Application Details: Minor Variance Application A14/2007
Location: Part Lot 11, Concession 3 NDR, former Township of Osprey
Part 2, Plan 17R 3419; 413661 Road 41A
Applicant: David Hull
Grey County Official Plan: Rural
Grey Highlands Official Plan: Rural
Zoning By-law No. 2004-50: Rural Residential (RUR)
Proposal: To vary the provisions of Section 5.6 and 7.3.2 of Comprehensive Zoning by-law 2004-50 to reduce the side yard setback and to permit the construction of a two-car garage in the front yard of the subject property, with a reduced setback.

1.0 Recommendation:
That Minor Variance Application A14/2007 be approved subject to the following conditions:
1) Payment of any outstanding municipal taxes.
2) That all other provisions of the Comprehensive Zoning By-law shall prevail.
3) That the applicant, obtain a building permit from the Municipality of Grey Highlands Building Department and all other necessary approvals within twelve (12) months from the date of this approval.

2.0 Background:
The 2.72 ha (6.79 ac) subject property is located at 413661 Road 41A, former Osprey, north of the 3rd Concession.
The existing house on the property is 57.58 m (189 ft.) from the front lot line. The applicants propose to build a 7.93 x 7.317 m (26 x 24 ft.) two-car garage, 2.55 m (8.4 ft.) from the front property line, and 4.5 m (14.8 ft.) from the north property line.

The applicant advises that locating the garage in another location on the lot would result in it being too close to the well and fence line, and that it is not possible to place the garage on the other side of the house, because the area floods in the spring. The proposed garage will not block the view of the house from the front of the lot.

The land uses on abutting properties are as follows:
North: Single detached dwelling
East: Woodlands
South: Single detached dwelling and garage/workshop
West: Agriculture, across Road 41A

The applicant has paid the required fee for application A14/2007.

3.0 Planning Analysis:
The four prescribed tests for a minor variance were applied to assess the merits of this application, as follows:
3.1 **Is the request minor in nature?**

The proposed development was assessed to consider its impact on adjacent properties, and the compatibility of the proposal with the surrounding land use of the area. The garage would be partially screened from houses on the adjacent properties by the rolling landscape, trees and the garage/workshop on the property to the south. The garage would also be partially screened from the road by cedars on either side of the driveway, and the garage would not obstruct the view of the house from the road.

Planning staff is satisfied that the request is minor in nature.

3.2 **Is the request desirable for the appropriate development or use of the land, building or structure?**

The placement of a garage on a residential property is a reasonable request. There is no other appropriate location on the lot, for the garage. The house and well are located close to the north property line, on the highest part of the property, and the house is oriented to the southwest. The property slopes, from the house and driveway to the southeast, toward a low, wet area. A garage site south of the driveway would be in an area which begins to slope toward the wet area, would be closer to the front lot line and could obstruct the view of the house.

Planning Staff is satisfied that the proposed garage site is appropriate, given the placement of the existing house and well, and the limitations of the site with respect to slopes and spring flooding.

3.3 **Is the request maintaining the general intent and purpose of the Official Plan?**

It is the opinion of Planning staff that the request maintains the general intent and purpose of the Official Plan. The proposed garage would be sited away from a wet area on the property.

3.4 **Is the request maintaining the general intent and purpose of the Zoning By-law?**

**Applicable Zone Provisions regarding Accessory Uses:**

s. 5.6 (Accessory uses shall not):

a) (viii) be built within 1.5 m of the main building;

   (ix) be built closer to the front lot line (within the front yard) than the main building on the lot (except: Agriculture and Rural (RU) zones).

b) Notwithstanding any other provisions of this by-law to the contrary, an accessory building or structure, including a detached private garage, shall be permitted to be erected and used in accordance with the following provisions:

i) Where an accessory building or structure is to be located in an interior side yard ... it shall not be closer than 1.5 m (4.9 ft) to the interior side lot line ......

ii) All accessory buildings and structures, whether located in a rear yard or side yard, shall comply with the setback provisions applicable to the principle or main building on the lot where such rear or side yard abuts a public street. ...

Section 5.6(b)(ii) (the requirement that the setback provisions applicable to the principle or main building on the lot shall apply) has been interpreted to apply to a situation where the accessory building is to be built closer to the front lot line than the main building on the lot, and the property is less that 15 ha in size. In the case of this application, the exception would also not apply because the lot is zoned RUR, not Rural (RU).
The following table compares the relevant setback requirements of Zoning By-law Section 7.3.2 to existing and proposed setbacks:

<table>
<thead>
<tr>
<th>Section 7.3.2 RUR zone provisions</th>
<th>Required setbacks</th>
<th>Existing dwelling setback</th>
<th>Proposed accessory bldg. setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>d) min. front yard setback for residential &amp; residential accessory buildings</td>
<td>17 m (56 ft.)</td>
<td>57.58 m (189 ft.)</td>
<td>2.55 m (8.4 ft.)</td>
</tr>
<tr>
<td>f) min. interior side yard setback</td>
<td>6 m (20 ft.)</td>
<td>-</td>
<td>4.5 m (14.8 ft.)</td>
</tr>
</tbody>
</table>

The requested setbacks for the accessory building do not meet the required setbacks from the front lot line, or the interior lot line on the north side of the property, for a dwelling and residential accessory buildings in the Rural Residential zone. A minor variance is required to permit the proposed garage to be built closer to the front lot line (within the front yard) than the main building on the lot, and closer to the interior lot line on the north side of the property.

To avoid siting the garage directly in front of the house, or in another inappropriate location on the lot, the applicant requests a variance of 14.45 m (47 ft.) for the front yard setback, and 1.5 m (5 ft.) for the north interior side yard setback. With respect to the effect of the proposed garage placement on the streetscape, it is Planning Staff's opinion that, given the placement of the house and the proposed location of the garage on the subject property, the garage will not affect sightlines for access, and will not affect the streetscape.

4.0 Comments Received (Summary):

- County of Grey:
  The County does not object to the garage in the front yard, or the size of the garage, or the reduction in the side lot setback provided there is not habitable space within the accessory structure.
  The County requests a notice of decision.

No other comments had been received from agencies at the time of writing this report.

5.0 Conclusion:

Planning Staff found that the application meets the tests of a minor variance. The placement of the accessory building within the front yard does not appear to create any issues related to access or streetscape. Any future development will be subject to the provisions of the applicable Zoning By-law.

Kathleen Crawford-Patterson, BAA
Municipal Planner

Attachments:
1. Location map
2. Enlargement of part of site map
Municipality of Grey Highlands
Committee of Adjustment
Planning Report PL.07.107
November 19, 2007

Location

Enlargement of part of Site Plan