



Staff Report

Planning & Development Services – Planning Division

Report To: Committee of Adjustment
Meeting Date: July 17, 2024
Report Number: PDS.24.114
Title: Recommendation Report – Application A31-2024 – 128 Happy Valley Road (Carly Inc.)
Prepared by: Carter Triana, Intermediate Planner

A. Recommendations

THAT the Committee of Adjustment receive Staff Report PDS.24.114, entitled “Recommendation Report – Application A31-2024 – 128 Happy Valley Road (Carly Inc.)”;

AND THAT the Committee of Adjustment GRANT Application A31-2024 to permit the expansion of an existing deck with covered and uncovered portions, subject to the following conditions:

1. That the site development be constructed in a manner substantially in accordance with the submitted site plan; and
2. That this variance to the Zoning By-law is for the purpose of obtaining a building permit and is only valid for a period of two (2) years from the date of decision. Should a building permit not be issued by the Town within two years, the variance shall expire on July 17, 2026.

B. Background

The subject lands are located at 128 Happy Valley Road, adjacent to a vacant residential lot to the north, a ski hill to the west, and the Happy Valley Road Booster Pump Station to the south. The lands are approximately 807 square metres in size. A single detached dwelling currently exist on the lands.

The owner wishes to expand an existing deck, with portions of the expansion located within the required rear and side yards. The owner also wishes to cover a section of the deck. It is noted that uncovered decks are permitted to encroach a maximum of 1.5 metres into required yards, but covered decks are not permitted to encroach.

Figure 1 provides an overview of the request. The blue portion is an uncovered expansion of the existing deck located within the required rear yard. The red portion is proposed to be covered and is within the required rear yard. The green portion is proposed to be covered and is within the required side yard.

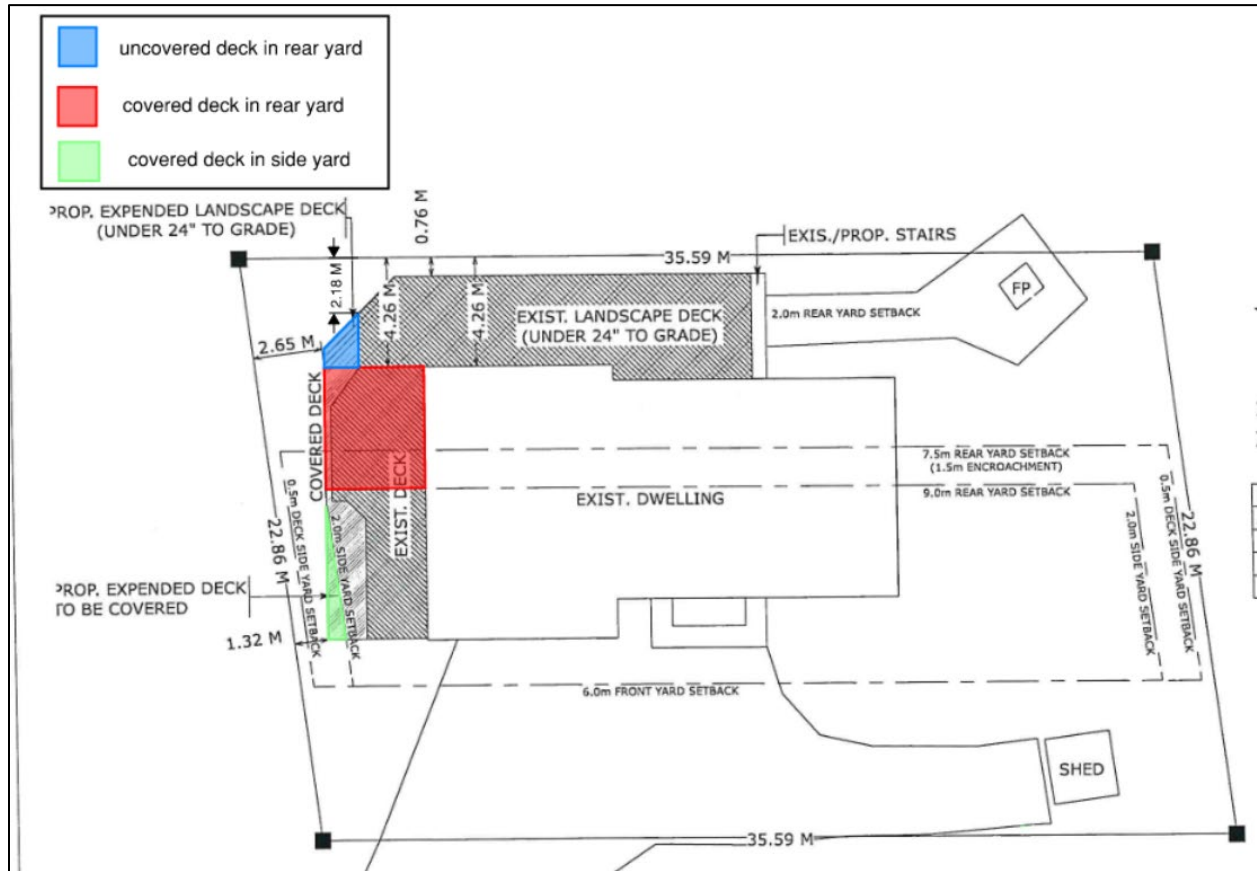


Figure 1. Site Plan

C. Analysis

Expansion of Non-Conforming Uncovered Deck

Section 45(2) of the Planning Act outlines powers of the Committee of Adjustment distinct from those for granting minor variances. Under this section, and clarified through existing case law, the Committee of Adjustment may grant expansions to legal non-conforming buildings, structures, and uses provided the change does not result in undue adverse impacts to the surrounding neighbourhood and is desirable for the development and use of the lands. This type of request is not beholden to the four tests of minor variance.

Will the proposal result in undue adverse impacts to the surrounding neighbourhood?

The proposed uncovered expansion to the existing deck within the rear yard will maintain setbacks greater than 2 metres from both the rear and interior side yard lot lines. In consideration of this and the surrounding land uses of a ski hill to the west and public utilities to the south, the proposal is not anticipated to cause adverse impacts on surrounding lands.

Is the proposal desirable for the development and use of the lands?

The proposed expansion will provide additional outdoor amenity space and seeks to standardize the shape of the existing deck. Planning Staff are satisfied that the proposal can be considered desirable for the development and use of the lands.

Minor Variance to Permit a Covered Deck

Pursuant to Section 45(1) of the Planning Act, the Committee of Adjustment is authorized to grant minor variances to by-laws enacted by the Town which are established to implement the Official Plan. Staff have reviewed the proposal against the relevant planning documents, including the four tests of a minor variance, as outlined in the following section.

Does the proposal maintain the general intent and purpose of the Official Plan?

The subject lands are designated Residential Recreational Area 'RRA' in the 2016 Town of the Blue Mountains Official Plan. This land use designation is established to recognize areas within the Town where there is a mix of seasonal and permanent residential and recreational uses that support and provide access to resort and recreational amenities. Permitted uses include single detached dwellings and accessory buildings or structures.

The proposal to expand and cover a portion of the existing deck is not anticipated to impact the existing character of the area. The lands to the south, adjacent to the proposed covered deck, are used for public utilities and no residential uses abut the subject lands adjacent to the deck.

Planning Staff are therefore satisfied that the proposal maintains the general intent and purpose of the Official Plan.

Does the proposal maintain the general intent and purpose of the Zoning By-law?

The subject lands are zoned Residential One 'R1-1' in the Town of the Blue Mountains Comprehensive Zoning By-law 2018-65. Permitted uses in the R1-1 zone include single detached dwellings and accessory buildings and structures.

The purpose of minimum setback requirements is to ensure adequate spacing between buildings on adjacent lots for access, drainage, and to maintain the open space character of the area. The proposed covered deck will maintain setbacks of 4.26 metres and 1.32 metres from the rear and interior side lot lines, respectively. In addition, ski hills are located to the rear of the lot and public utilities are located to the south of the lot, adjacent to where the deck is located. As such, adequate setbacks will be maintained in consideration of the surroundings.

Planning Staff are satisfied that the proposal maintains the general intent and purpose of the Zoning By-law.

Is the proposal Minor in nature?

A variance may be considered "minor" where the scale of the request is marginal and the proposed relief will not result in a greater than minor adverse impact on adjacent properties, uses, or area. Based on the commentary above regarding surrounding uses, Planning Staff are satisfied that this proposal is minor in nature.

Is the proposal desirable for the development and use of the lands?

The proposal would provide additional outdoor amenity space for the owner of the subject lands, including covered outdoor space. The actual size of the expansion compared to the existing deck is relatively small and seeks to standardize the shape of the deck based on its existing footprint. Planning Staff are satisfied that the proposal is desirable for the development and use of the lands.

Based on the above comments, Planning Staff are satisfied that the proposal can meet all four tests for minor variance.

D. Attached

1. Draft Decision

Respectfully submitted,

Carter Triana
Intermediate Planner

For more information, please contact:
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Report Approval Details

Document Title:	PDS.24.114 Recommendation Report - Application A31-2024 - 128 Happy Valley Road (Carly Inc.).docx
Attachments:	- A31-2024 Draft Decision.pdf
Final Approval Date:	Jul 10, 2024

This report and all of its attachments were approved and signed as outlined below:

Shawn Postma - Jul 10, 2024 - 3:07 PM



**Town of The Blue Mountains
Committee of Adjustment
Decision**

In the matter of application for File No. **A31-2024** to consider a variance to the Town of The Blue Mountains Comprehensive Zoning By-law 2018-65, as amended and permission to expand a non-conforming structure.

Date of Hearing: July 17, 2024
Property Location: 128 Happy Valley Road
Owner/ Applicant: Carly Inc.

Purpose of Application:

The purpose of this application is to request permission for the expansion of a non-conforming deck and a minor variance to Section 6.2 of the Zoning By-law to permit:

- 1. The expansion of an existing uncovered deck located within the required rear yard setback;
- 2. A covered deck to be located 4.26 metres from the rear lot line, whereas 9.0 metres is required; and
- 3. A covered deck to be located 1.32 metres from the interior side lot line, whereas 2.0 metres is required.

DECISION:

THAT the Committee of Adjustment GRANT Application **A31-2024** to permit the expansion of an existing deck with covered and uncovered portions.

Conditions and Reasons For Decision:

See Attached Schedule "A"

_____ Robert B. Waind Chairman	_____ Jim Oliver Vice Chairman	_____ Michael Martin	_____ Jan Pratt	_____ Duncan McKinlay
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Date of Decision: July 17, 2024

The last date for filing an appeal to the decision is August 6, 2024

CERTIFICATION

Planning Act, R.S.O. 1990, c.P13, Sec 45(10)

I, Carrie Fairley, Secretary-Treasurer of the Town of The Blue Mountains Committee of Adjustment, certify that the above is a true copy of the decision of the committee with respect to the application recorded therein.

Carrie Fairley, Secretary-Treasurer
Town of The Blue Mountains Committee of Adjustment
32 Mill Street, Thornbury, Ont., N0H 2P0

Dated: July 17, 2024



**Town of The Blue Mountains
Committee of Adjustment
Decision**

- Schedule A -

CONDITIONS:

1. That the site development be constructed in a manner substantially in accordance with the submitted site plan; and
2. That this variance to the Zoning By-law is for the purpose of obtaining a building permit and is only valid for a period of two (2) years from the date of decision. Should a building permit not be issued by the Town within two years, the variance shall expire on July 17, 2026.

REASON FOR DECISION:

The Committee has reviewed the request as it relates to the four tests for minor variance of S.45. (1) and S.45. (2)(a)(i) of the Planning Act, as noted in the Planning and Development Services Staff Report PDS.24.114.

The Committee received written and/or oral submissions before and/or during the hearing and have taken these submissions into consideration when making the decision.

APPLICANT'S SITE PLAN:

