



A People Place, A Change of Pace
SHELBURNE
ONTARIO, CANADA

Meeting Date: Monday, January 23, 2023

To: Jennifer Willoughby, Secretary-Treasurer,
Committee of Adjustment

From: **Steve Wever, Town Planner**

Report: P2023-01

Subject: **Application for Consent B22/03 &
Application for Minor Variance A22/09
Ferne Osborne
402 First Avenue East, Shelburne**

Recommendation

- 1) Be it Resolved that, subject to the consideration of any input received at the public meeting, it is recommended that the Committee of Adjustment grant conditional approval of Consent Application B22/03 subject to the following:
 1. That the Secretary-Treasurer's Certificate under subsection 53(42) of the Planning Act R.S.O. 1990, c.P.13, as amended, shall be issued and the Secretary-Treasurer's fee be paid;
 2. The payment of cash-in-lieu of parkland at the rate of 5% of the value of the newly created lot;
 3. That the owner enter into an agreement with the Town addressing the following matters:
 - site servicing and drainage requirements and the details of all servicing connections, modifications and improvements to existing services including sanitary sewers, water supply, storm sewers, roads, sidewalks, hydrants, utilities, and any required easements deemed necessary by the Town in accordance with Town standards and to the satisfaction of the Town's Director of Development and Operations and the Town's Engineer;

- the requirement to relocate the existing shed on the retained lot, if required to maintain compliance with the Zoning By-law;
 - the requirement to construct a new driveway and required parking spaces on the severed lot;
 - the requirement to provide drawings indicating the location and details of the driveway including the requirement for replacement of any trees requiring removal, to the satisfaction of the Town;
 - design guidelines for the new dwelling to be constructed on the severed lot; and,
 - the payment of required fees.
4. That approval of Minor Variance application A22/09 shall be obtained from the Committee of Adjustment;
 5. Approval of the draft reference plan, as applicable, shall be obtained at the Committee of Adjustment office (Town of Shelburne) and the required number of prints (3) of the resultant deposited reference plan shall be received; and,
 6. The conditions are to be fulfilled and the consent is to be finalized on or before two years from the date of the issuance of the Committee's notice of decision.
- 2) Be it resolved that, subject to the consideration of any comments and submissions received at the public meeting, the Committee of Adjustment grant approval of Minor Variance Application A22/09 for the property municipally known as 402 First Avenue East and legally described as Lot 1 and Part Lot 2 of Plan 12A, Block 28 to provide relief from Section 4.2.2 of Zoning By-Law 38-2007 that requires a minimum rear yard of 7.5 metres to permit a reduced rear yard of 7.2 metres, subject to the following condition:
1. That the owner shall obtain provisional and final approval of the related Consent Application, File No. B22/03, and the lands severed accordingly.

Background

An application for consent has been submitted by Ferne Osborne for the creation of one new lot from the property municipally known as 402 First Avenue East and legally described as Lot 1 and Part Lot 2, Plan 12A, Block 28, in the Town of Shelburne, County of Dufferin. The property currently contains a single-detached dwelling with a shed in the rear yard. The purpose and effect of the application is to sever the existing lot into two residential lots. The proposed severed lot will have an area of 464 square meters and 20.3 metres of frontage on Jelly Street. The proposed retained lot will have an area of 570 square metres and will maintain 22.8 metres of frontage onto First Avenue East. The existing parcel is 1034 square metres in area and currently contains a single-detached dwelling, fronting onto First Avenue. The existing single-detached dwelling will be maintained. A single detached dwelling is proposed

to be constructed on the severed lot in the future with the timing to be determined by the applicant. Driveway access will be required along Jelly Street to provide the required parking.

In conjunction with the consent application, an application has been submitted for a minor variance. In order to meet the minimum lot area requirement for the proposed severed lot, the rear lot line of the retained lot is proposed to be located 7.2 metres north of the back wall of the existing dwelling. The purpose of the minor variance application is to request relief from Zoning By-law 38-2007, Section 4.2.2 which requires a minimum rear yard of 7.5 metres to permit a reduced rear yard of 7.2 metres for the existing dwelling. Based on the applicant's sketch provided with the application, the existing shed will comply with the minimum rear lot line setback of 1.0 metre to the new rear lot line of the retained lot. If the shed is required to be relocated to meet the minimum setbacks, this will be the responsibility of the property owner.

Analysis

B22/03

The subject property is located at the northeast corner of First Avenue East and Jelly Street. The property is designated 'Residential' in the Official Plan, is located within the built boundary and is zoned Residential Type Two (R2) Zone.

Severed Land and Retained Land

The proposed severed lot is situated in the rear yard of the existing lot and would front onto Jelly Street. The proposed parcel will have an area of 464 square metres and frontage of 20.3 metres on Jelly Street. The retained parcel is proposed to have an area of 570 square metres and would maintain frontage of 22.8 metres on First Avenue East. The proposed lot sizes and frontages meet the lot area and frontage requirements for the R2 Zone. An application for Minor Variance has been received with the Consent Application, requesting a reduction of the minimum rear yard requirement from 7.5 metres to 7.2 metres for the existing dwelling.

The attached severance sketch illustrates the proposed lot configurations as well as the outline of the existing and proposed buildings.

Surrounding Land Use Context

The subject property is located in an established residential area with a mix of housing types. Existing single detached dwellings are located to the north, east and south and along First Avenue to the west of the subject property. To the south-west is an existing apartment building (the former hospital) and to the north-west are existing fourplexes along the west side of Jelly Street.

Similar low density infill residential lot severances were previously granted for similar corner lots, with lot sizes between 300 square metres and 400 square metres. The proposed lot severance is very similar to a previous consent for 330 First Avenue East located across the road (Jelly Street) from the subject property which was severed to create a new lot in 2017 that has since been developed for a new single detached dwelling.

Provincial Policy Statement (PPS)

The 2020 Provincial Policy Statement (PPS) provides direction on matters of Provincial interest related to land use planning and development and is relevant to the proposed application. All land use planning decisions shall be consistent with the PPS in accordance with Section 3 of the Planning Act. The proposal is supported by the following PPS policies:

- Accommodating an appropriate range and mix of residential and other uses to meet long-term needs (s.1.1.1 b) and a mix of housing types and densities to accommodate residential growth (s.1.4.1, 1.4.3);
- Promote cost-effective development patterns and standards to minimize land consumption and servicing costs (s.1.1.1 e);
- Within settlement areas, sufficient land shall be made available to accommodate an appropriate range and mix of land uses through intensification and redevelopment to meet projected needs for a time horizon of up to 25 years (s.1.1.2);
- Land use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources; are appropriate for, and efficiently use available infrastructure and avoid the need for uneconomical expansion; support active transportation; and are transit supportive where transit may be developed (s.1.1.3.2 a-1,2,4 & 5), and shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where this can be accommodated (s. 1.1.3.2);
- Planning authorities shall promote opportunities for accommodating a significant supply and range of housing options through intensification and redevelopment where this can be accommodated taking into account existing building stock or areas and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs (s.1.1.3.3);
- Appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety (s. 1.1.3.4);

- Planning authorities may allow lot creation only if there is confirmation of sufficient reserve sewage system capacity and reserve water system capacity within municipal services (s.1.6.6.6);
- Long-term economic prosperity should be supported by: encouraging residential uses to respond to dynamic market-based needs and provide necessary housing supply and range of housing options for a diverse workforce (s. 1.7.1 (b)).

Growth Plan for the Greater Golden Horseshoe

Approval of the proposed consent application would contribute to addressing the following Growth Plan policies:

- Focusing growth and development within the delineated built-up area (s.2.2.1.2a).
- To provide a diverse range and mix of housing to accommodate people at all stages of life (s.2.2.1.4c).
- Prioritizing planning and investment in infrastructure and public service facilities that will support intensification (s.2.2.2.4e).

County of Dufferin Official Plan

The application has been reviewed under the applicable policies of the County of Dufferin Official Plan and in consideration of the following intensification policies:

- The County encourages intensification within the existing built boundary/built up area wherever feasible and appropriate (s. 3.4.2 a);
- The County encourages intensification within the urban settlement area that is of an appropriate scale and character and subject to other policies of the County Official Plan, including the availability of servicing, and the protection of existing stable neighbourhoods (s. 3.4.2 b);
- Intensification will include: infill residential development and new residential development of vacant land or underutilized land within the built-up area (s. 3.4.2 c) ii));
- The following criteria will assist the County and local municipalities in the evaluation and consideration of applications for intensification:
 - i. the proposed development is located within the built boundary/built-up area;

- ii. the proposed development provides a diverse and compatible mix of land uses including residential uses and potentially commercial or employment uses, to support vibrant neighbourhoods;
- iii. the existing sewage and water services can accommodate the additional development;
- iv. the road network can accommodate the traffic generated;
- v. sufficient parking is provided;
- vi. the proposed development is adequately serviced by parks, schools and other community infrastructure;
- vii. the proposed development supports transit, where available, walking and cycling for everyday activities;
- viii. the development proposal provides for high quality public open spaces with site design and urban design standards that create attractive and vibrant places;
- ix. the proposed development is compatible with the existing development and the physical character and scale of adjacent buildings, streetscapes, and surrounding neighbourhood, and provides appropriate transition of built forms to adjacent uses; and
- x. the proposed development is consistent with the policies of the appropriate land use designation associated with the land.

The County Official Plan also establishes the following housing goal:

- Encourage the provision of a range of housing opportunities of varying densities and tenures, including the construction of affordable housing and special needs housing (s. 1.1.5 (k));

Growth management objectives of the County Official Plan include:

- Encourage opportunities for redevelopment, revitalization and intensification in appropriate locations and of a scale and character of development that is compatible with the community (s. 3.1 (e));
- Encourage the provisions of a broad range of housing types and affordability to meet the needs of the existing and future residents of the County (s. 3.1 (g)).

The County Official Plan policies for urban settlement areas direct as follows:

- Urban settlement areas will be the focus of growth and will accommodate a broad range of uses (s. 3.3.2 (b));
- Local municipalities are encouraged to identify and promote intensification, infill and redevelopment of designated and vacant and/or underutilized sites, in the urban settlement areas, taking into account existing building stock and the availability of suitable existing or planned

infrastructure and public service facilities to accommodate projected needs (s. 3.3.2 (e));

- Cost effective development patterns and those which minimize land consumption and reduce servicing costs are encouraged. Land use patterns which may cause environmental, heritage conservation or public health and safety concerns will be avoided. (s. 3.3.2 (h));

Community Design policies of the County Official Plan direct as follows:

- Local municipalities will seek to maintain and improve the physical design characteristics in the context of new and existing development, and promote a high quality of community design and built form (s. 3.9.1 a);
- Local municipalities, through the review of development applications will:
 - i. ensure that new development is designed in keeping with the traditional character of the settlement areas and in a manner that both preserves their traditional community image and enhances their sense of place within the County;
 - ii. promote efficient and cost-effective development patterns that minimize land consumption;
 - iii. promote the improvement of the physical character, appearance and safety of streetscapes, civic spaces, and parks;
 - iv. encourage tree retention or tree replacement; and
 - v. encourage design that considers, and wherever possible continues, existing and traditional street patterns and neighbourhood structure. (s. 3.9.1 b);
- Local municipalities may require development proponents to submit design and architectural control guidelines with development applications, establishing how the policies of this Plan and the local municipal official plan have been considered and addressed. Such guidelines may also be required to address related issues of streetscaping, landscaping, setbacks, signage, garage placement, and architectural treatment in accordance with any local design guidelines and zoning by-laws. (s. 3.9.1 c);
- Local municipalities will require that infill developments be compatibly scaled and designed to enhance the character of the area (s. 3.9.1 d).

Town of Shelburne Official Plan

Section 8.4 of the Official Plan identifies factors to be considered in assessing applications for Consent when new lots are created:

a) That regard shall be given to the goals of Section 3 of the Plan.

The application for consent is supported by the goals and objectives of the Official Plan, specifically:

- To continue to provide a mix of housing forms and types of affordable housing similar to that which exists near the downtown core (s. 3c);
- To promote and monitor intensification within the Built-up Areas with an intended target of 38% of new residential development in the form of intensification (s. 3 d);
- To plan for and provide infrastructure and public facilities in an efficient and cost-effective manner to accommodate current and projected needs (s. 3 r);
- To plan for a complete community that meets the needs of residents throughout an entire lifetime by providing a range of housing types and community infrastructure (s. 3 s).

The proposed consent will contribute towards the goals of the Town's Official Plan through intensification and redevelopment within an existing residential area in the built-up area. The existing single detached dwelling on the retained lands will be maintained and the proposed severed lands will provide an opportunity for a new single detached dwelling. This will provide a mix of housing forms, sizes and densities in an area that is currently serviced by municipal roads, water, sanitary and storm sewers and is located within walking distance of the Downtown Core.

As the owner has not yet provided information regarding the design of the proposed new dwelling, the following goals of the Official Plan have not been specifically addressed at this time:

- To encourage well planned, attractive new development and a high quality of urban design that will reflect the historic, small town character of the community (s. 3 (a));

A condition of approval is recommended to require that design guidelines for the new dwelling shall be established as part of the required Consent Agreement.

b) That the severance will conform to Schedule 'A' and the appropriate land use policies in this Plan, and the provisions of the Zoning By-law; and

The subject land is designated 'Residential' in the Town's Official Plan and is located within the built boundary. The property is currently zoned 'Residential Type Two (R2)' in the Town's Zoning By-law. Since the existing dwelling on the proposed retained lot would not meet the minimum rear yard requirement of the R2 Zone, a Minor Variance is required. As a residential use is proposed, the severed parcel conforms to the land use designation of the Official Plan which promotes opportunities for intensification and redevelopment.

A condition is recommended to require approval of a Minor Variance to the Zoning By-law to provide relief from the minimum rear yard requirement of 7.5 metres in the R2 Zone to allow a reduced minimum rear yard of 7.3 metres for the existing dwelling. This will allow the proposed new severed lot to comply with the minimum lot area requirement of the R2 Zone.

Design guidelines will be required as part of the required Consent Agreement to address the following objectives, policies and criteria of the Residential designation:

- encourage a high standard of urban design for all residential development (s. 4.2.2 d)); and,
- regard for the density and character of adjacent development and appropriate integration of the proposed use into the residential community with respect to building location, form, general exterior design features and landscaping of the site (s. 4.2.3.2 (b)(vii)).

c) That the severance will conform to the Land Division policies.

This application conforms to the land division policies of the Official Plan:

- Lot size – the lot area and frontage proposed for both lots will be adequate for the proposed uses and will meet the minimum requirements of the Zoning By-law.
- Public Road Access and Improvement – the severed and retained land will continue to have frontage on a public street. The retained lot will maintain frontage and access along First Avenue East and the severed lot will have frontage and access along Jelly Street.
- Parkland Dedication – current Official Plan policies require parkland dedication or cash-in-lieu for new lots for residential uses. In this case cash-in-lieu of parkland should be considered as the amount of land that would be dedicated is not sufficient for a new park and no new parks are planned in this location in accordance with the Parks Master Plan. Cash-in-lieu of parkland will be required for the new lot based on 5% of the value of the severed lot.

- Compatibility with surrounding area – as the proposed lots will be used for medium-density residential uses, there are no concerns regarding land use compatibility.
- Hazard Lands – the proposed severed and retained land are not within or adjacent to any area identified as Natural Environment in the Official plan and no hazardous areas or conditions have been identified that would impact the planned development of an additional dwelling and the existing dwelling.

The proposed consent is in keeping with the goals, policies and land uses designations of the Town of Shelburne Official Plan. Further information will be required to address specific objectives, policies and criteria of the Official Plan, and will be required to satisfy the recommended conditions of approval.

Servicing

The property is within the Stage 1 area for servicing and a reserve has been established for these types of infill developments and general intensification. Based on the latest servicing capacity analysis, sanitary servicing capacity is available for the development of the proposed lot.

The proposed single detached dwelling will require the installation of municipal water and municipal sanitary sewers on Jelly Street to connect to existing municipal sanitary services via the 200mm sanitary collection main and 150mm watermain on First Avenue East, at the cost of the owner. The sanitary and water services for the existing dwelling are on First Avenue East and can remain in that location with no changes required as a result of the proposed severance. A detailed grading and servicing plan and consent agreement will be required.

Access

Access to the proposed severed lot is available along the frontage of Jelly Street. The existing public lane right-of-way to the north is unopened and therefore all access to the severed lot will be required to be from Jelly Street. Town review and approval of the proposed details of the driveway location(s), widths and curb cut(s) will be required prior to construction of the entrance in accordance with Town standards.

Town of Shelburne Zoning By-law

As noted earlier, the proposed severed and retained lots comply with the Zoning By-law and specifically the minimum lot area and frontage requirements of the R2 Zone. A Minor Variance is required and an application has been received seeking relief from the minimum rear yard requirement for the existing dwelling on the land to be retained. The applicant proposes a minimum rear yard of 7.2 metres whereas the R2 Zone requires 7.5 metres.

Summary

Application B22/03 to create one new residential lot is consistent with the PPS, conforms to the Growth Plan and the County Official Plan, and is in keeping with the Town's Official Plan. The application is subject to approval of a Minor Variance as noted. The Town's standard consent conditions are also recommended.

A22/09

The submitted Minor Variance application seeks relief from Section 4.2.2 of the Zoning By-law which requires a minimum rear yard of 7.5 metres in the R2 Zone, to permit a reduced minimum rear yard of 7.2 metres for the existing dwelling on the land to be retained in the related application for Consent (File No. B22/03).

Under Section 45(1) of the Planning Act, there are four tests that a minor variance must meet which include:

1. Is the application minor?
2. Is the application desirable for the appropriate development of the lands in question?
3. Does the application conform to the general intent of the Zoning By-law?
4. Does the application conform to the general intent of the Official Plan?

For the application to be considered minor, it must meet all four tests as mentioned above.

1. Is the application minor?

Yes – The requested relief from the minimum rear yard requirement in the R2 Zone will not change the appearance of the existing dwelling and will not impact the streetscape. Several previous corner lot severances have been approved in similar residential areas, including the property at 330 First Avenue East across the road from the subject land, many of which required site-specific yard provisions or variances from the minimum yard requirements for the severed and/or retained lot and/or for the minimum lot area requirements. This flexibility helps to facilitate appropriate intensification through new dwellings that are similar in size as existing dwellings in the area. The proposed 0.3 metre reduction of the rear yard for the existing dwelling on the land to be retained will not have any noticeable visual effect and maintains a functional rear yard amenity area for the existing dwelling.

2. Is the application desirable for the appropriate development of the lands in question?

Yes – The site is appropriately designated and zoned within a residential area, and the proposed reduced rear yard requirement will help to facilitate an infill corner lot severance as noted above. Adequate parking is available for the existing dwelling and will not be impacted by the proposed variance. Thus, the application is desirable for the appropriate development the lands in question.

3. Does the application conform to the general intent of the Zoning By-law?

Yes – The subject property is zoned Residential Type Two (R2) Zone and the application conforms to the general intent of the Zoning By-law. As it relates to rear yards, the intent of the Zoning By-law is to provide adequate private outdoor amenity area and prevent dwellings from being constructed too close together by ensuring appropriate spacing particularly where the rear wall of one dwelling faces towards the side yard of an adjoining residential lot. Due to the location of the existing house and the minimum lot area requirement of the R2 Zone, it is not possible to sever the proposed new lot without requiring a variance. No other variances or site-specific zoning provisions are required. Therefore, the application meets the general intent of the Zoning By-law.

4. Does the application conform to the general intent of the Official Plan?

Yes – The lands are designated Low Density Residential in the Town of Shelburne Official Plan. The Low Density designation permits a variety of residential uses including single detached, semi-detached and duplex dwellings. An objective of this designation is to ensure a variety of housing types to accommodate the diverse economic and social needs and desires of the residents, which would be achieved by permitting the converted dwelling unit. Therefore, the Minor Variance should be considered in keeping with the general intent of the Town's Official Plan.

Summary

The application for Minor Variance seeking permission to allow a minimum rear yard of 7.2 metres rather than the 7.5 metres required by the Zoning By-law will help to facilitate an infill corner lot severance (Consent File No. B22/03). A useable rear yard will be maintained for the existing dwelling on the proposed land to be retained. In the Official Plan, the Residential designation contemplates a variety of dwelling types and densities and intensification is encouraged within the built-up area. The requested variance to consider relief from the minimum rear yard requirement of the Zoning By-law is in keeping with the land use pattern and built form found in the neighbourhood.

Financial Impact

Conditions are recommended requiring the payment of cash-in-lieu of parkland dedication for the new lot. The payment of development charges will be required for the new dwelling unit prior to building permit. Any costs associated with the servicing and development of the proposed severed lot and for any modifications required to the proposed retained lot will be the responsibility of the property owner(s) including the related cost for the Town's planning, engineering and legal advisors to prepare and administer the required Consent Agreement and for any engineering inspections.

Policies & Implications (if any) Affecting Proposal

Town of Shelburne Official Plan
Town of Shelburne Zoning By-law 38-2007

Consultation and Communications

The applications were circulated to the required departments and agencies and the public meeting was advertised in accordance with the Planning Act. No objections were received as of the writing of this report.

The Director of Development and Operations confirmed the location of existing municipal water and sanitary sewer services along First Avenue East and the requirement for the property owner to construct new municipal water and sanitary services along Jelly Street to service the proposed severed lot.

The County Building Department has indicated that the application have not revealed any issues and no other comments at this time.

County Public Works has indicated no comments regarding the applications.

County Planning has noted that the NVCA should be consulted as the property is within a Medium and Low Vulnerability Aquifer and partly located within a Wellhead Protection Zone.

The NVCA has confirmed the property is not within their regulated area and that the NVCA has no objection to the approval of the applications.

Hydro One has indicated no comments or concerns at this time. Enbridge also does not object to the application and has noted that it is the applicant's responsibility to verify that the existing gas servicing does not encroach on more than one property when severing an existing parcel of land.

Supporting Documentation

Consent Sketch

Prepared by:

Garrett Garrard, Planning Coordinator

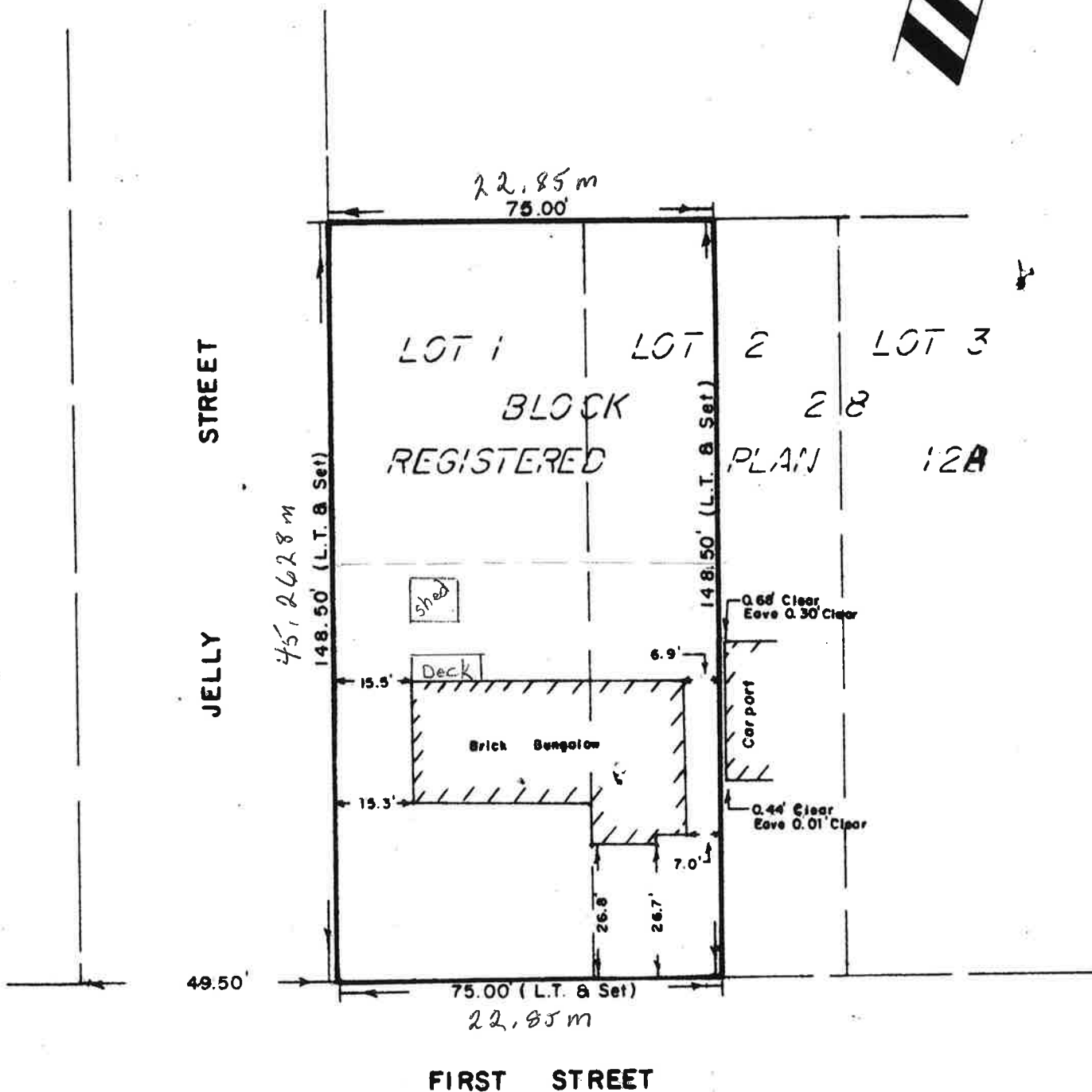
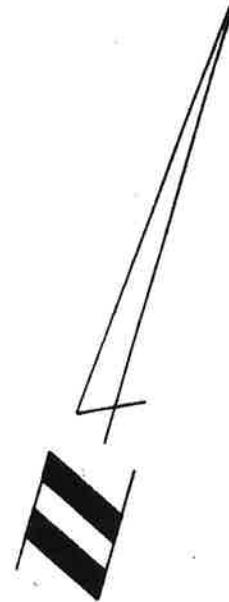
Reviewed by:

Steve Weber, Town Planner

REGISTERED PLAN 12A
TOWN OF SHELBURNE
COUNTY OF DUFFERIN

SCALE: 1" = 30'

P. J. WILLIAMS, O.L.S. (1211) - 1977



TOTAL 1034.7076 Sqm