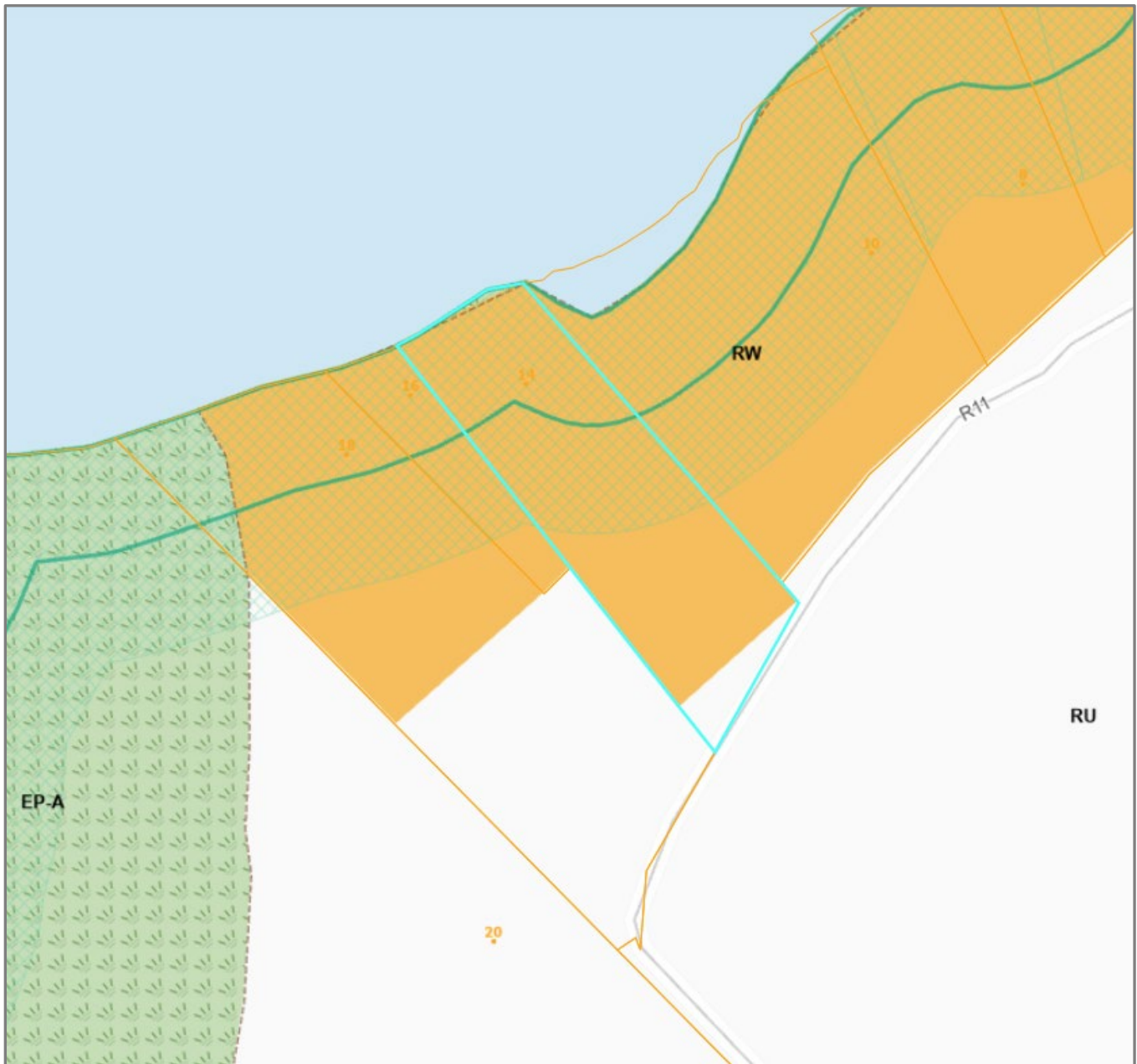


Figure 4 (below) – Official Plan schedule of the property and surrounding area



APPENDIX B – Sketches

Figure 5 (below) – Site Plan Drawing

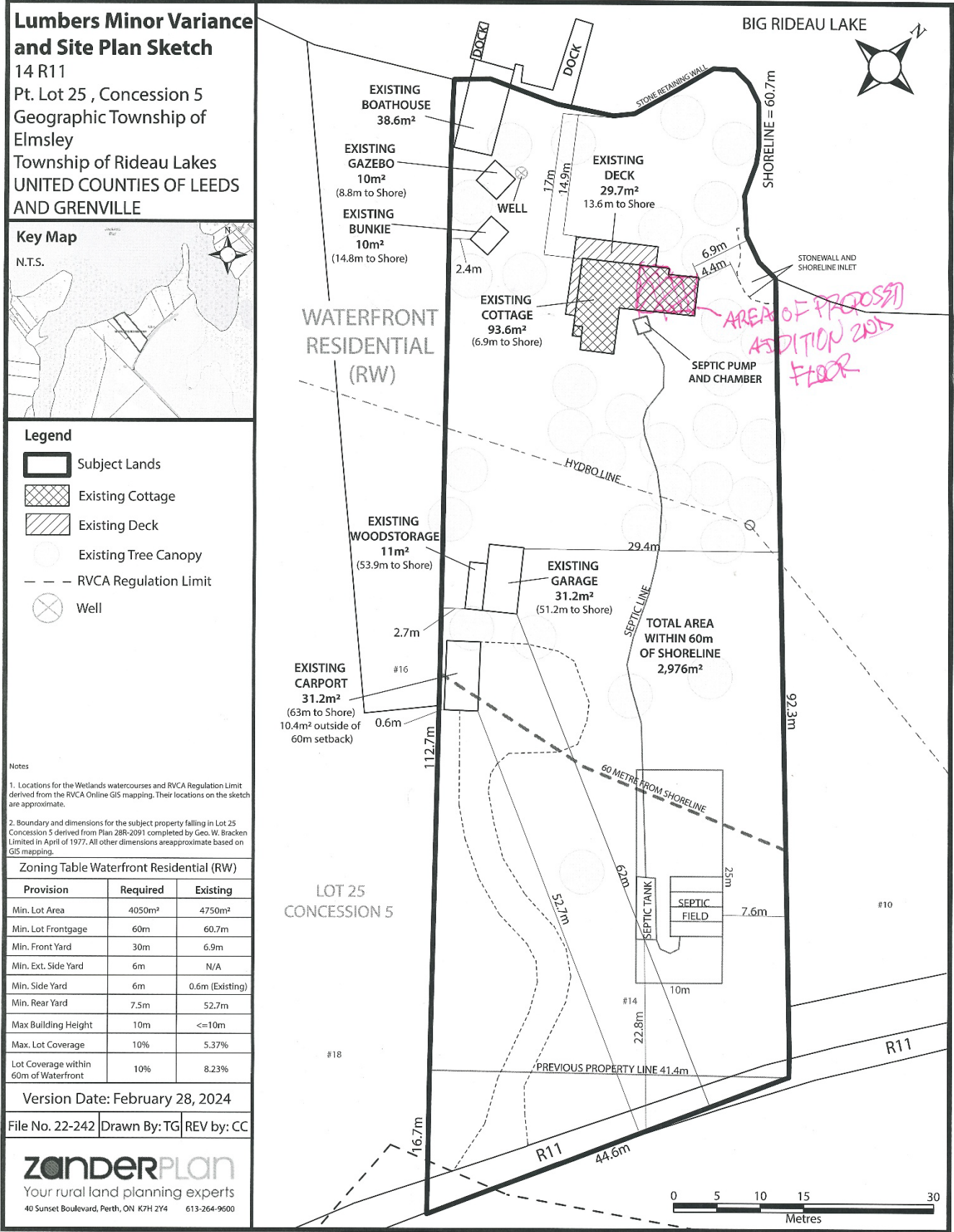
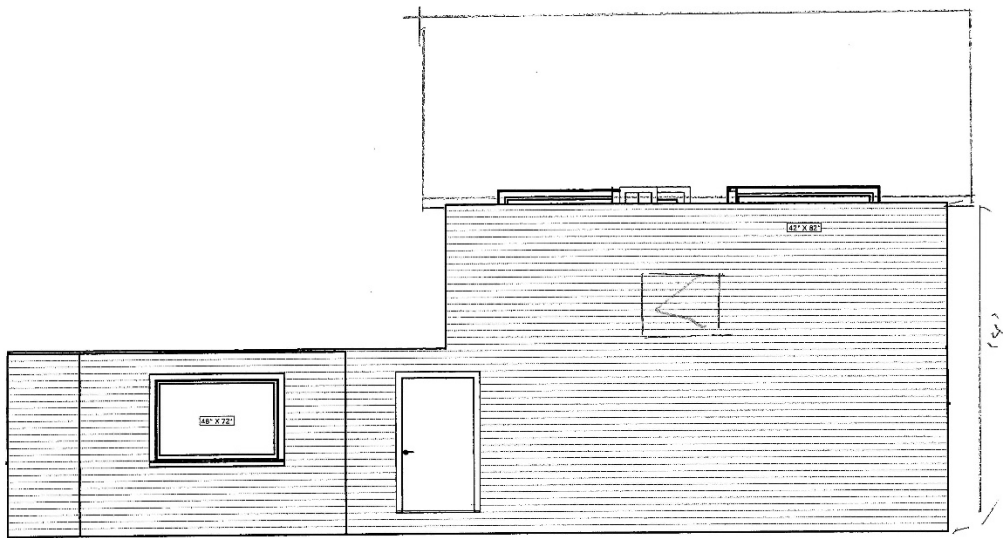


Figure 6 (below) – Submitted Elevation Drawings



01 ELEVATIONS
A3.00 SCALE: 3/16" = 1'-0"

South Elevation 2



athena papadas design

4-221 Gladstone Avenue,
Oshawa, Ontario
E: a.papadas@gmail.com
T: 903.888.9891

SCALE: AS NOTED

DATE: JULY 15, 2024

PROJECT DRAFTER: AKP

PROJECT ENGINEER: N/A

REVISION: 001

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shall be subject to athena papadas
design for clarification and revision.

PROJECT ADDRESS

A3.00
ELEVATIONS



01 ELEVATIONS
A3.00 SCALE: 3/16" = 1'-0"

North Elevation 1



athena papadas design

4-221 Gladstone Avenue,
Oshawa, Ontario
E: a.papadas@gmail.com
T: 903.888.9891

SCALE: AS NOTED

DATE: JULY 15, 2024

PROJECT DRAFTER: AKP

PROJECT ENGINEER: N/A

REVISION: 001

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PROJECT ADDRESS

A3.00
ELEVATIONS



Photo 1 – Area of Existing Dwelling
Proposed to be Enlarged



Photo 3 – Shoreline Area at Northeast side
of Property



Photo 2 – Shoreline Area at Dwelling's
Closest Point



Photo 4 – Existing Dwelling from North side