



Planning Justification Report Minor Variance

Density Variation
For Short Term Accommodation

1018 Fry Road
Prince Edward County, Ontario

April 5, 2023

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1. Introduction

Ray Essiambre and Associates Ltd. (REAL) was retained on February 24, 2023 by Mrs. Anna Sowinski and Mr. Art Sowinski (the Owners) to provide land use planning services for the property at 1018 Fry Road, Prince Edward County. The property is known legally as Part 1, Plan 47R-1088 which is shown on Attachment 1. The Pin Page is included in Attachment 2.

The owners, applied to Prince Edward County on September 20, 2022 for a Short Term Accommodation (STA) License. The application form is shown on Attachment 3. The owners were subsequently informed by the County that if approved, the proposed STA would exceed the allowable density by 0.3% and a pre-consultation meeting was held on December 12, 2022. A letter containing the application requirements is included in Attachment 4.

The planning assignment is to obtain a minor variance for relief from Section 4.37.2 (i) of the County's Comprehensive Zoning By-law 1816-2006 that limits the allowable maximum density of STA properties. The density is calculated as 15% of the existing dwelling units, as measured within a 500 m radius.

This Planning Justification Report provides an analysis of the proposal and evaluates the appropriateness of advancing a Minor Variance application in the context of the Provincial Policy Statement (PPS), Official Plan and Zoning By-law of Prince Edward County.

Based on my review, it is our recommendation that the Minor Variance application be approved.

2. Purpose of the Minor Variance and Scope

The proposal is to operate a STA unit in an existing single family home.

The purpose of the minor variance is to seek relief from Section 4.37.2 (i) of the County's Comprehensive Zoning By-law 1816-2006 that contains a maximum density limit of 15% with 500 m of a proposed STA. The minor variance does not seek to relief from zone provisions such as setbacks or other performance standards.

This report will focus on matters related to density limits within the surrounding area rather than zone provisions associated with the lot.

3. Description of the Property and Surrounding Area

Figure 1 shows the existing lot at 1018 Fry Road that is 1.5 ha with frontage on Fry Road. The property is located on Part Lot 13 Concession 2, Sophiasburgh.

The property is a rural residential lot that contains a single family home and accessory uses.

Figure 1 The Lot

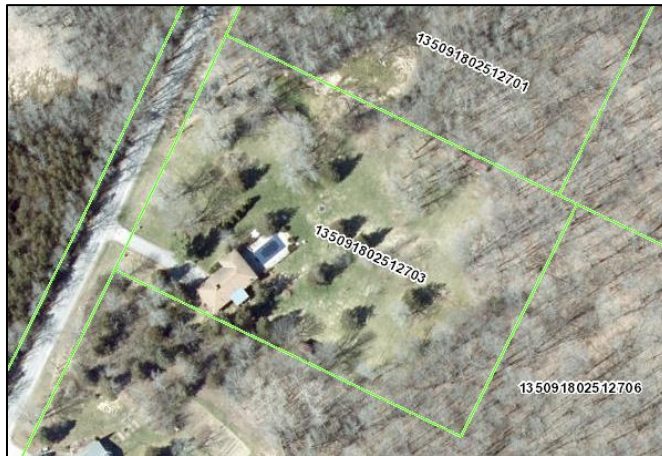


Figure 2 View from Fry Road



The surrounding area is shown on Figure 3. The property is located in the rural part of the County on a lot that contains mature coniferous and deciduous trees. The natural heritage on the property makes it an ideal location for a STA that supports the county's tourism industry.

In the vicinity of the property are several rural residences on larger rural lots and farm related uses that contribute to the rural character of the area. The vegetation is a combination of woodlots with mature trees and cultivated farm land.

Figure 3 Surrounding Area



4. Policy Review

The purpose of this section is to evaluate the appropriateness of the proposed application for an STA in the context of the Planning Act, the Provincial Policy Statement (2020), the County of Prince Edward Official Plan (2021) and Comprehensive Zoning By-law 1816-2006.

4.1 The Provincial Policy Statements

Section 1.0 Building Strong Healthy Communities, states the following.

Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. Efficient land use and development patterns support sustainability by promoting strong, liveable, healthy and resilient communities, protecting the environment and public health and safety, and facilitating economic growth. Accordingly:

1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns 1.1.1 Healthy, liveable and safe communities are sustained by:

a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term.

4.1.1 Comment:

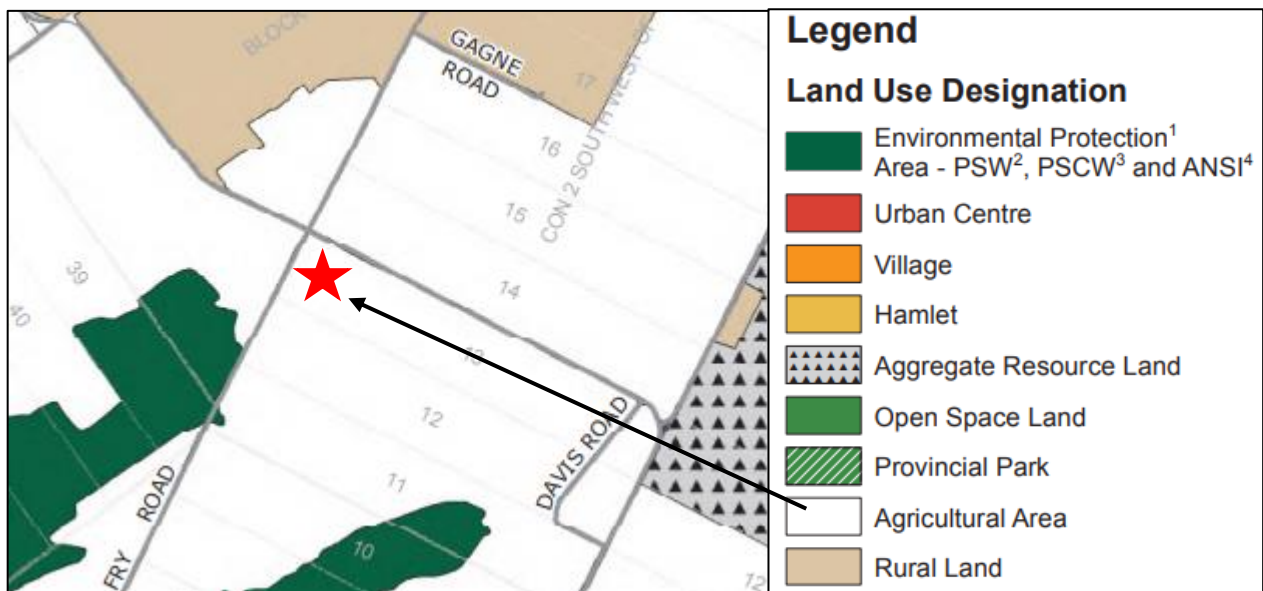
The proposed establishment of an STA supports the PPS objective of promoting efficient development and contributes to the financial well-being of the province and Prince Edward County.

4.2 Prince Edward County Official Plan 2021 (OP)

4.2.1 OP Designation

Figure 4 shows part of Schedule 'A-2': Land Use Designation of the OP that shows the property is designated Agricultural Area.

Figure 4 - Part of Schedule 'A-2': Land Use Designation



4.2.2 OP Policies

4.2 Agricultural Areas

4.2.1 Intent

*Agricultural operations are an essential component of the County economy. These uses are a significant employment source, important to the County's historical, cultural and economic character and key to the ability of other sectors such as tourism to create jobs and sustain prosperity. **This Plan recognizes that the Agricultural areas constitute a strong, prosperous and established component of the local economy.***

4.2.3 Policies

*1) **The predominant use of land in this designation shall be all types, sizes and intensities of agricultural uses, including on-farm buildings and structures that are integral to the farm operation.***

*2) **The County may refine the list of permitted uses through the provisions of the implementing Zoning By-Law. Development of any specific permitted use shall be subject to the policies of this Plan.***

4.2.1 Comments

The OP designation of the property is Agricultural Area which permits primarily agricultural uses, agricultural related uses and on-farm diversified uses. Subsection 4.2.3-3) permits the County to amend the list of permitted uses through provisions of an implementing By-law without amendment to the OP.

The county passed By-law 166-2022 that regulates STA's. Section 4.37.1 permits STA in the Agricultural Area designation on a lot that was created prior to October 9, 2018 and zoned as an RR zone.

Attachment 1 contains the Surveyor's Plan that shows the lot identified on Plan 47R-1088 was deposited on March 25, 1976. The property is zoned RR2.

Section 3.2.3 Economic Development Policies, states the following:

Tourism

*4) **Tourism opportunities shall be further emphasized and encouraged by:***

*c) **Promoting and supporting year-round tourism related ventures such as ice fishing, snow shoeing, cross country skiing, dog sledding, nature walk, snowmobiling, etc. by ensuring facilities have required parking and accommodation.***

Short Term Accommodation (STA)

*8) **Short-Term Accommodations (STA) are addressed by this Plan in order to maintain and protect the character of residential neighbourhoods and to ensure good long-term***

occupancy housing availability, in conjunction with housing policies in Section 3.3 of this Plan, while responding to the needs for Short-Term occupancy roofed accommodations of the travelling public. In so doing, the following policies apply:

*a) The forms of Short-Term Accommodations recognized by this Plan are bed and breakfast establishments (B&Bs), owner-occupied partial dwelling or dwelling unit rentals (i.e. a principal residence), entire-dwelling or **dwelling unit rentals (i.e. not a principal residence)**, and on-farm tourist homes.*

b) Municipality's goals and objectives related to Short-Term Accommodations are as follows:

*i. STAs shall generally respect and be compatible with the residential character, amenity, and quality of residential neighbourhoods. **This will be achieved through establishing densities of STAs, mitigation measures to adjacent residential properties, and regulations regarding orderly STA management;***

c) Where located in the Rural Lands or Agricultural areas designations, STAs are permitted on:

*i. **Lots existing as of October 9, 2018 or earlier and zoned the Rural Residential (RR) Zone;***

*d) **Subject to density requirements of the zoning or licensing by-law**, STAs shall **not contain more than four (4) guest rooms** ("guest rooms" is defined in the Comprehensive Zoning By-law). STAs with five or more guest rooms may be permitted in designated Settlement Areas or in the Shore Land designation without amendment to this Plan but requiring a site-specific zoning by-law amendment.*

*i) **The County shall establish, through the Comprehensive Zoning By-law** or a municipal licensing framework, appropriate provisions related to the **nature, scale, and density of STA appropriate and compatible with surrounding land uses,***

4.2.2 Comments

The proposed STA conforms to the OP policies for the following reasons.

4.2.2.1 The proposed STA supports the County's Economic Development Policies and specifically Tourism by providing tourist accommodation.

4.2.2.2 The proposed STA responds to the needs for Short-Term occupancy roofed accommodations of the travelling public.

4.2.2.3 The STA is located in a dwelling unit rental that is not a principal residence.

4.2.2.4 The STA is located in an area designated Agricultural Areas, on a lot that existed before October 9, 2018 and in an RR zone.

4.2.2.5 The STA does not contain more than four (4) guest rooms.

4.2.2.6 The STA is compatible and consistent with the nature and scale of surrounding land uses which are predominately single family homes on similar large rural lots. There will be no visible change to the appearance of the home where the STA will be located nor the surrounding area.

5. Comprehensive Zoning By-law 1816-2006

5.1 Locations for STA

Section 4.37.2 of Zoning By-law 1816 contains criteria that determines where STA are located.

Where the STA use is located on the same lot as a "Dwelling, Principal Residence" or on a lot within the commercial zones identified in 4.37.1 (ii), no density requirements apply.

In all other cases, STAs shall be permitted in accordance with the following area densities:

i. In the R1, R2, R3 Zones, the total number of STAs shall be limited to a maximum density of 1 5% of the existing dwelling units, as measured within a 120 metre radius.

ii. In the HR Zone, the total number of STAs shall be limited to a maximum density of 15% of the existing dwelling units, as measured within a 220 metre radius.

iii. On any other eligible lot, the total number of STAs shall be limited to a maximum density of 15% of the existing dwelling units, as measured within a 500 metre radius.

5.1.1 Comment

The proposed STA is subject to Subsection iii; any other eligible lot shall be limited to 15% of all existing dwellings units within a 500 m radius.

5.2 Calculation of Density

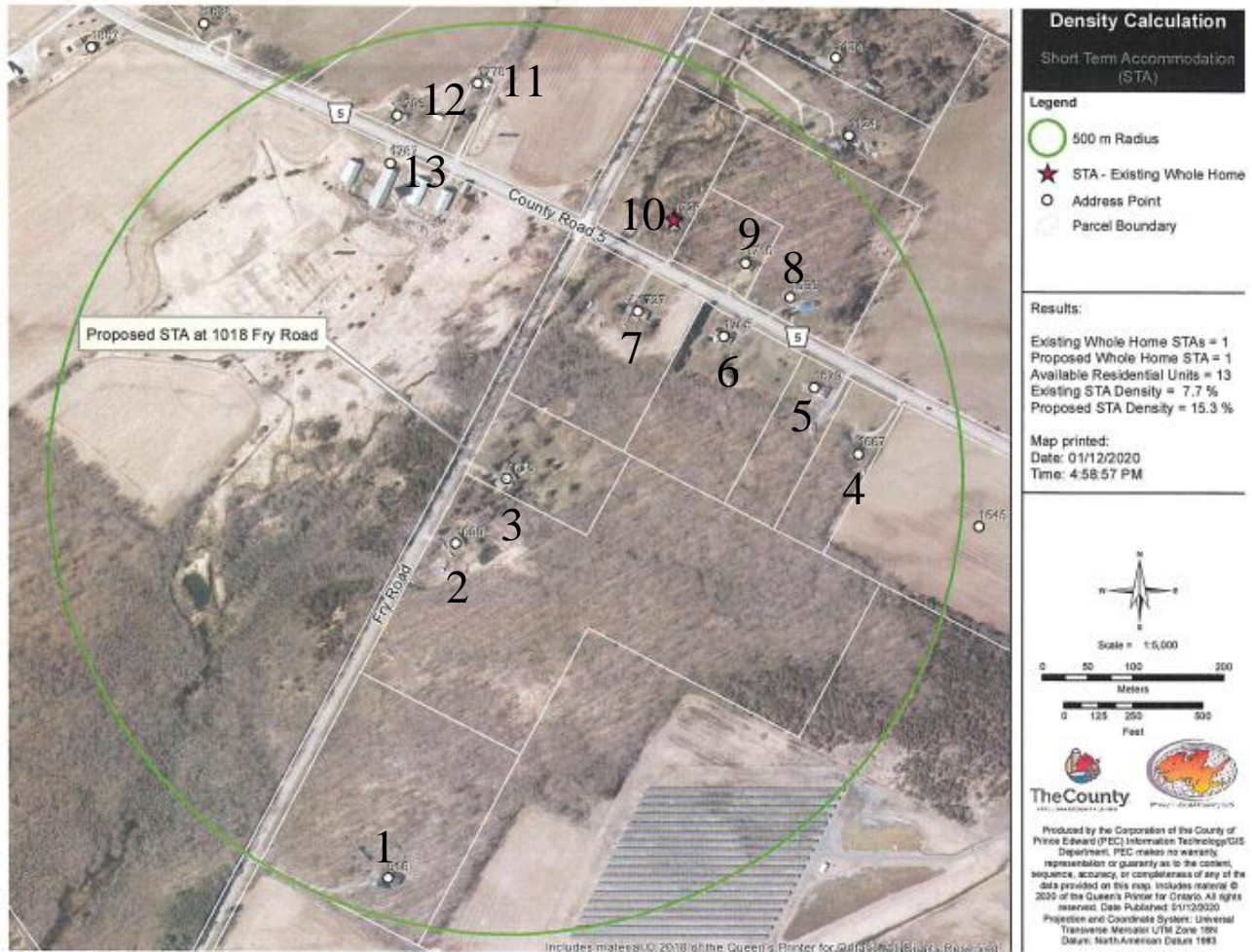
Figure 5 was provided by Prince Edward County which shows that there are 13 existing residential units within 500 m of the proposed STA. The density is calculated as the number of total STA units (2) within 500 m divided by the total number of eligible units within the 500 m radius.

5.3 Density Formula

2 (total STAs) / 13 (total units) = density of 15.3%.

The density of 15.3% is shown on the legend of the Density Calculation Plan in Figure 5 that was provided by the County.

Figure 5 – Density Calculation, Number of Total Units: Source Prince Edward County



5.4 Repeal of Section 4.37.2 of Zoning By-law 1816

Section 4.37.2 of Zoning By-law 1816 that required the density for STAs to be a maximum of 15% within a 500 m radius was repealed by By-law 166-2022 on October 20, 2023. Consequently, the density provision no longer applies. **The maximum density limit will no longer apply to any future STA.** The opportunity for a precedent has been removed.

6. Minor Variances

6.1 Criteria for Minor Variances

Section 5.1.2 of the OP contains policies and criteria for evaluating a Minor Variance.

5.1.2 Minor Variances

A minor variance is a variation from the requirements of the Zoning By-law that allows a property owner to build even though the property does not comply precisely with the Zoning By-Law.

2) The Committee of Adjustment may grant an application for minor variance from the Zoning By-Law only when satisfied that the variance:

a) Is minor in nature;

b) Is desirable for the appropriate development or use of the land/building/structure;

c) Maintains the general intent and purpose of this Plan and any Secondary Plan;

d) Maintains the general intent and purpose of the Zoning By-law.

6.2 Comments

The following is an explanation of how the criteria is satisfied for Minor Variance.

6.2.1 Is minor in nature

The requested variance is minor in nature because it does not generate any significant adverse impacts to the neighbouring properties within 500 m of the proposed STA. The subject property is a larger rural residential lot that is 1.5 ha (3.7 acres). The distance from the house on the subject property to the neighbour to the west is 70 m (230 ft.) while the distance to the neighbour to the east is 206 m (675 ft.). There are no homes to the north or south of the proposed STA. There is sufficient distance between the existing homes that no negative impact is expected from the establishment of the STA.

The existing single family house where the STA will be located is similar in size and character as the other homes with 500 m and no changes are proposed to the exterior or the STA. The subject property is compliant with the RR 2 zone and compatible with the RR1 and RR2 zones on surrounding properties.

Section 4.37.2 iii of Zoning By-law 1816 requires that the total number of STAs shall be limited to a maximum density of 15% of the existing dwelling units, as measured within a 500 m radius. The calculated density resulting from the addition of the proposed STA is 0.3% above the allowable density.

Therefore, the requested variance of 0.3% minor in nature.

6.2.2 Is Desirable For The Appropriate Development - Use Of The Land, Building, Structure

The STA will be contained within an existing single family home. No changes to the land or structure are needed to implement the STA. Therefore, the proposed STA is appropriate development on the property and complies with this criteria.

6.2.3 Maintains The General Intent And Purpose Of This Plan And Any Applicable Secondary Plan

The proposed STA maintains the intent of the OP policies for the following reasons:

6.2.3.1 The property is located in the Agricultural Area Designation and the OP designation of the property is Agricultural Area. Subsection 4.2.3-3) permits the County to amend the list of permitted uses in the Agricultural Area by implementing a By-law without amendment to the OP. The County passed By-law 166-2022 that regulates STA. Section 4.37.1 of 166-2022 permits STA on a lot that was created prior to October 9, 2018 and zoned as an RR zone. The lot identified on Plan 47R-1088 was deposited on March 25, 1976 and the property is zoned RR2.

The STA on the proposed lot is a permitted use in the Agricultural Area Designation in the OP.

6.2.3.2 The Economic Development Policies in the OP supports Tourism which includes accommodation units such as STA. STA provide short-term occupancy roofed accommodations of the travelling public.

The proposed STA maintains the intent and purpose for the economic development policies of the OP.

6.2.4 Maintains The General Intent And Purpose Of The Zoning By-Law.

The property complies with all the permitted uses and zone provisions in the RR2 zone.

The application for an STA was filed under Section 4.37.2 of Zoning By-law 1816. Under this section, the proposed STA qualifies as an eligible lot. The use is **only 0.3% over the allowable density** within 500 m. Conversely, the proposed use **complies 99.7% with the density requirement** of the By-law.

7. Conclusion

It is our opinion that the proposed Minor Variance application represents good land use planning, is in the public interest, and should be supported by the approval authority for the following reasons:

7.1 The proposed STA is consistent with the Provincial Planning Policy Statement (2020)

7.2 The STA is in conformance with Prince Edward County's Official Plan and supports economic development in the County.

7.3 The proposed STA provides an opportunity for short-term roof accommodation which is in high demand in the County.

7.4 The proposed STA is compatible with surrounding areas from a land use compatibility perspective.

7.5 The variance of 0.3% from the allowable density will not create a precedent because the requirement for a maximum density no longer exists. The density requirement has been deleted/repealed from the County's Comprehensive Zoning By-law.

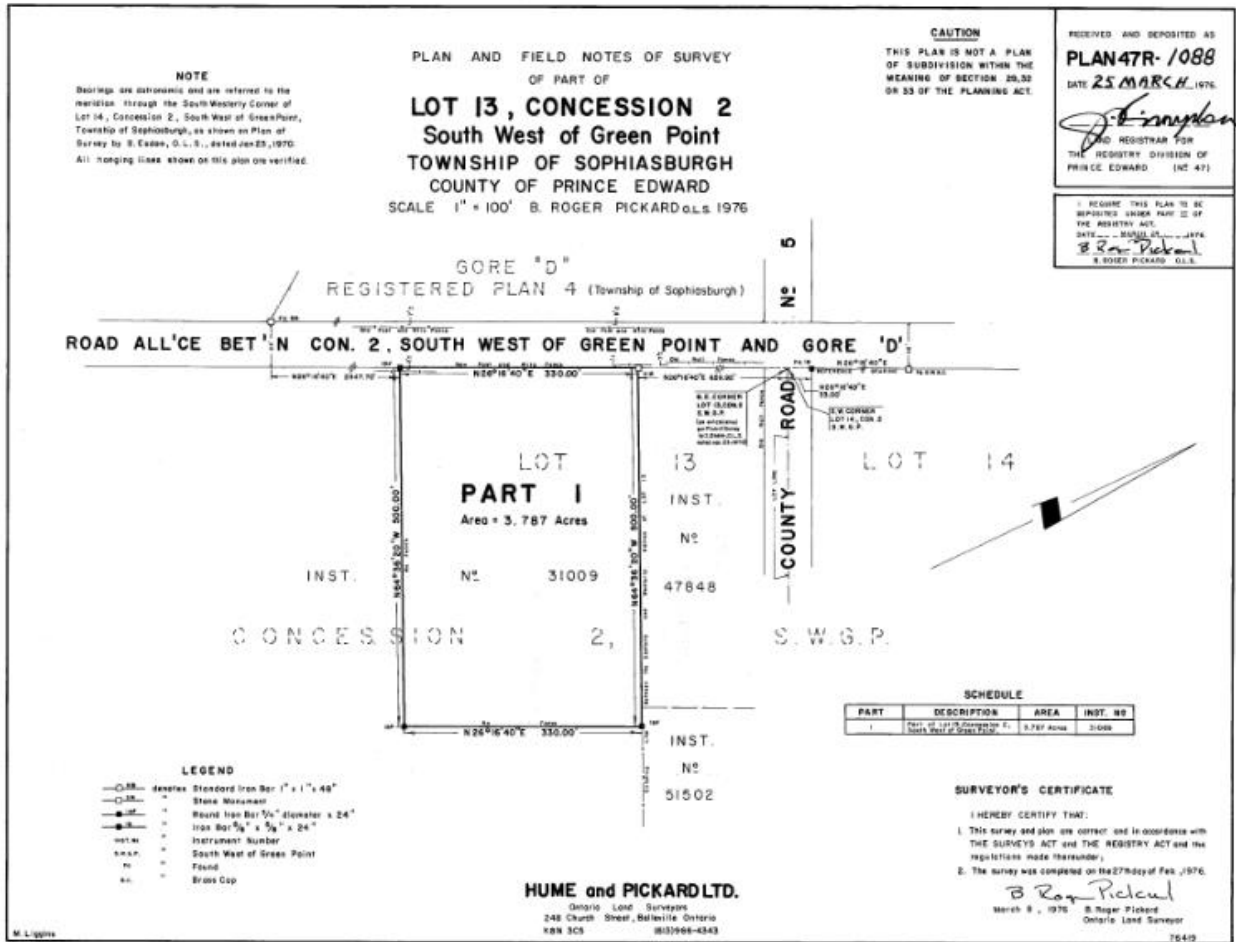
7.6 The requested minor variance of 0.3% is minor in nature, appropriate for the use of the land and the new STA maintains the general intent and purpose of the OP and Zoning By-law.

Prepared by



Ray Essiambre, Principal Planner
April 5, 2023

Attachment 1 - Survey



Attachment 2 - Pin Page

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERY/ CIRD
<p>PROPERTY DESCRIPTION: FT LT 13 CON 2 SW GREEN POINT SOPHIABURGH PT 1 47R1088; PRINCE EDWARD</p> <p>LAND REGISTRY OFFICE #47 55057-0038 (LT)</p> <p>PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER</p> <p>PAGE 1 OF 1 PREPARED FOR Ray Essiambre ON 2023/03/31 AT 09:09:26</p> <p>ONLAND</p> <p>* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *</p> <p>PLANNING ACT CONSENT AS IN PE64242. RECENTLY FIRST CONVERSION FROM BOOK CAPACITY SHARE SOWINSKI, ANNA SOWINSKI, ANNA</p> <p>PROPERTY REMARKS: PLANNING ACT CONSENT AS IN PE64242. RECENTLY FIRST CONVERSION FROM BOOK</p> <p>ESTATE/QUALIFIER: LT CONVERSION QUALIFIED</p> <p>OWNERS' NAMES: SOWINSKI, ANNA SOWINSKI, ANNA</p> <p>EIN CREATION DATE: 2006/07/24</p>						
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
**SUBJECT ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO						
** SUBSECTION 4(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES * AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 2006/07/24 **						
PE44249	1970/05/13	BYLAW				C
47R1088	1976/03/25	PLAN REFERENCE				C
EC-65435	2021/10/19	TRANSFER	\$784,000	SWINSKI, ANNA SOWINSKI, ANNA	SOWINSKI, ANNA SOWINSKI, ANNA	C
REMARKS: PLANNING ACT STATEMENTS.						
EC-65436	2021/10/19	CHARGE	\$559,300	SOWINSKI, ANNA SOWINSKI, ANNA	EQUITABLE BANK	C

Attachment 3 – STA Application



Short Term Accommodation (STA) Application for Licence

A: Property Information (Property to be Licenced)			
Street Address 1018 FRY RD, PICTON, ON		Unit Number	
Ward		Postal Code K0K 2T0	
Number of Rented Bedrooms 4		Maximum Number of Occupants Over the Age of 10 10	
<input type="checkbox"/> Yes, currently serve or plan to serve breakfast, lunch and/or dinner <input checked="" type="checkbox"/> No food service offered		Have you notified the Hastings Prince Edward Public Health Unit (HPEPH) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Capacity of Septic Tank (Attach pump record/sewage system permit) 800			
B. Owner Information			
Last Name SOWINSKI		First Name ARKADIUSZ / ANNA	
Street Address 1594 HOLLYWELL AVE.		Unit Number	
City MISSISSAUGA		Province ON	Postal Code L5N 4P7
Contact Number 647-248-9423 416-567-8143		E-Mail saaamd2020@gmail.com	
C. Agent/Property Manager Information*			
Last Name/Company Name BREZDEN		First Name TATIANA	
Street Address 1571 COUNTY RD. 10		Unit Number	
City CHERRY VALLEY		Province ON	Postal Code K0K 1P0
Contact Number 416-716-1726		E-Mail tybrezden@gmail.com	
D. Purpose of Application			
<input type="checkbox"/> Grandfathered STA <input checked="" type="checkbox"/> New STA <input type="checkbox"/> Licence Renewal - Previous Licence #		<input checked="" type="checkbox"/> Whole Home STA <input type="checkbox"/> Owner/Tenant Occupied STA	
E. Declaration of Applicant			
Applicant is: <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Agent			
I, <u>ARKADIUSZ SOWINSKI</u>		certify that the information contained in this application and attached information is true to the best of my knowledge. If the owner is a Corporation or Partnership, I have the authority to bind the Corporation or Partnership. The applicant acknowledges that County Officials may enter the property for the purpose of administering this application.	
Signature 		Date SEPT 20, 2022	
Electronic Signature Disclaimer: If you intend to electronically sign the following form, please read this carefully before signing. By signing your name electronically on this application form, you are agreeing that your electronic signature is the legal equivalent of your manual signature. Click here to accept that you have read this disclaimer.			

Attachment 4 – Application Requirements



Development Services

The Corporation of the County of Prince Edward
Office: 280 Picton Main Street, Picton, ON K0K 2T0
Mailing: 332 Picton Main Street, Picton, ON K0K 2T0
T: 613.476.2148 x 2006 | F: 613.471.2051
eoverholt@pecounty.on.ca | www.thecounty.ca

24 August 2022

V I A E M A I L

Attn: Anna & Art Sowinski

Dear Anna & Art,

**RE: Information Requirements for a Complete Application -
Minor Variance
Density variation for Short Term Accommodation
Location: 1018 Fry Road
Roll Number: 135091802512703
Ward 10 (Sophiasburgh)**

Thank you for inquiring with Development Services and meeting on December 12th to discuss the proposal to operate the dwelling located at 1018 Fry Road as a Short-Term Accommodation. As the proposed STA would result in a density of STAs in the surrounding area in excess of the maximum permitted under Section 4.37.2 of the County's Zoning By-law, an application for Minor Variance would be required to permit the proposed STA.

Summary of Proposal and Application Requirements

The proposal that was presented to Staff on December 12, 2022 consists of the use of the property's existing dwelling for Short Term Accommodation. Section 4.37.2 of the County's Zoning By-law permits STAs to constitute a maximum density of 15% within the Rural Residential 2 (RR2) Zone, as measured within a 500-metre radius. As the proposal would constitute an STA density of 16.6% as measured within a 500-metre radius of the subject dwelling, a Minor Variance would be required to permit the proposal.

During the Pre-consultation Meeting, Staff had noted that the policies of the Official Plan emphasize the importance of establishing densities for STAs and enacting regulations for STAs. As relief is sought to vary regulations for STAs, Staff are requesting that a Planning Justification Report be provided as part of a complete application to analyze the proposal with regard for applicable policies and regulations.

Of note, the provision from which relief is sought has since been repealed by By-law 166-2022; however, as your STA application was submitted prior to, your application is being reviewed with regard for the regulations that predate By-law 166-2022. Should the existing application be dismissed for reasons such as inaction or non-compliance, a new application would need to be submitted for the property which would be subject to the regulations outlined in By-laws 166-2022 & 167-2022.

Minor Variance

The following materials are required to be submitted in support of the Minor Variance Application:

- **Complete Minor Variance Application;**
- **Site Plan showing location of dwelling, parking, etc.**
- **Cheque in the amount of required fees, as per By-law 75-2022, as amended. Current fees are equal to \$2,081.00* (\$1,428.00 for Minor Variance, \$153.00 Advertising Fee, \$500.00 Agreement Deposit)**
- **Parcel Register Page and PIN Map; and**
- **Planning Justification Report as prepared by a Registered Professional Planner**

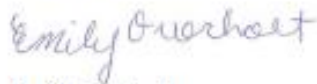
The above noted plans should serve as standalone drawings and be on separate sheets.

*Please note that an additional fee will be required if a Peer Review is needed. The fee will be the cost to undertake the Peer Review.

Please note that the information contained within this letter is not meant to be exhaustive and the Municipality reserves the right to ask for additional materials if other requirements arise through the application process.

Should you have any questions with regard to the above, please feel free to contact me at 613.476.2148 ext. 2006.

Sincerely,



Emily Overholt
Planner I
Corporation of the County of Prince Edward

Cc: M. Michaud, Manager of Planning, County of Prince Edward