



# Staff Report

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## Planning & Development Services – Planning Division

**Report To:** Committee of Adjustment  
**Meeting Date:** November 20, 2024  
**Report Number:** PDS.24.134  
**Title:** Recommendation Report – Minor Variance File A39-2024 / P3461 – Freed Village Site B  
**Prepared by:** Adam Farr, Senior Planner

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### A. Recommendations

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THAT the Committee of Adjustment receive Staff Report PDS.24.134, entitled “Recommendation Report – Minor Variance A39-2024 – Freed Village Site B.”

AND THAT the Committee of Adjustment REFUSE a minor variance to Town of Collingwood By-law 83-40 as amended, Section 5.8 (b)(i), Section 15.2 (c), (e) and Section 15.9 (e) to permit:

1. A development on a lot which fronts on a private road;
2. An increase of maximum lot coverage from 30% to 32%;
3. A reduction in the required minimum front yard setback from 15 metres to 7.5 metres;
4. A reduction in required minimum surface parking from 30% to 0% surface parking space.

### B. Background

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The subject lands are located as the northerly 1.31 HA portion of lands at Plan 1065 PT Lots 6, 10, 14, 15 PT Village Cres RP 16R9197 PARTS 1 TO 3 PARTS 4 AND 5 RP 16R10248 PARTS 1 TO 5. The entirety of the lands in this legal survey description are located within and adjacent to the existing Blue Mountain Village Resort Area Core and currently exist as vacant land, portions of an existing parking lot and a municipally unrecognized commercial parking lot.

A provisional consent (B08-2024) to sever the lands that are the subject of this application was approved with associated conditions on July 5, 2024 (See Figure 1 below). Conditions must be fulfilled by July 5, 2026 with one of the conditions requiring that the owner receive a Zoning By-law Amendment or Minor Variance addressing the requirement to have frontage and access on a public road. The final approval of that consent and creation of the proposed parcel cannot occur until the various conditions of the consent are fulfilled and the lot is registered.



Comprehensive Zoning By-law 2018-65 does not apply to the Village Core as these lands were specifically excluded at time of approval as noted in By-law 2018-65 Section 1.5(g). The owner wishes to seek relief from the related provisions of the applicable C5-67 zoning in the Township of Collingwood By-law 83-40 and applicable amendments through By-law 99-71 and By-law 2000-50 as follows:

1. Whereas Section 5.8 (b)(i) requires that development front onto a public road the applicant seeks relief to be permitted to front onto a private road (Village Crescent)
2. Whereas Section 15.2(e) requires a front yard setback of 15 m the applicant seeks relief to permit a 7.5 m front yard setback
3. Whereas Section 15.9(c) requires minimum 30% surface parking the applicant seeks relief to permit no surface parking
4. Whereas Section 15.2 (c) permits a maximum 30% lot coverage, the applicant seeks relief to permit an increase to 32%

There is some additional file history to development proposals on this site.

- On December 8, 2022 the applicant met with the Town to review application requirements for an earlier alternate proposal for Site B that required both Official Plan and Zoning By-law Amendments. One of the significant outcomes from that proposal was for the applicant to also consider the entirety of proposed development of the adjacent Site E&F and the requirements of the Village Core Master Development Agreement in any future formal Official Plan and Zoning By-law Amendment applications.
- In February 2023, the applicant submitted an Official Plan Amendment and Zoning By-law Amendment applications for Sites E&F and B. These applications were deemed incomplete and continue to have no status.
- A Master Development Agreement and Master Servicing Agreement applies to the development of the village and includes a wide range of content intended to facilitate its orderly development including on-going monitoring of the Village build out, collaboration between all phases of development, timing for external improvements (servicing, stormwater, roads, sidewalks, etc), and others.
- Reciprocal Private Easements and other agreements regarding access, parking and other related matters exist.

## **C. Analysis**

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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. The following sections include:

- Overall commentary on the proposed Minor Variance Application and the cumulative effect of the 4 variances being considered, and

- Within Attachment 1, which is to be read as part of this report, detailed commentary on each of the requested Variances which includes additional information and how they have been evaluated against the four tests as set out in the Planning Act.

The intent of individual variances and the combined effect of the 4 variances is to facilitate a development that does not meet the intent and purpose of the Official Plan or Zoning By-law and it cannot be concluded by staff to be minor or desirable. It is recommended that the proposed variances be considered by way of a Zoning By-law Amendment and decision of Town Council.

**Overall Commentary:**

The intent of individual variances and the combined effect of the 4 variances is to facilitate a future application for Site Plan Approval that is impacted by existing Master Development Agreement provisions, Official Plan policy and Zoning requirements that are in place for the remaining development phases of the Village. At this time, the proposed application has not sufficiently demonstrated that the proposed variances are minor, meet the intent and purpose of the Official Plan and Zoning By-law or can be considered appropriate development for the lands. If granted, the effect of these variances could permit development that may adversely impact the existing Village Core, as well as the remaining development lands. Prior to obtaining variances to the Zoning By-law, consideration of the Official Plan, Master Site Plan and Master Development Agreement should be given to ensure that the proposed Site Plan remains aligned with those higher order documents. If changes to those documents are needed, amendments should be considered as part of the approvals process.

The proposed variance to recognize a lot which does not front on an open and maintained public street as required by the condition of Consent is accompanied by three other variance requests to facilitate a development proposal described in the accompanying site plan concept. Previous requests through pre-consultation meetings for additional information regarding development requirements on the subject lands are not addressed in the applicant's submission. It is noted that a formal Site Plan Application has not been submitted at this time, however some site plan matters such as the provision of parking, lot coverage and setbacks do overlap into the consideration of the variances requested today. As part of determining if the variances are desirable development, consideration must be given to the impacts on the entire Village and not just the individual parcel. Items such as access, parking, integration of public/private spaces must be considered at the Site Plan level and Minor Variance level as the Village itself operates as a whole where each phase of development relies on the others for its continued success and mutual benefit.

The combined four variances do not meet the intent and purpose of the Official Plan. The Official Plan contains detailed policies for the orderly development of the Village. A requirement for a Master Development Agreement and comprehensive Site Plan are needed to ensure the full build out of the Village. Hard caps are placed on the commercial and residential components that are to be shared across all of the Village sites. The implications of the requested variances on the Master Development Agreement requirements as well as the

remaining Site E/F lands are not understood. More specifically, items related to parking, access, variations to the development concept are described below.

### **Official Plan**

Official Plan policies apply as follows and the proposal triggers issues not considered to maintain the general purposed and intent of the Official Plan:

### **Blue Mountain Village Resort Area Core B3.10.6 c) regarding the Master Development Agreement**

*In order to ensure that development within the Blue Mountain Village Resort Area Core designation proceeds in an orderly manner, the proponent shall prepare a comprehensive site plan for this area to illustrate location, size, height, and massing of all buildings and structures, and the parking, access, pedestrian circulation and landscaping of the entire area. This detailed site plan shall be approved by Council under a Master Development Agreement prior to any development proceeding.*

The materials submitted reflect a change from the development concept and related provisions set out within the approved Master Development Agreement in particular with respect to parking and access, variations in the development concept and related obligations set out in the agreement.

### **The Blue Mountain Village Resort Area General Development Policies B3.10.9 I) regarding parking requirements for new development:**

*It is intended that day-use skier parking areas be provided in such a manner as to balance the location and quantity of parking with the carrying capacity of the ski facilities. The required parking for the Blue Mountain Village Resort Area Core uses must be considered in relation to the parking for the ski resort. In this regard, the parking needs of the Blue Mountain Village Resort Area Core shall be monitored under a parking monitoring program established under a Master Development Agreement to the satisfaction of Council. The required parking for the Blue Mountain Village Resort Area Core uses must be considered in relation to the parking for the ski resort. Where any new development is proposed on lands currently used for parking purposes or any other lands, the proponent shall demonstrate, to the satisfaction of Council, that any displacement of parking will not affect the carrying capacity of existing ski lift systems and parking for all other Village uses, or that appropriate alternate parking provisions will be made available, in addition to any parking requirements for the proposed development.*

The applicant has not acknowledged the applicability of B3.10.9I) in their submission regarding new development parking requirements, displacement of existing surface parking, adequacy of parking as set out in this policy, replacement and suitability of parking requirements for the proposed development. In order to be exempt from these provisions it appears that an Official Plan Amendment is required.

### **Zoning By-law**

As a condition of consent approval B08-2024, the owner was required to address the public road frontage requirements of the Zoning By-law through a Minor Variance or a Zoning By-law Amendment. As noted above, the development proposal detailed in the proposed site plan triggers various conflicts with the Official Plan and the Zoning By-law. The issues raised by the informal site plan; the nature of the By-law relief sought through this minor variance application are significant. Amendments to the Official Plan and Zoning By-law are required to address related policy and development issues. The proposal is not considered to maintain the general purposed and intent of the Zoning By-law

### **Master Development Agreement**

The Master Development Agreement is a requirement under Official Plan Policy B3.10.6c). Compliance with the terms of the Master Development Agreement and Servicing Agreement as noted below is set out in the private easement instrument that was supplied by the applicant in support of their proposal. The Master Development Agreement, as noted above, is also referenced in Official Plan policy B3.10.6l).

In addition to the terms of the foregoing, the Transferor and Transferee will comply with their respective obligations relating to the Easement Works, the parking and access rights, and/or the Easement Lands, as the case may be, set forth in the Servicing Agreement dated 30 May 2000 and registered as Instrument No. 422720 and the Master Development Agreement dated 30 May 2000, and registered as Instrument No. 422719 and acknowledge that the Easement herein is a Service Easement as defined in those agreements.

In contrast to the direction and detail both within Official Plan policy and the terms of the easement instrument applicant has provided only the following statement in their supporting document with respect to the MDA:

*The Master Development Agreement (MDA) was established for the Blue Mountain Village in June 2000. The MDA serves as a general guide for the long-term development of the area and does not require new development to proceed strictly in accordance with it. The MDA contemplates development in the proposed location.*

It does not appear as though there has been compliance with some of the key provisions regarding parking. The inclusion and required compliance with the MDA and Servicing Agreement provisions in the private easement instrument raises questions regarding the status of the easement. Further confirmation of the status of this easement may be required if it is to support any related application. In the absence of confirmation a permanent reciprocal access easement may be required through the Committee of Adjustment as a prerequisite to addressing Zoning By-law compliance issues and offsite, site plan issues once that application is filed.

Regarding the test of meeting the intent and purpose of the Zoning By-law, Planning Staff recognize that the existing zoning for the subject lands was last updated in 2000. Lot coverage, setbacks and minimum parking standards were set for what was anticipated based on studies prepared at the time. The intent is to ensure a cohesive build out of the Village and a balanced distribution of units and commercial space. Requirements for frontage onto a public road are in place to ensure access to the parcel can be made by residents, visitors, emergency services and others. The easement documents provided appear to provide the necessary access

requirements, however Planning Staff require further confirmation that the easement will continue to provide that access in perpetuity. Lot Coverage and Required Setbacks are in place partly to govern the building massing and location on a parcel. Items such as temporary (drop off) parking, any other required parking, landscaping, pedestrian access, integration with adjacent lands, and other design features need to be confirmed. The parking requirements set out in the By-law were based on previously completed parking studies for the Village Core which clearly identified that on-going parking monitoring and the preparation of parking studies prior to each phase of development as being a requirement in order to evaluate the on-going evolution of parking needs for the Village. Any variance to the Zoning By-law to the minimum parking standards must be justified through a parking study for the site and for the greater Village Core. Based on the above commentary, Planning Staff are not satisfied that the proposed variances as submitted can meet the purpose and intent of the Zoning By-law.

### **Summary**

The minor variances are not desirable in the context of the range of issues described above with regard to the various burdens and complexities imposed on the surrounding properties, the significant shift in direction they represent and questions of the role of the Master Development and Servicing Agreements in guiding and coordinating development in the village and as relates to development on these lands.

Based on the foregoing and analysis in Attachment 1 staff are not satisfied that the proposal meets the four tests and do not recommend support for the proposed minor variance application.

## **D. Attached**

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1. Attachment 1 – Detailed review of minor variance proposal
2. Draft Decision

Respectfully submitted,

Adam Farr, Senior Planner

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### Report Approval Details

Document Title:	PDS.24.134 Recommendation Report - Minor Variance A39-2024 (Freed Village Site B).docx
Attachments:	- Attachment 1 to PDS.24.134 - Detailed review of minor variance proposal.pdf - Attachment 2 Draft Decision.pdf
Final Approval Date:	Nov 14, 2024

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

**Shawn Postma - Nov 14, 2024 - 1:38 PM**