

COMMITTEE OF THE WHOLE DECEMBER 8, 2003

**ZONING BY-LAW AMENDMENT FILE Z.03.056
ANTONELLA SERPE
REPORT #P.2003.66**

Recommendation

The Commissioner of Planning recommends:

1. THAT Zoning By-law Amendment Application Z.03.056 (Antonella Serpe) BE REFUSED.

Purpose

On August 5, 2003, the owner submitted an application to amend the Zoning By-law to permit the maintenance of an existing garage in the OS1 Open Space Conservation Zone portion of the lot.

Background - Analysis and Options

The lands are located on the south side of Kirby Road, between Pine Valley Drive and Kipling Avenue (4907 Kirby Road), in Lot 30, Concession 7, City of Vaughan. There is a detached residential dwelling on the lands, and the rear of the site is wooded. The lands are designated "Rural Use Area" by OPA 600. The front portion of the lot is zoned A Agricultural Zone and the rear portion is zoned OS1 Open Space Conservation Zone by By-law 1-88, subject to Exception 9(866). The surrounding land uses are:

- North - Kirby Road; farmland (A Agricultural Zone)
- South - farmland (A Agricultural Zone)
- East - non-farm residential (A Agricultural Zone, OS1 Open Space Conservation Zone)
- West - non-farm residential (A Agricultural Zone, OS1 Open Space Conservation Zone)

On August 22, 2003, a notice of public hearing was circulated to all property owners within 120m of the subject lands, and the Kleinburg and Area Ratepayers Association. To date, no comments have been received. The recommendation of the Committee of the Whole at the Public Hearing on September 15, 2003, to receive the public hearing and forward a comprehensive report to a future Committee meeting, was ratified by Council on September 22, 2003.

Official Plan

The lands are designated "Rural Use Area" by OPA 600. This designation permits a residence and its accessory buildings. The proposed zoning by-law amendment conforms to the Official Plan.

Zoning By-law

The lands are zoned A Agricultural Zone and OS1 Open Space Conservation Zone by By-law 1-88, subject to Exception 9(866). This site-specific zoning by-law, enacted on April 18, 1994, rezoned the lands from A Agricultural to a split zoning of an A Agricultural and OS1 Open Space Conservation Zone, and provided exceptions for minimum lot frontage and lot area, and maximum lot coverage.

The by-law restricts structures from being located in the OS1 Open Space Conservation Zone, other than for conservation or flood control purposes. A garage was constructed in the OS1 Zone contrary to the by-law, and a zoning amendment application has been submitted requesting an exception to permit the use.

Toronto and Region Conservation Authority

The Toronto and Region Conservation Authority (TRCA) commented that the construction of a garage and driveway required the removal of portions of the woodlot that may have created edge impacts on the woodlot. The TRCA would not have supported a zoning application to permit the construction of a garage in a woodlot. However, in recognition of the fact that the garage is built and the damage to the woodlot has already occurred, they will not object to the zoning amendment application, subject to imposing the following condition:

“Once the garage ceases to exist, all lands within the Open Space Conservation Zone be left to re-naturalize.”

Planning Considerations

The garage was constructed in the woodlot without making application for a building permit. As a result, the garage was placed in the OS1 Open Space Conservation Zone where no structures are permitted, in contravention to the by-law.

In 1994, the lands were rezoned to permit a dwelling and accessory structures on the front portion of the lot, and to preserve and protect the woodlot at the rear portion of the lot. Adequate space is available for a garage in proximity to the residence on the property, without intrusion into the woodlot. While TRCA has requested a condition that the lands be left to naturalize once the garage ceases to exist, it is not expected the garage will be removed in the near future.

Approval of a zoning by-law amendment application that would permit a structure in the OS1 Open Space Conservation Zone could create an undesirable precedent. There is a concern that such approval could promote the construction of illegal structures in environmentally sensitive areas.

Conclusion

The portion of the lot where the garage is located is zoned OS1 Open Space Conservation Zone in recognition of the woodlot. Planning Staff cannot support the application because of the undesirable precedent it would set. An approval may encourage more applications to build within open space zones, or further construction without building permits within open space zones. Should Committee concur, the recommendation can be adopted.

Attachments

1. Location map
2. Site Plan
3. Zoning Map

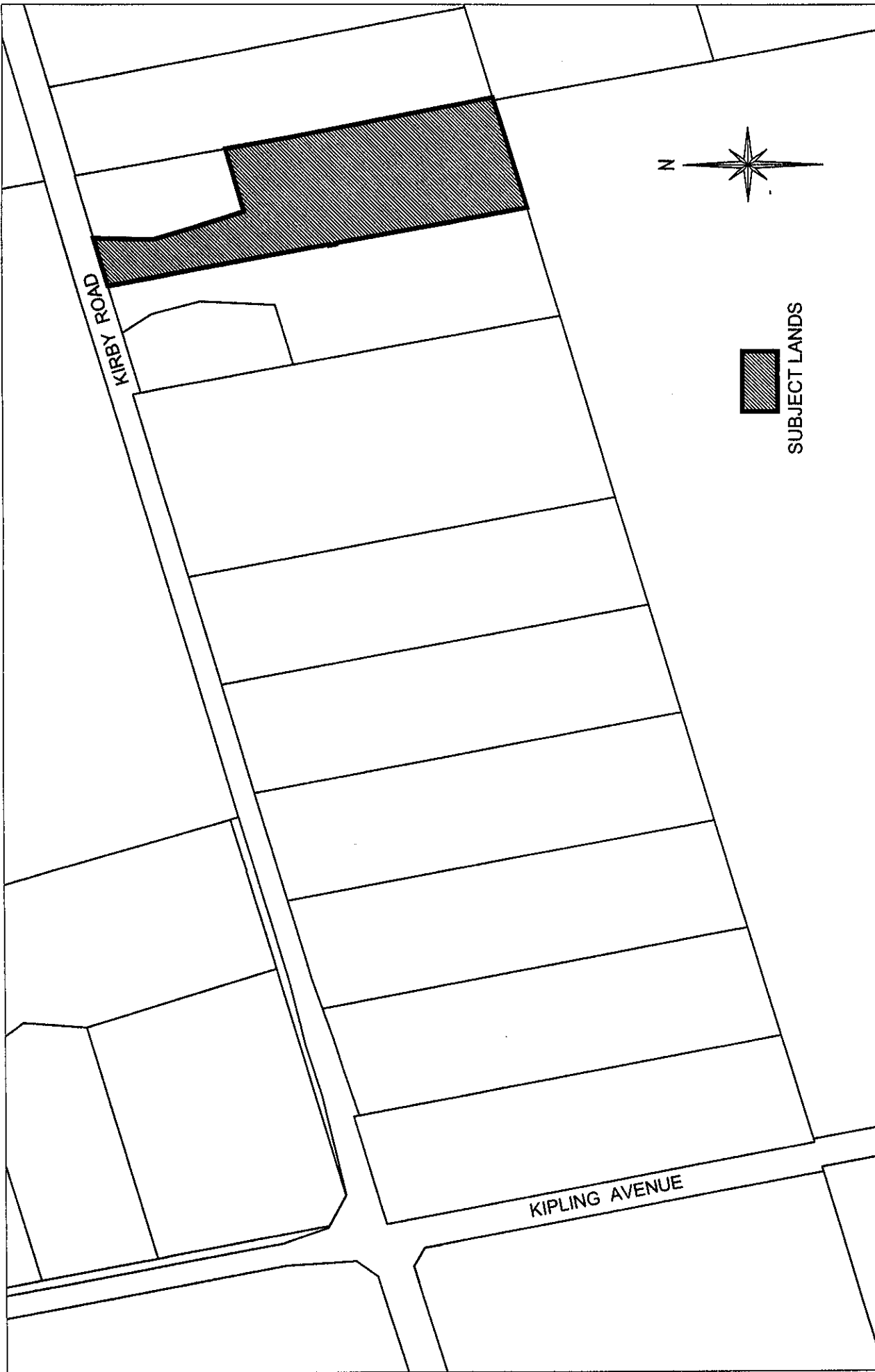
Report prepared by:

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Respectfully submitted,

MICHAEL DeANGELIS
Commissioner of Planning
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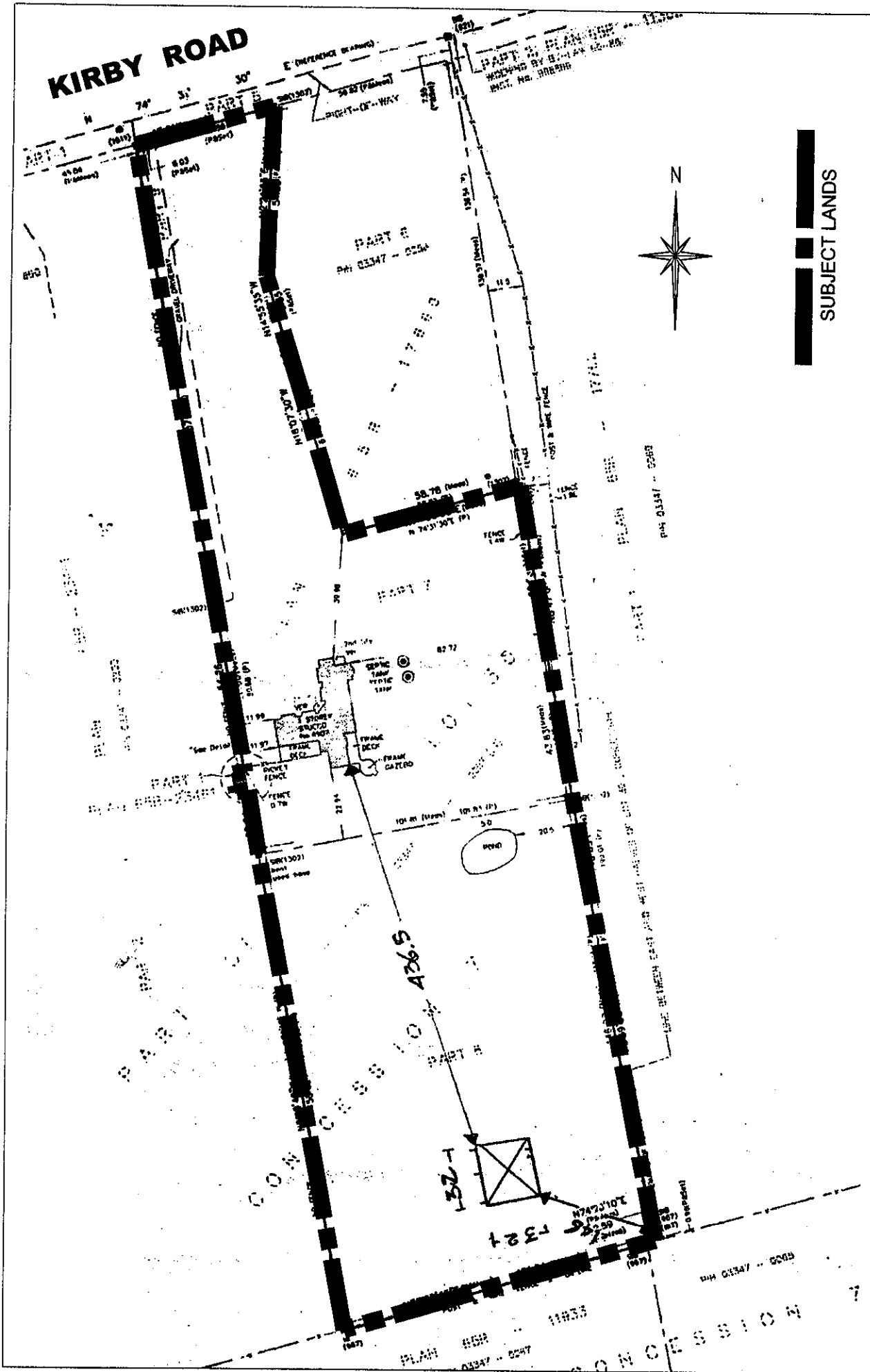
JOANNE R. ARBOUR
Director of Community Planning



Attachment **1**
FILE No.:
Z.03.056
Not to Scale
August 20, 2003

City of Vaughan
Community Planning Department

Location Map
Part Lot 30,
Concession 7
APPLICANT:
ANTONELLA SERPE
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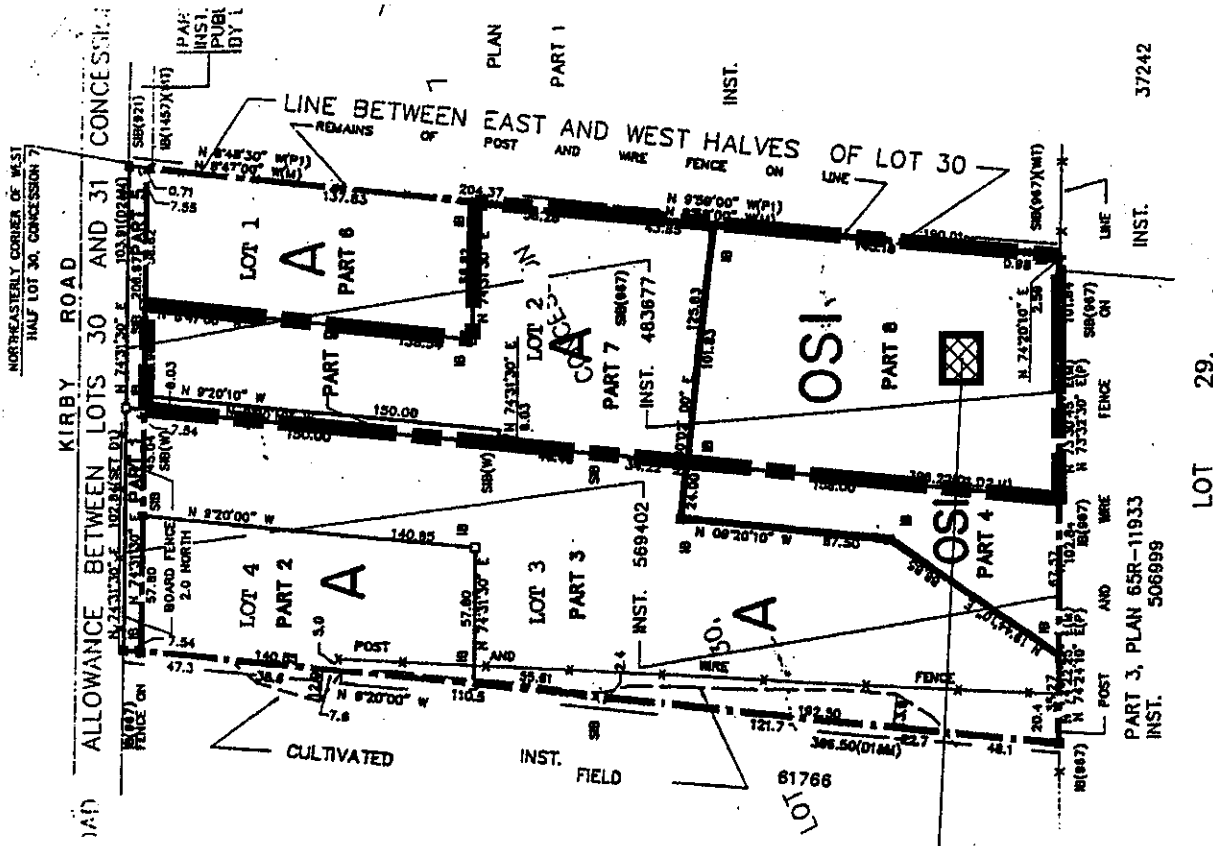


Attachment 2

FILE No.: Z.03.056
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City of Vaughan Community Planning Department

Site Plan
 Part Lot 30,
 Concession 7
 APPLICANT:
 ANTONELLA SERPE
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SUBJECT LANDS



Approximate Location
of Garage

Zoning Map

Part Lot 30,
Concession 7

APPLICANT:
ANTONELLA SERPE

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Community Planning Department

Attachment 3

FILE No.:
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Not to Scale

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