

Date: January 31, 2026

To: Greg Kirton, Municipality of East Ferris

From: Steve McArthur, MCIP, RPP - Senior Planner (TULLOCH)

Subject: Minor Variance – Contractor Yard at 162 Highway 94

Dear Greg,

TULLOCH has been retained by the current owners of the property located at 162 Highway 94 to represent their property interests. The owners are seeking a minor variance to **Section 3.43 – Setback from Waterbodies and Wetlands:** Zoning By-law 2021-60. The subject lands are zoned 'Light Industrial' (M1) as shown in Figure 1.0 below:

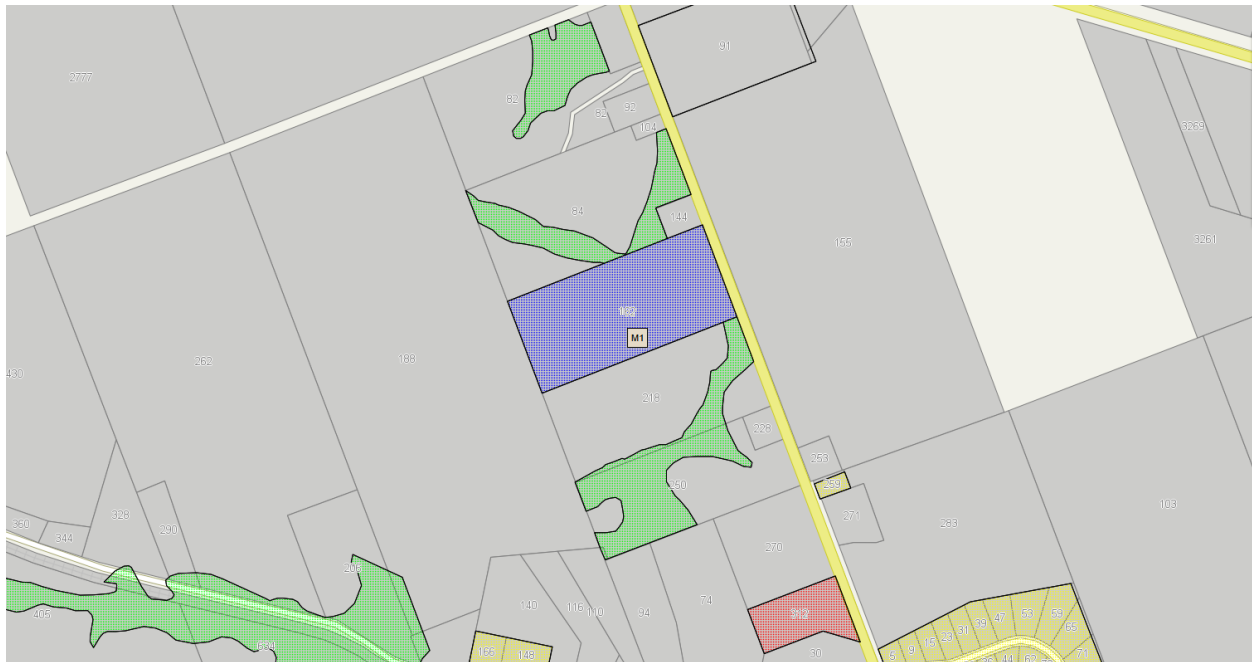


Figure 1.0 – Zoning Map: Light Industrial (M1) and Surrounding Land Uses

The northeast corner of the site is relatively flat, with a steep rock outcrop constraining development on the western two thirds of the property. A regulated watercourse runs along the eastern border of the lands, and a wetland system is found along the northeast border. In essence, the topography limits areas where a building footprint can reasonably be located.

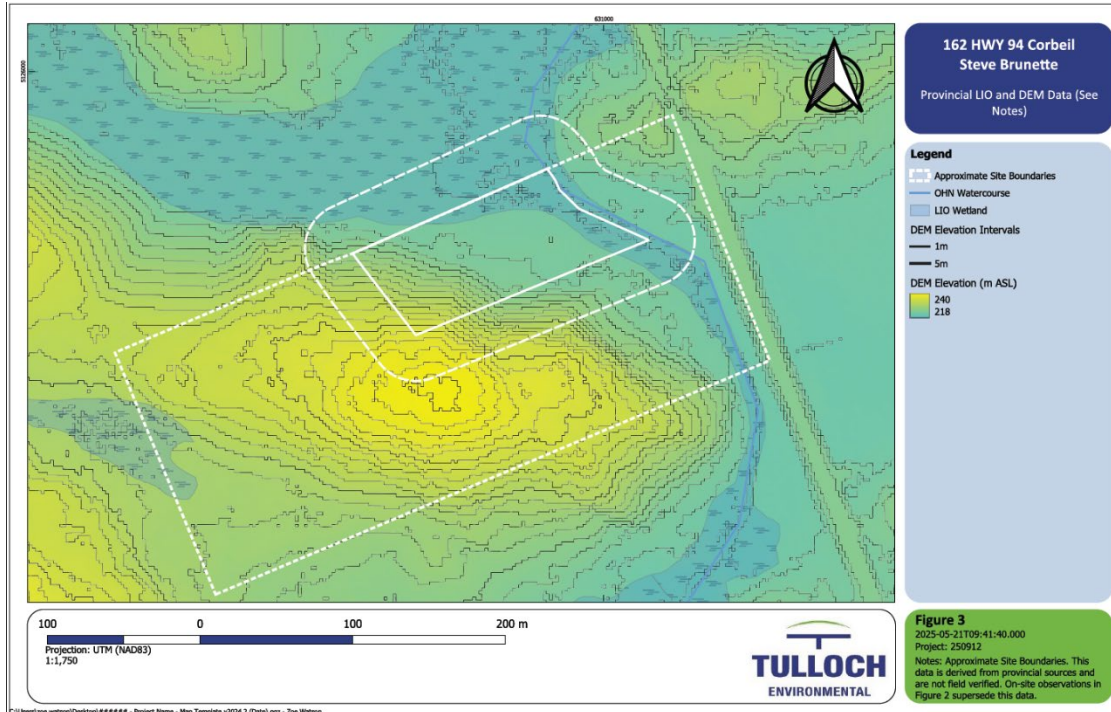


Figure 4.0 – Site Elevation

Planning rationale for the requested variance will be discussed below. The variance in this application is requested and is necessary to permit development on a relatively level area of the site with driveway access to enable construction of a shop as part of a private contractor’s yard on the subject property. It is proposed that the new build be +/-15m from the identified wetland boundary, and therefore a Minor Variance seeking relief from **Section 3.4.3: Setback from Waterbodies and Wetlands** is being applied for.

Section 3.4.3: Setback from Waterbodies and Wetlands states that: *“No new main building shall be erected in any zone within 30 m of any lake, river, stream or wetland. Specific regulations related to a zone or water feature may supersede this regulation. Accessory Structures shall provide a setback of 15m from any lake, river, stream or wetland.”*

Planning Analysis:

The subject property is difficult to develop and situating the proposed shop on reasonable topography is a reasonable request. Furthermore, the zoning regulations permit accessory structures up to the shoreline of waterbodies in some cases and 15 metres for accessory structures in all cases. As such, it is the view of this author that the intent of the zoning bylaw is intended to limit significant development within 15 metres of waterbodies and wetlands, with the 30-metre buffer for main structures intended to further mitigate the impacts of development.

Topographical constraints on this specific site, namely the steep elevation and the presence of exposed bedrock, make it necessary for the main building to be within the 30-metre main wetland setback buffer.

It is important to note that the building but does not encroach within the 15-metre setback mentioned for Accessory Structures in Section 3.4.3. Furthermore, the municipality has the opportunity to require additional buffer rehabilitation within the 15m wetland setback through Site Plan Control, mitigating potential impacts to the fullest extent possible.

Analysis under Section 45.1 of the Planning Act

TULLOCH's Planners have evaluated the application pursuant to the four (4) prescribed tests for a Minor Variance as set out in Section 45.1 of the *Planning Act* and offers the following for the Committee of Adjustment's consideration.

1) Does the application conform to the general intent of the Official Plan?

The primary goal of the Official Plan is to maintain and enhance the quality of life for the citizens of East Ferris by providing a policy framework for Council to make good land use planning decisions. The Official Plan is East Ferris' Community Land Use Plan.

The subject property is currently designated 'Rural' in the municipality's Official Plan and is outside any village designation as shown on the Official Plan. Applicable sections of the Official Plan are referenced below.

3.8 Natural Heritage Features and Areas:

"...This Plan encourages the protection and conservation of these important natural heritage features and areas and provides for undertaking of Impact Assessments to ensure that new development does not have a negative impact on these ecological resources."

5.2 Rural:

"... The rural area will also permit commercial uses, institutional uses and public service facilities."

Subsection 5.2.5.2 provides information on permitted commercial uses in the Rural Land Use Designation, stating:

*"...Permitted uses to serve the travelling public and tourists include auto-oriented services, food and lodging and recreational commercial uses, building supply, **contractor's yards**, transportation services, farm-oriented commercial uses and similar uses which are typical to a rural setting shall also be permitted."*

Subsection 5.2.5.3 adds that:

"The location of commercial uses shall be controlled through an amendment to the Zoning By-law and through site plan control. In considering applications for such amendments, due regard must be paid to the possible impact on adjacent sensitive uses, and appropriate conditions regarding setbacks, buffering and road access will be imposed... All commercial uses are subject to site plan control."

Section 6.2.1 addresses policies for wetlands within the municipality, namely:

“... Development or site alteration may be permitted on lands adjacent to provincially and locally significant wetland areas if it is demonstrated that such development or site alteration will have no negative impacts on the wetland’s natural features or ecological functions.”

Planning Analysis

A contractor’s yard is a permitted use as supported by the Municipality’s Official Plan. The wetlands’ most important area (15m buffer) has been mapped by TULLOCH’s OWE’s qualified environmental team and will remain untouched by this proposal, with only a reduced setback buffer proposed as a part of this Minor Variance application. Controlling development through an SPCA will ensure no negative impacts on natural features or ecological functions of the wetland, in keeping with the intent of the Official Plan.

The application for the proposed Minor Variance is an opportunity to create a more compatible use through Site Plan Control:

Section 9.14.1 reads: *“The purpose of exercising Site Plan Control regulations is to assist the municipality to achieve its objective of encouraging development that is environmentally acceptable and attractive and leads to greater compatibility and harmony with adjacent land uses.”*

Site Plan Control applies to all commercial and industrial development in the Municipality of East Ferris. The property owner will be required to enter into a Site Plan Control Agreement (SPCA) with the Municipality for the proposed development of the site. This is an opportunity for the property owner to create a more compatible use with the surrounding uses, including the wetlands on the subject lands. This may include but is not necessarily limited to lot grading and/or a vegetative buffer to mitigate impacts on Natural Heritage areas.

The proposed construction offers an opportunity for the applicant and staff to collaborate to minimize the potential for conflicts between uses. Consistent with **Section 9.14** of the Official Plan, this may include the placement of some form of buffer, such as landscaping, along the reduced wetland buffer subject to this Minor Variance application. Site Plan Control will be utilized to ensure compliance with these measures to mitigate impact on natural features.

The author is of the opinion that application for the proposed Minor Variance meets the general intent and purpose of the city’s Official Plan.

2) Does the application conform to the general intent of the Zoning By-law?

The subject property is currently zoned ‘Light Industrial’ (M1). As per **Table 8A – Permitted Industrial Uses** of East Ferris Zoning By-law 2021-60, **“Light Manufacturing and Service Shop:** *A light manufacturing use may consist of general assembling, processing, or warehousing of goods and substances such as food and beverages, textiles, wood products, or other similar uses...*” and **“Outdoor Storage:** *The large-scale storage of equipment and materials associated*

with a business operation outside of a building. This includes things such as building materials...” are both permitted uses.

As discussed in earlier sections of this briefing, the topography of this light industrial lot means that the locating of the proposed shop building requires a variance to **Section 3.43** of *Zoning By-law 2021-60* to permit a slightly reduced wetland setback.

It is the author’s opinion that the proposed Minor Variance conforms to the general intent and purpose of *Zoning By-law No. 2021-60*.

3) Is the variance desirable for the appropriate development or use of the land?

Yes. The construction of a contractor’s yard and accessory structures on a ‘Light Industrial’ zoned parcel of land represents a desirable, nonpolluting use that will economically impact the municipality.

As explained on the previous pages, the subject lands are topographically challenging for a multitude of reasons, and it is difficult to site a building on this M1-zoned property. However, as per the preliminary site plan attached and further to the land use planning analysis on the previous pages, Site Plan Control can be leveraged to ensure a net benefit to the Natural Heritage features on and surrounding the site.

There is currently no Site Plan Control Agreement in place and therefore no buffering or landscaping considerations have been implemented. The proposed variance will enable the efficient and appropriate development of these lands which are designated and zoned for the intended use.

The author is of the opinion that application for the proposed Minor Variances is appropriate for the use of the land.

4) Is the requested minor variance minor in nature?

Considering the challenging terrain of this light industrial-zoned property and giving thought to the enhancements possible to the site through a Site Plan Control Agreement, the proposed variances could be considered minor and would result in an appropriate and efficient use of land on a key transportation corridor in the municipality.

With the future placement of buffering measures along the northeasterly wetland buffer via a Site Plan Control Agreement, the author is of the opinion that the intended use on the subject property with the requested variance, which could be considered minor in impact, would be consistent with other developments in the general area and beneficial to the community overall.

Conclusion

It is my professional opinion that the proposed Minor Variance meets the 4 prescribed tests for a minor variance as set out in Section 45.1 of the Planning Act.

Conditions

The author is of the opinion that if the Committee is to approve the proposed Minor Variance, the following condition should be added to the approval:

1. That the applicant enters into a Site Plan Control (SPC) agreement with the Municipality of East Ferris

Site plan control is a tool to regulate development provided to municipalities in Ontario's *Planning Act*. It is used to ensure that any development meets certain standards and regulations. The goal of Site Plan Control is to improve the appearance and look of the municipality by applying consistent standards and guidelines to development.

Section 41 of the Ontario *Planning Act* enables the municipality to pass a Site Plan Control By-law. You cannot start to develop an area that is subject to site plan control unless the municipality has reviewed and approved certain plans. Once the plans are approved, a site plan agreement is generally executed. This agreement contractually binds the owner to develop and maintain a site in accordance with the approved plans and the terms of the agreement.

The site plan control process allows municipal staff to review and approve many aspects of a proposed development, including lot grading, vegetative buffers, building siting, and more. These elements of Site Plan Control provide an opportunity to implement protections for the adjacent wetland, mitigating potential impacts and potentially enabling a net improvement to the subject lands through an SPCA.

The construction of a 2400ft² shop on the contractor's yard on currently vacant lands represents significant investment in the municipality. With the proposed Site Plan Control Agreement and requested minor variance, it will enable a significant improvement to the property (as encouraged by the Official Plan) and will permit the construction of this building on a challenging building site.

It is hoped that with these considerations and the land use planning analysis outlined in this report that the Committee of Adjustment will approve the requested variances.

Respectfully submitted,



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