

STAFF REPORT: Planning & Building Services Department



REPORT TO: Planning & Building Committee
DATE: February 6, 2012
REPORT NO.: PL.12.14
SUBJECT: Request for Comments -
Niagara Escarpment Commission:
Development Permit Application
File No. G/R/2011-2012/9126 -
Kaley Roy
East Part Lot 19, Concession 6;
576196 5th Line;
Town of The Blue Mountains

PREPARED BY: Bryan Pearce,
Planner I

A. Recommendations

THAT Council receive Planning Staff Report PL.12.14, “Request for Comments – Niagara Escarpment Commission: Development Permit Application File No. G/R/2011-2012/9126 – Kaley Roy; East Part Lot 19, Concession 6; 576196 5th Line; Town of The Blue Mountains”;

AND THAT Council advise the Niagara Escarpment Commission that the Town conditionally has no objection to the Development Permit Application on a 15.4 hectare (37.94 acre) existing lot to:

- 1. Construct a 2 storey, 139.5 square metre (1500 square foot) addition to the existing dwelling, having a maximum height of 9.1 metres (30 feet), measured from the lowest point to the peak.**
- 2. Construct a 104.6 square metre (1125 square foot) in-ground swimming pool.**

AND FURTHER THAT the Town’s comments to the Niagara Escarpment Commission on this Development Permit Application shall be subject to the following conditions:

- 1. That a Visual Impact Assessment be submitted to the satisfaction of the Niagara Escarpment Commission to ensure that adequate natural screenings is provided to protect the natural views of the escarpment slope and subsequently incorporated into the landscaping plan.**
- 2. That the proponent conducts a karst topography investigation to determine if shallow overburden with karst topography does exist in the development area, to the satisfaction and clearance of the Niagara Escarpment Commission.**
- 3. That Building Permit(s) must be obtained from the Town of The Blue Mountains Building Division for the proposed addition to the existing dwelling prior to the onset of construction.**

4. That Swimming Pool Fence Permit(s) must be obtained from the Town of The Blue Mountains Building Division for the proposed accessory use swimming pool prior to the onset of construction.

B. Background

The purpose of this Report is to consider and to develop comments related to a Development Permit Application filed with the Niagara Escarpment Commission (NEC) with respect to a proposal to:

- Construct a 2 storey, 139.5 square metre (1500 square foot) addition to the existing dwelling, having a maximum height of 9.1 metres (30 feet), measured from the lowest point to the peak; and
- Construct a 104.6 square metre (1125 square foot) in-ground swimming pool.

The subject property is located on East Part Lot 19, Concession 6; in the Town of The Blue Mountains, locally described as 576196 5th Line. The subject lands are serviced by private on-site well and septic system, on a lot comprised of 15.4 hectares (37.94 acres) in area. The Owner is Kaley Roy, whom has authorized Ilias Konstantopoulos, who is a prospective purchaser of the subject property, as the Applicant on this development permit application (DPA).

Official Plan

The subject lands are designated as Rural (R) and Escarpment (E) in the Town of The Blue Mountains Official Plan (OP). The Escarpment (E) designation is associated with the slope that runs east/west through the middle of the subject lands with the topography of the land falling to the north. The proposed development is situated all within the Escarpment (E) designation, identifying significant escarpment features within the Escarpment Protection area of the Niagara Escarpment Plan that is intended to protect the natural and visual continuity of the escarpment. This is further identified as Slope, Floodplain and Shoreline Hazards under Appendix "A" of the OP. Site selection is further detailed under Section 4.6.6 of the OP where attention must be given to the protection of the natural and visual characteristics of the escarpment, minimizing potential disruption to the existing topography and natural environment, adequate building site on slopes less than 25%, etc.

Planning Staff note that the existing slope appears to be less than 25% as the lands decrease in elevation as you proceed northward on the site. The subject lands appear to have numerous mature trees planted, so retention efforts shall be utilized to protect the natural environment, as well as additional native plantings are encouraged. As a condition of support, a visual impact assessment should be completed to the satisfaction of NEC to ensure that adequate natural screenings are provided to protect the natural views of the escarpment slope for this development proposal and subsequently incorporated into the landscaping plan.

The general development policies under Section 3 of the Official Plan address accessory uses under Section 3.5, as detailed as follows:

- (1) Uses which are naturally and normally incidental to, subordinate to or exclusively devoted to a principle use shall generally be permitted as accessory uses in conjunction with that primary use. For residential purposes, such uses may generally include a garage, storage shed, swimming pool, tennis court, deck, boat house, and similar uses.*
- (2) Accessory buildings and structures shall generally be restricted to the rear or side yard of a lot and should be limited in size, where appropriate, so that they clearly appear secondary to the primary use...*

It is Planning Staff's opinion that the proposed in-ground pool is accessory to the existing single detached dwelling being the primary and principle use of the lot. It would visually appear to be to the north side of the dwelling and with the increased front yard setback limiting the prominence, it would appear as the secondary use to the lot.

The property has been identified as an Archaeological Area under Appendix "D" of the OP. Section 8.11 of the Plan ensures that cultural heritage features are protected, preserved and enhanced as further indicated by the province. Being that the development proposal is an addition to the existing dwelling and an accessory use pool in close proximity to the existing dwelling (as the construction could have altered the landscape), there would appear to be no impacts to significant cultural heritage features in the development area, but precaution should be taken during development activities and reported if found.

The property has been identified as Thin Overburden Areas under Appendix "E" of the OP. Section 8.16 of the OP requires the preparation of an EIS if karst topography is present in order to minimize the risk of contamination of water resources. Being that the development proposal is an addition to the existing dwelling and an accessory use pool; NEC Staff should ensure that there is no impacts to the karst. This requires the proponent to have a qualified individual conduct a preliminary karst investigation by digging test holes in the two development areas to determine if there is significant karst present on the subject property. If the test holes reveal karst topography with shallow overburden then an EIS is necessary to assess the impacts and mitigation measures on the surface and ground water supply. Planning Staff recommends as a condition to this application that the karst investigation shall be completed to the satisfaction of the NEC.

Therefore, Planning Staff note that the development proposal would appear to conform to the OP, subject to addressing any visual impacts and karst topography.

Zoning

If zoning were in place, the General Rural (A1) Zone would apply to the subject lands; and the General Rural (A1) Zone would permit this type of use on the subject lands.

There would be a compliance issue with regard to this development proposal, if zoning were in place. This relates to the proposed location of the accessory use in-ground

pool, as it appears to be located closer to the street than the existing dwelling, contrary to the general provisions for accessory uses under Section 5.2(iii). Given that the proposed accessory use in-ground pool an exterior side yard setback over 90 metres from the public road (5th Line), it would appear to have limited visual impacts on the surrounding area with the existing mature vegetation and further shall conform to the OP policies with respect to visual impacts. Therefore Planning Staff have no concern with the proposed location of the proposed accessory use in-ground pool on the lands.

Additional Comments

The Town's Building Division requires that building permit(s) be obtained for the proposed addition to the existing dwelling. Planning Staff recommends this as a condition to this application prior to the onset of construction.

Planning Staff notes that the Town has a Swimming Pool Fence By-law, 2002-08, as amended, to require owners of privately-owned pools to erect and maintain fences and gates around such swimming pools. Planning Staff note that the proposed does not meet the exemption criteria of this by-law, as the location would be within 200 metres of the public right-of-way (5th Line) and further an adjacent existing residence, pursuant to ss. 8.1(c) of the By-law. The Town's Building Division requires that swimming pool fence permit be obtained for the proposed in-ground swimming pool. Planning Staff recommends this as a condition to this application prior to the onset of construction.

Based on the foregoing, Planning Staff would have no objections to this application for a Development Permit, conditional upon addressing visual impacts and karst topography to the satisfaction of the NEC; and obtaining building and swimming pool fence permit(s) with the Town.

C. The Blue Mountains' Strategic Plan

The recommendation in this Planning Staff Report PL.12.14 is consistent and supports the following Strategic Plans Goals:

"1. Managing growth to ensure the ongoing health and prosperity of the community"

D. Environmental Impacts

The proposed development does not appear to generate any significant environmental impacts that can be regulated by the Town.

E. Budget Impact

NIL

F. In Consultation With

Nil

G. Attached

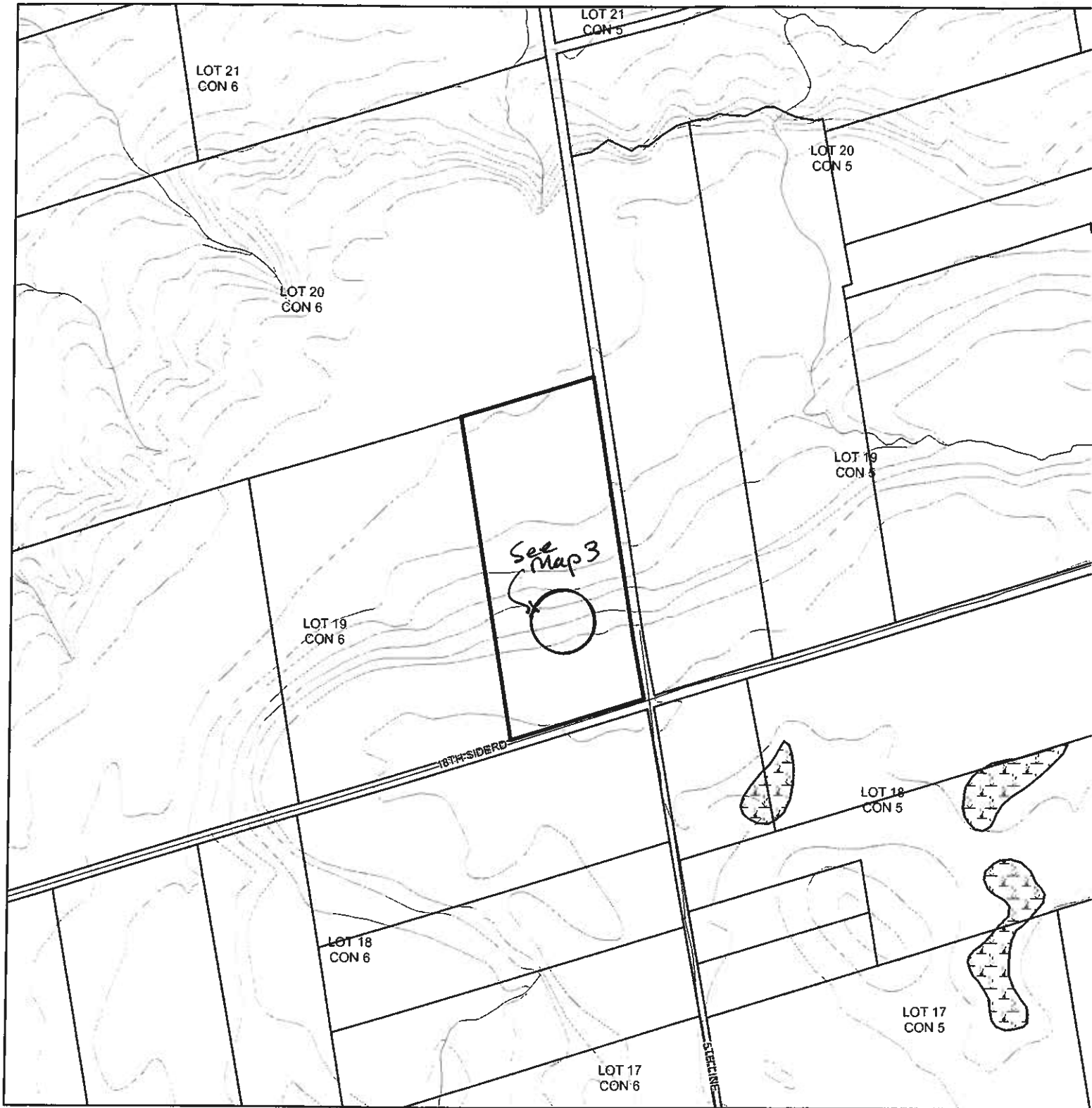
1. Lot Configuration
2. Site Plan

Respectfully submitted,

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**MAP 2
LOT CONFIGURATION**

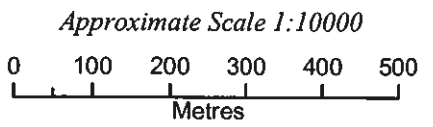
FILE NO. G/R/2011-2012/9126

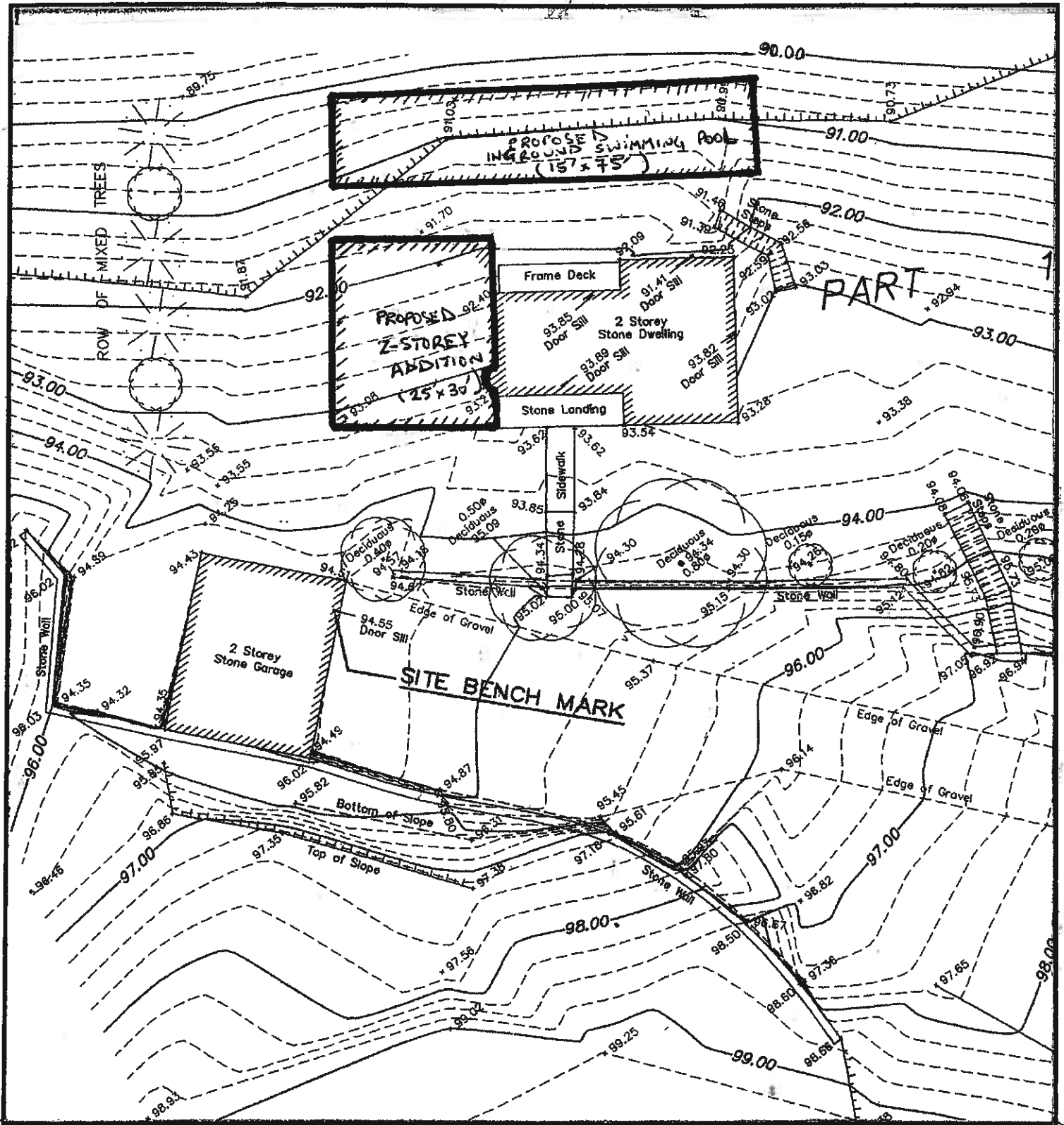
APPLICANT: KONSTANTOPOULOS

LEGEND

- Subject Property
- Contour (5 metre intervals)

Printed on Dec 22, 2011 by brownca3





Map 3

Site Plan

Name.....Konstantopoulos

File Number.....G/R/2011-2012/9126



Not to Scale