

**COMMITTEE OF ADJUSTMENT
PLANNING REPORT**

Application: A15/24
Related Application(s): N/A
Owner(s): Johnathon & Brandy Foster
Meeting Date: January 31st, 2025
Prepared by: Owen Curnew, Development Planner

PROPERTY INFORMATION:

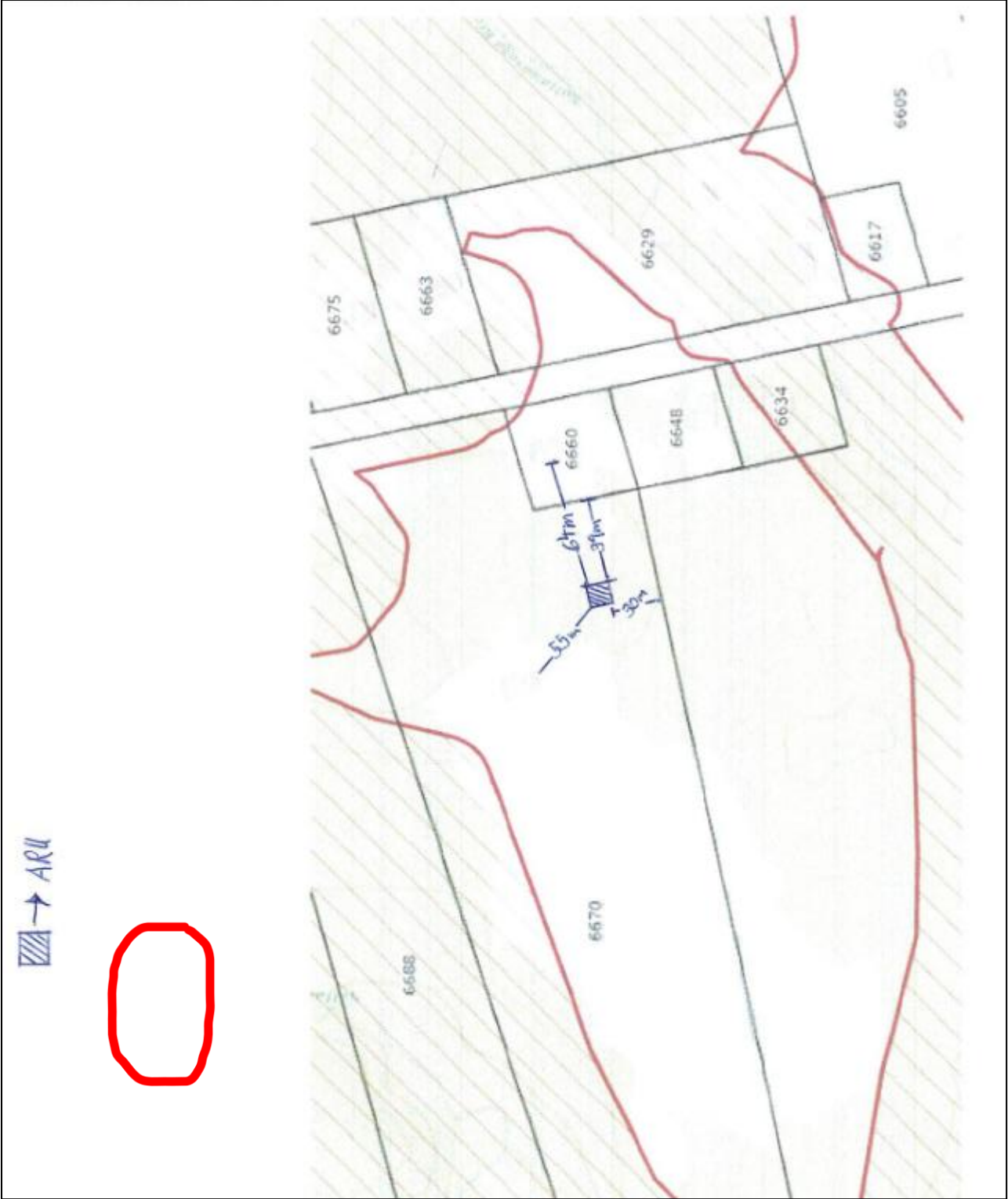
Municipal Address	6670 8 th Line
Legal Description	PT E 1/2 LT 14 CON 7 ESSA TWP AS IN RO1360868 EXCEPT PT 1, 51R26460 ; ESSA ; SUBJECT TO EXECUTION 96-02102, IF ENFORCEABLE. ; SUBJECT TO EXECUTION 98-02114, IF ENFORCEABLE. ;
Roll No.	432101000302300
Official Plan	Agricultural and Environmental – Flood Prone Areas
Zoning By-law	Agricultural (A) and Environmental Protection (EP)

RECOMMENDATION:

Staff recommends **APPROVAL** of Application A15/24 based on Planning Policy and all considerations, with the following conditions:

1. That all municipal taxes be paid and up to date.
2. That any and all external costs associated with this application are borne by the applicant.
3. That the proper Building Permit(s) be obtained.
4. The applicant provides a Tree Preservation Plan (TPP) and Landscaping Plan to ensure that, where appropriate, trees can be appropriately removed and subsequently replanted on the property.
5. The applicant provides a revised site plan demarcating the existing driveway and proposed access to the ARU.
6. The applicant agrees to provide the Building Department and Public Works Department with any and all requested materials in order to ensure adequate drainage conditions are met, and no negative impacts to neighbouring properties will occur.

Proposal:



DATE OF SITE INSPECTION

January 14th, 2025

REASON FOR THE APPLICATION:

The applicant is seeking relief from Section 4.38.3f) of Zoning By-law 2003-50 which regulates the maximum distance a Detached Additional Residential Unit (ARU) can be located from a Primary Dwelling at 30-metres. The applicant is proposing to place the ARU 55-metres away from the primary residence.

SURROUNDING LANDS:

North	The property abuts 6710 8 th line which is heavily treed lot comprised of single-family dwelling and accessory buildings.
East	The property fronts onto 8 th Linea.
South	The property abuts 6618 8 th Line which is comprised of trees and fields.
West	The property abuts 6645 County Road 56 which is comprised of trees, Agricultural Buildings, and fields.

BACKGROUND:

The subject property, municipally known as 6670 8th Line, is zoned Agricultural (A) Zone and Environmental Protection (EP) in the Essa Zoning By-law (2003-50). The proposal takes place within the portion of land zoned Agricultural (A) Zone, and the policy analysis will only reflect the applicable policies regarding Agricultural Land for this reason.

The applicant is applying for a Minor Variance prior to the submission of Building Permits to allow for the construction of a detached Additional Residential Unit (ARU). The applicant has suggested that building the ARU farther away from the existing dwelling would allow them to provide better privacy between dwellings.

COMMENTS:

Test 1.

Does the minor variance maintain the general intent and purpose of the Township Official Plan (OP)? Yes

Essa Townships Official Plan:

Section 6.2 outlines permitted uses in lands designated Agricultural, stating that a building and structures normally incidental to an agricultural operation such as farm residences,

barns, sheds, etc. are also permitted.

The Variance would not expand beyond the residential uses permitted as accessory to an agricultural operation, as an Additional Residential Unit would be considered an accessory residential use.

Therefore, the Variance generally maintains the intent and purpose of the Township's Official Plan.

Test 2.

Does the minor variance maintain the general intent and purpose of the By-law? Yes

Essa Township Zoning By-law (2003-50):

Section 6 of Essa Township's Zoning By-law 2003-50 outlines permitted uses in lands zoned Agricultural (A). Specifically, Section 6.2 (j) identifies Additional Residential Unit(s) as permitted use.

The applicant is seeking relief from Section 4.38.3f) of Zoning By-law 2003-50 which regulates the maximum distance a Detached Additional Residential Unit (ARU) can be located from a Primary Dwelling at 30-metres. The applicant is proposing to place the ARU 55-metres away from the primary residence.

Given that the variance would not change the intended use and simply seeks relief from the maximum distance between the primary residence and the ARU while maintaining all other relevant provisions, staff sees no conflict between the intent of the By-law and the proposed use.

Thus, the variance would generally maintain the intent and purpose of Essa Township's Zoning By-law (2003-50).

Test 3.

Is the minor variance desirable for the appropriate development or use of the land, building or structure? Yes

The proposal does not appear to impact any additional provisions, nor would it create any conflicting uses or nuisances for neighbouring properties in terms of visual, noise, or developmental impacts when considering the significant tree coverage and distances from the neighbouring properties.

The applicant will need to remove trees to develop the ARU in the proposed location. In

talks with the applicant, staff have communicated concerns regarding the potential removal of trees on the property, and that the applicant should commit to replanting the same number of trees as taken down during the development. Thus, staff will be requesting the following condition of approval be added to the variance and enforced at the time of the occupancy inspection for the Building Permit(s):

The applicant provides a Tree Preservation Plan (TPP) and Landscaping Plan to ensure that, where appropriate, trees can be appropriately removed and subsequently replanted on the property.

If the applicant can provide the above-mentioned materials to mitigate potential impacts on trees and wildlife within the area, staff can support the development.

Staff acknowledges that this can be addressed at the Zoning Review of the Building Permits and should not delay the approval of the variance. However, it should be noted that the applicant will need to submit a revised site plan identifying the proposed access from the ARU to the existing driveway. This may result in tree removal and should likely be proposed and incorporated into the analysis for the Tree Preservation Plan (TPP) and Landscaping Plan. Therefore, staff would request the following provision be added in order to support the proposed variance:

The applicant provides a revised site plan demarcating the existing driveway and proposed access to the ARU.

Therefore, the variance should be considered appropriate use of the land and building.

Test 4.

Is the requested variance minor in nature? Yes

The Minor Variance would allow the applicant relief from Section 4.38.3f) of Zoning By-law 2003-50. The variance proposes to exceed the maximum allowable distance between a primary dwelling and an ARU by 15-metres. This number is moderately larger than what is permissible but is significantly diminished by the lack of perceivable impacts and tree coverage between the subject property and neighbouring properties.

Furthermore, the ARU would conform to all other provisions of the Zoning By-law (2003-50) and contribute to addressing the shortage of rental options within the Township.

Thus, the Variance should be considered 'minor' in nature.

ADDITIONAL COMMENTS:

A resident provided the following comments:

I am writing this email to acknowledge receipt of your letter dated January 10th, 2025 for the above mentioned matter and related notice of public hearing. I understand the public hearing being held on January 31, 2025 at approximately 10:00 am will be addressing an application made by the applicant property owner for 6670 8th Line (No. A15-24). This application is a request made by the applicant to seek relief from Section 4.38.3f of zoning By-law 2003-50, which regulates the maximum distance a Detached Additional Residential Unit (ARU) can be located from a Primary Dwelling at 30-meters. I also understand as laid out by your letter that the applicant is requesting a variance/amendment to have the proposed ARU placed at 55 meters away from the primary residence which is almost double the maximum distance as set out in the By-law.

After reviewing the letter and attached context map and proposal the information provided by the applicant is very vague on its face. The proposal appears to only reflect the lot line version of the map with no visible structures as they currently sit for addresses 6670 (applicant address), 6660 (my address) and 6648 on the 8th Line. From the map it appears the ARU being proposed is 30 meters from the southern property line of 6670 and Drysdales Tree Farm and 39 meters from the shared property line of 6670 and 6660 8th Line. I also note the angled measurement of 55 meters from what one can infer to be extending from the main residential building on 6670 in a southeast direction. I am unsure what the measurement of 64 meters is for which appears to extend from the middle of 6660 travelling west to the proposed ARU.

I have several questions/concerns about the application as it was provided to me in the notice letter, these are as follows:

- The letter does not outline the size of the ARU as proposed by the applicant.
- The applicant has made no indication on their proposal of where the septic, utilities, yard space and laneway/driveway would be located
- The applicant is proposing to place the ARU in a forested area of their property, which affords them privacy from the main residence, but places the ARU closer to their neighbours.
- Does not reflect cleared areas for yard, drainage impact on neighbouring septic beds and water tributaries

I appreciate the conversation on the phone prior to this email being forwarded to you, and I understand that Simcoe County and Nottawasaga Conservation Authority also will be consulted for their input on the proposal as well, due to the impact of any form of county forest, and wildlife and environmental impacts due to the applicant's property being marked both agriculture and Environmental Protection (EP). I also appreciate that the Township has several concerns that are similar, if not the same as the ones I have outlined above, as well as replacing of trees that may be removed, etc.

On its face, I believe that prior to the committee ruling on the request made by the applicant, the above mentioned concerns should be addressed by the applicant and made available to the impacted neighbouring property owners. I have attached a photo which was copied from the County of Simcoe Maps website, and reflects the most recent and updated picture of the proposed ARU area. I have marked an area with a red "X" which is approximately the placement

as proposed by the applicant, but this photo also reflects the current residential units for properties 6670 (applicants), 6660 (my residence) and 6648 on the 8th Line.

I understand the applicants desire to provide privacy to their main residence located on the property of 6670 8th Line from their proposed ARU location. I do disagree and have concerns with the proposed variance request as it stands now as it places the ARU closer to the applicants neighbours to better benefit the applicant's own privacy. The ARU would be 30 meters in from the south property line neighbouring 6670, and 39 meters in from the east property line of 6660 8th Line, while the actual applicant would enjoy a 55 meter setback (25 meters over the set out bylaw requirement of 30 meters) if the variance is granted by the committee.

Again, I request that the Committee of Adjustment and Planning Department for Essa Township defer a decision on the variance request as it stands now by the proposal which was submitted by the applicant. The proposal does not address some possible significant impacts on the neighbouring properties as it is very vague on its face. I understand that the applicant may be delayed in completing their ARU, but I feel their due diligence in respect to the impact to the neighbouring properties has not been met.

I appreciate the proposal made by the applicant, but have deep concerns on the impacts if it was granted as it stands on its face. I feel with the additional information the applicant would provide clarity and answers to the concerns.

No other comments were received during the circulation of the application.

Staff believes that the request for a revised Site Plan for inclusion in the review of a Tree Preservation Plan (TTP) would satisfy most concerns. The applicant has applied for the Minor Variance prior to the submission of building permits to gain relief from the maximum distance an ARU can be located from the primary dwelling. The ARU would exceed all relevant setbacks considerably, and the applicant is aware of all relevant design restrictions related to the Gross Floor Area and height of the ARU. If no variance was required, neighbours would not have any input or ability to comment on proposed during building permits. Staff agrees that these dimensions should be identified during the Zoning Review of the building permits and prior to approval; however, these concerns should not prevent or have any weight on the decision regarding the distance of the ARU from the primary dwelling.

Staff acknowledges the concerns regarding drainage and would propose the following condition:

The applicant agrees to provide the Building Department and Public Works Department with any and all requested materials in order to ensure adequate drainage conditions are met, and no negative impacts to neighbouring properties will occur.

No other comments were received during circulation.

CONCLUSION:

For the above reasons, Staff recommends **APPROVAL** of this application.

Staff advises that:

The applicant be **GRANTED** the minor variance with conditions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Owen Curnew', with a long horizontal flourish extending to the right.

Owen Curnew
Planning Department
Township of Essa