



Staff Report

Planning & Development Services – Planning Division

Report To:	Committee of Adjustment
Meeting Date:	April 17, 2024
Report Number:	PDS.24.062
Title:	Recommendation Report – Minor Variance File A16-2024 – 147 Hoover Lane (Dzylinsky and Mojsiak)
Prepared by:	David Riley, Principal, SGL Planning & Design Inc. Sierra Horton, Planner, SGL Planning & Design Inc.

A. Recommendations

THAT the Committee of Adjustment receive Staff Report PDS.24.062, entitled “Recommendation Report – Minor Variance File A16-2024 – 147 Hoover Lane (Dzylinsky and Mojsiak)”;

AND THAT the Committee of Adjustment GRANT/REFUSE Application A16-2024;

B. Overview

The purpose of this application is to request a minor variance to subsection 4.1.2 (d) and (f) of the Zoning By-law, regulating accessory apartment dwellings, to permit:

1. A rear yard (west) setback of 2.0 metres to the accessory apartment dwelling, whereas 9.0 metres is required by the R1-1 Zone;
2. A height of 6.3 metres for the detached accessory apartment dwelling, whereas a maximum height of 4.5 metres is permitted; and

Minor variances to subsection 6.2.1 of the Zoning By-law, regulating the R1-1 Zone, to permit:

3. A rear yard (west) setback of 2.53 metres to the dwelling, whereas 9.0 metres is required; and
4. A front yard setback (east) of 6.21 metres, whereas 7.5 metres is required.

The effect of the application is to permit the construction of a new single detached dwelling on the north side of Hoover Lane and a detached garage with an accessory apartment on the upper level on the south side of Hoover Lane.

C. Background

The subject lands are located at 147 Hoover Lane, at the corner of Hoover Lane and Camperdown Road (**Figure 1**). The property is accessed via the Camperdown Road entrance to Hoover Lane (**Figure 2**). Hoover Lane transects east-west through the property, which essentially splits the lot into a northern and southern half. The northern half of the property backs onto Georgian Bay and contains a single detached dwelling (**Figure 3**). The southern half of the property contains a shed and gravel area (**Figure 4**). The property is approximately 1148 square metres in size, with a depth of 22 metres. For the purposes of development, the front yard lot line is considered to be to the east and the rear yard lot line is considered to be to the west.



Figure 1. Subject Lands



Figure 2. Hoover Lane Looking West



Figure 3. 147 Hoover Lane Looking North



Figure 4. 147 Hoover Lane Looking South

The existing single detached dwelling and shed on the property are proposed to be demolished. The subject property is currently connected to municipal water infrastructure but is not connected to municipal sanitary sewer infrastructure. The applicant wishes to permit the construction of a new single detached dwelling on the north side of Hoover Lane and a detached garage with an accessory apartment on the upper level on the south side of Hoover Lane (**Figure 5**). Minor variances are requested for reduced front and rear yard setbacks to the

main dwelling, a reduced rear yard setback to the accessory apartment dwelling and increased height for the accessory apartment dwelling.

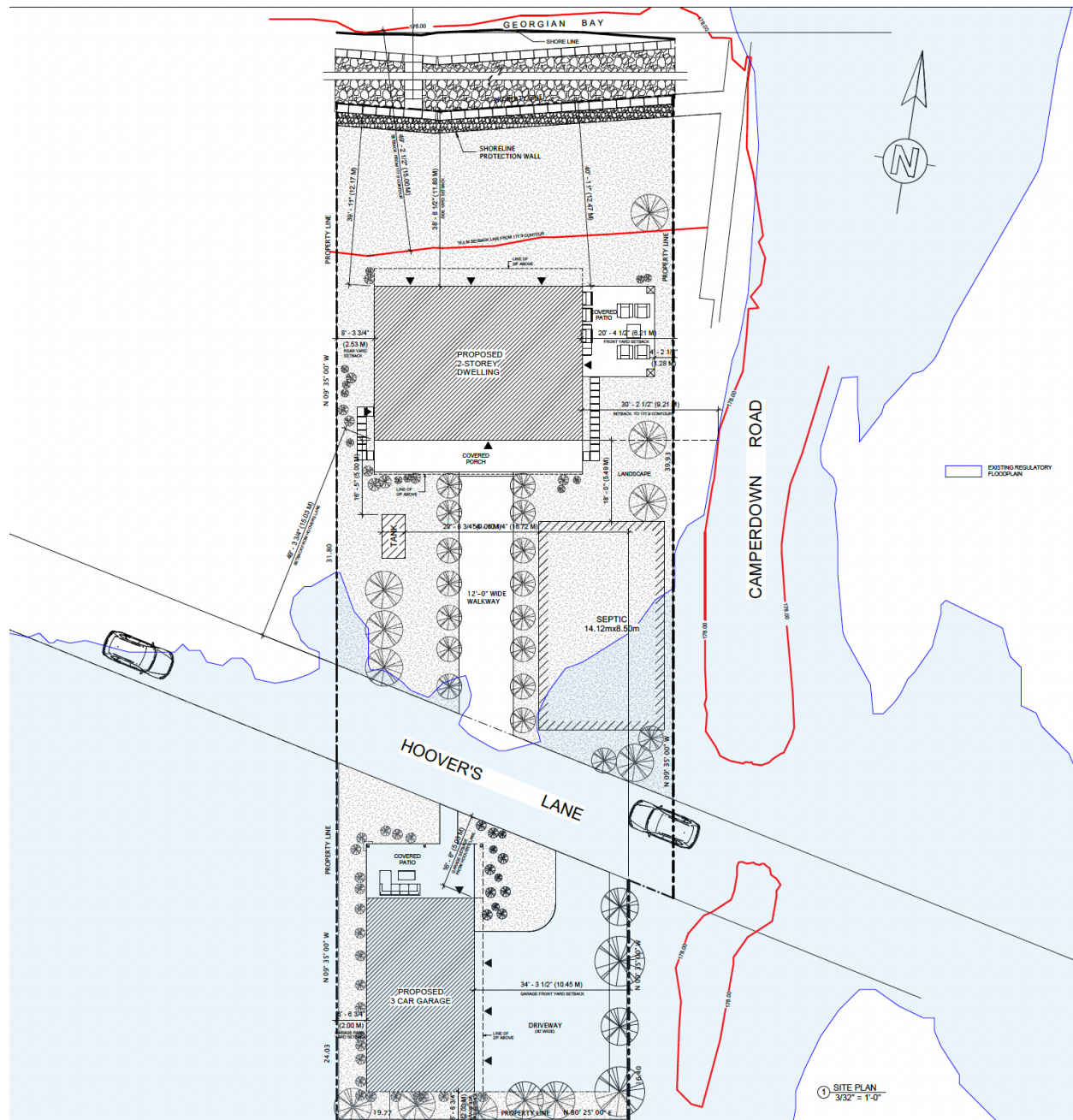


Figure 5. Site Plan

D. Analysis

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) and Hazard in the 2016 Town of the Blue Mountains Official Plan. The Residential Recreational Area 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. Single detached dwellings, accessory buildings and accessory apartments are permitted in the RRA designation. The two new buildings are proposed within the eastern area of the site designated RRA. Development is not proposed on the portion of the lands designated Hazard.

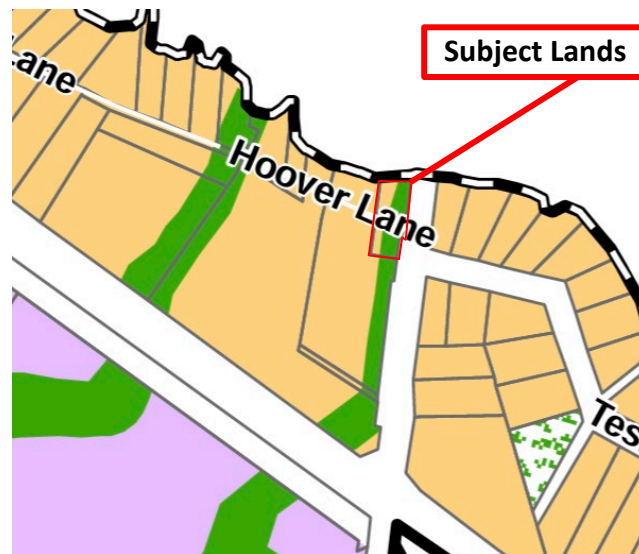


Figure 6. Official Plan Designation

Single Detached Dwelling

The new single detached dwelling is permitted in the RRA designation and will be constructed following similar front and rear yard setbacks as the existing dwelling. Due to the configuration of the lot, the front (east) and rear (west) yard would typically be considered side lot lines, and variances are required to comply to the required setbacks. The revised setbacks are not anticipated to impact the character of the lot or established pattern of residential development along the lane.

We are therefore satisfied the reduction in front and rear yard setbacks for the single detached dwelling maintains the general intent and purpose of the Official Plan.

Detached Garage/Accessory Apartment

The RRA designation only permits accessory apartments, subject to Section B2.7. Section B2.7 of the Official Plan sets out the following requirements:

- a) The accessory apartment meets the relevant requirements of the Town, and the Ontario Building Code and Fire Code;

- b) There is sufficient space on the lot to provide one additional parking space for the accessory apartment;
- c) The residential nature of the existing residential buildings and structures are maintained;
- d) The floor area of an accessory apartment is limited by the Zoning Bylaw;
- e) The accessory apartment has no more than two bedrooms.
- f) Adequate water and sewer services are available.
- g) The accessory apartment is proposed in a detached building, site plan control shall apply.
- h) The structure shall be located within the existing building cluster.
- i) In the Niagara Escarpment Plan Area where such accessory apartments are permitted by the Niagara Escarpment Plan.

We are satisfied the proposed accessory apartment meets the requirements of Section B2.7 of the Official Plan, save and except for B2.7 i). Comments received from the Niagara Escarpment Commission (NEC) have indicated that within the designated Escarpment Recreation Area, secondary dwelling units may only be established within a single dwelling, or as an addition to a single dwelling, but shall not be permitted in a detached accessory facility. Therefore, the establishment of a secondary dwelling unit within a detached accessory structure (garage) as proposed is not supported by the Niagara Escarpment Plan.

The Town recognizes and respects the position of the NEC with respect to this matter. However, it is important to also recognize the historical Town practice of allowing additional residential units within detached accessory structures as per the Town's Zoning By-law, and that similar variances have been granted in the past. The Town's Zoning By-law, as it relates to additional residential units, is currently being updated to expand permissions for additional residential units, in line with recent Provincial legislation and also to create more housing options. The update will also introduce restrictions so as not to conflict with the Niagara Escarpment Plan. Once approved the new By-law will recognize both the Provincial direction to develop more additional residential units, while also placing a limitation on new units located within the Niagara Escarpment Plan.

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

The subject lands are zoned Residential One 'R1-1' and Hazard 'H' in the Town of the Blue Mountains Comprehensive Zoning By-law 2018-65. Single detached dwellings, accessory buildings and accessory apartments are permitted in the R1-1 Zone. Development is not proposed on the portion of the lands zoned Hazard.



Figure 7. Subject Lands Zoning

Single Detached Dwelling

Due to the unique configuration of the lot, front lot lines are along Camperdown Road and no property lines divide the subject property from Hoover Lane. The front (east) and rear (west) yards would typically be considered side lot lines, which would require smaller setback distances.

The R1-1 Zone requires a front yard setback of 7.5 metres, whereas a setback of 6.21 metres to the new dwelling is proposed from the east property line. The R1-1 Zone also requires a rear yard setback of 9 metres, whereas 2.53 metres to the new dwelling is proposed from the west property line. The purpose of the front and rear yard setbacks of the Zoning By-law is to ensure adequate space between buildings and the street, rear yards and other adjacent properties. As shown in Table 1 below, the proposed dwelling is situated with similar setbacks to the existing dwelling.

Table 1. Existing and Proposed Dwelling Setbacks

	Floor Area	Front Yard Setback	Rear Yard Setback
Existing Dwelling	223.43 m ²	6.2m	2.2m
Proposed Dwelling	242.25 m ²	6.21m	2.53m

Due to the unique circumstances of the property's lot lines and the applicant's proposed consistency with the existing dwelling's setbacks, we are satisfied the reduction in front and rear yard setbacks for the single detached dwelling maintains the general intent and purpose of the Zoning By-law.

Detached Garage/Accessory Apartment Dwelling

Subsection 4.1.2 of the Zoning By-law sets out the following provisions for accessory apartment dwellings within a detached structure (urban):

- a) The use is accessory to the principle use on the same lot;
- b) The maximum floor area of the accessory apartment dwelling is not greater than 50% of the gross floor area of the main dwelling unit;
- c) The maximum number of bedrooms per unit is 2;
- d) The use is located in accordance with the yard setbacks applicable to the main dwelling in the applicable zone;
- e) The use does not exceed the maximum lot coverage for accessory structures;
- f) The use does not exceed a maximum height of 4.5 metres;
- g) The use shares the same driveway entrances as the main dwelling unit; and
- h) An accessory apartment unit does not already exist within the primary dwelling on the same lot.

Minor variances to subsection 4.1.2 d) and f) are required to permit the proposed accessory apartment dwelling above the detached garage. In accordance with 4.1.2 d), a rear yard (west) setback of 2 metres is proposed, whereas the R1-1 Zone requires 9 metres. For consistent reasoning to permitting a reduced rear yard setback for the single detached dwelling, which is essentially an interior side yard, we are satisfied the proposed setback meets the intent of the Zoning By-law.

In terms of the requested height for the detached accessory apartment dwelling of 6.3 metres, whereas 4.5 metres is permitted, Planning Staff are currently reviewing the accessory apartment provisions of the Zoning By-law and have proposed modifications to increase the height for units above detached garages to 8 metres. The proposed structure is in line with the emerging regulations.

We are therefore satisfied that the reduction in rear yard setback and increased height for the accessory apartment dwelling 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.

The proposed setbacks for the single detached dwelling are in keeping with the existing dwelling on the property and are only required due to the unique configuration of the property’s lot lines. The revised setbacks are not anticipated to impact the character of the lot or established pattern of residential development along the lane.

We are therefore satisfied that this proposal is minor in nature.

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

Based on the above commentary and in consideration of the effect of the proposal to add an additional residential unit to an existing property, we are satisfied that the proposal is desirable for the development and use of the lands.

Based on the above comments, Planning Staff recommend refusal of proposed variances #1 and #2 related to the additional residential unit based on NEC's comments, and, Planning Staff recommend that the Committee approve variances #3 and #4 related to the main dwelling, subject to the following conditions of approval:

1. That the site development be constructed in a manner substantially in accordance with the submitted site plan; and
2. That this permission 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 permission shall expire on April 17, 2026.

Should the Committee choose to grant the all proposed variances, we recommend the following conditions of approval:

1. That the site development be constructed in a manner substantially in accordance with the submitted site plan; and
2. That this permission 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 permission shall expire on April 17, 2026.

E. Attached

1. Draft Decision (GRANT)
2. Draft Decision (REFUSE)

Respectfully submitted,

David Riley,
Principal, SGL Planning & Design Inc.

Sierra Horton
Planner, SGL Planning & Design Inc.

For more information, please contact:

David Riley
driley@sglplanning.ca



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

In the matter of application for File No. **A16-2024** to consider a variance to the Town of The Blue Mountains Comprehensive Zoning By-law 2018-65, as amended.

Date of Hearing: April 17, 2024
Property Location: 147 Hoover Lane
Owner/ Applicant: Motria Dzulynsky & Ostap Mojsiak
Purpose of Application:

The purpose of this application is to request a minor variance to subsection 4.1.2 (d) and (f) of the Zoning By-law to permit:

- 1. A rear yard (west) setback of 2.0 metres to the accessory apartment dwelling, whereas 9.0 metres is required by the R1-1 Zone;
- 2. A height of 6.3 metres for the detached accessory apartment dwelling, whereas a maximum height of 4.5 metres is permitted; and

A minor variance to subsection 6.2.1 of the Zoning By-law to permit:

- 3. A rear yard (west) setback of 2.53 metres to the dwelling, whereas 9.0 metres is required; and
- 4. A front yard setback (east) of 6.21 metres, whereas 7.5 metres is required.

DECISION:

THAT the Committee of Adjustment GRANT Application A16-2024 to permit the construction of a single detached dwelling on the north side of Hoover Lane and a detached garage with an accessory apartment on the upper level on the south side of Hoover Lane.

Conditions and Reasons For Decision:

See Attached Schedule “A”

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Robert B. Waind	Michael Martin	Jim Oliver	Duncan McKinlay
Chairman		Vice Chairman	

Date of Decision: April 17, 2024

The last date for filing an appeal to the decision is May 7, 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: April 17, 2024



Town of The Blue Mountains

Committee of Adjustment

Decision

- Schedule A -

CONDITIONS:

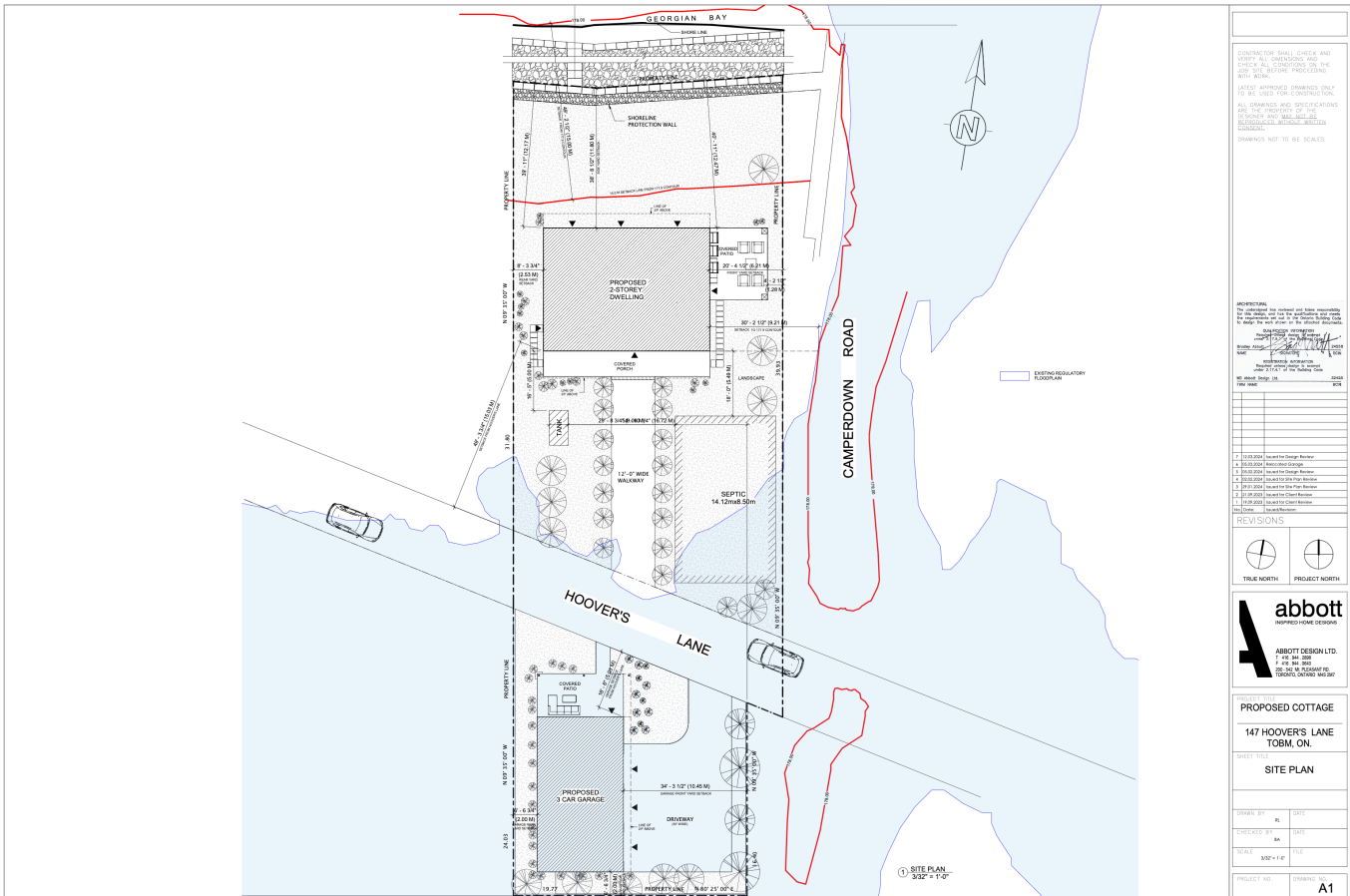
1. That the site development be constructed in a manner substantially in accordance with the submitted site plan; and
2. That this permission is for the purpose of obtaining a building permit and is only valid for a period of two (2) years from the date of decision. Should a building permit not be issued by the Town within two years, the permission shall expire on April 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) of the Planning Act, as noted in the Planning and Development Services Staff Report PDS 24.061.

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:





Town of The Blue Mountains
Committee of Adjustment
Decision

In the matter of application for File No. **A16-2024** to consider a variance to the Town of The Blue Mountains Comprehensive Zoning By-law 2018-65, as amended.

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A minor variance to subsection 6.2.1 of the Zoning By-law to permit:

- 3. A rear yard (west) setback of 2.53 metres to the dwelling, whereas 9.0 metres is required; and
- 4. A front yard setback (east) of 6.21 metres, whereas 7.5 metres is required.

DECISION:

THAT the Committee of Adjustment REFUSE minor variances to the rear yard setback and height standards applicable to the accessory apartment;

AND THAT the Committee of Adjustment GRANT minor variances to the rear yard and front yard setbacks standards applicable to the single detached dwelling, subject to the following conditions:

Conditions and Reasons For Decision:

See Attached Schedule "A"

<hr/> Robert B. Waind Chairman	<hr/> Michael Martin	<hr/> Jim Oliver Vice Chairman	<hr/> Duncan McKinlay
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Date of Decision: April 17, 2024

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

Dated: April 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 permission 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 permission shall expire on April 17, 2026.

REASON FOR DECISION:

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