



July 5, 2016

MINUTES OF PLANNING BOARD MEETING - June 28, 2016

At a Meeting of the Manitoulin Planning Board, held in the Board Room at the Planning Board Office, Gore Bay, Ontario, on June 28, 2016, the following Members of Planning Board were present:

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| 1. | D. Osborne | 5. | K. Noland |
| 2. | P. Moffatt | 6. | I. Anderson |
| 3. | M. Peters | 7. | L. Hayden |
| 4. | A. H. Hunt | 8. | E. Russell |

Regrets: R. Stephens and D. Head
Absent: L. Addison

Also in attendance were:

Norman Barney, Applicant, Applications for Consent File No's. B07-16 and B08-16;
Jane Austin, Applicant, Applications for Consent File No's. B07-16 and B08-16;
Murray Tann, agent, Applications for Consent, File No's. B09-16, B10-16 and B11-16;
John Gilchrist, interested party, Applications for Consent,
File No's. B09-16, B10-16 and B11-16;
Mark and Sue Zmijowskyj and Annette Conroy, interested parties, Applications for
Consent, File No's. B07-16 and B08-16;
Peter Barnett, interested party; and
T. Sasvari, reporter, Manitoulin West Recorder.

There were no other interested parties or members of the general public or press in attendance.

The Meeting was called to Order at 7:00 P.M. by Chair K. Noland, who welcomed all present.

The Chair asked if there were any Board Members who wished to declare a conflict of interest with any of the items listed on the agenda or having to do with the previous Board Meeting of April 26, 2016. Board Member L. Hayden declared a conflict of interest with application for consent, File No's. B07-16 and B08-16. There were no other conflicts declared.

1. ORDER OF BUSINESS

Following a request from the Secretary-Treasurer to add Item 5 a)v) Parcel Information, the Chair requested that the agenda be adopted as circulated.

MOTION

It was moved by D. Osborne and seconded by P. Moffatt that the Order of Business be adopted as amended. - Carried.

2. MINUTES OF PREVIOUS BOARD MEETING - April 26, 2016.

The Chair announced that the Minutes of the Board Meeting held April 26, 2016 had been circulated to all Board Members and requested that any errors or omissions be stated.

There being no errors or omissions, a motion was moved by A. Hunt and seconded by L. Hayden that the Minutes be adopted as circulated. - Carried

BUSINESS ARISING FROM THE MINUTES OF THE PREVIOUS BOARD MEETING
- April 26, 2016

There was none.

3. VARIABLE EXPENDITURES

There were no questions of the variable expenditures as circulated.

MOTION

It was moved by I. Anderson and seconded by D. Osborne that the variable expenditures be accepted as presented. - Carried.

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4. PRESENTATION OF APPLICATIONS FOR CONSENT

The Chair announced that the applications for consent to sever would now be heard.

Note: For the sake of continuity the details and decisions of the presentations will be so recorded in the usual fashion toward the end of the Minutes.

5. GENERAL, REGULAR AND NEW BUSINESS

a) General Up-date by Secretary-Treasurer

i) Deer Management Meeting

L. Addison, the representative for Planning Board was not in attendance. However, discussion among the Board Members in attendance was that it was a positive meeting and was well reported in the local newspaper.

ii) Bill 73 - Smart Growth for Our Communities Act, 2015

While certain changes to the Planning Act came into force on Royal Assent on December 3, 2015, the majority of changes to the Planning Act come into force on July 1, 2016. Theresa Carlisle attended a workshop in Sudbury on June 27, 2016 and provided a brief summary to the Board.

iii) Bill 204 – Promoting Affordable Housing Act, 2016

The Board were provided a handout which explained Bill 204 and the proposed changes to the Planning Act to promote affordable housing. This Bill has received first reading.

iv) Final Requisitions

The Board were advised that, excepting one, all final requisitions have been received.

v) Parcel Information

The Secretary-Treasurer reminded the Board Members of the request sent to the Municipalities and copied to the Board Members to provide copies of transfers, including surveys, completed from or to a Municipality to the Planning Board office. This will provide for the parcel mapping within the Geographic Information System to be kept up to date.

b) Central Ontario Orthophotography Project (COOP) 2016

The Board were advised that the actual collection of the COOP2016 Imagery was completed on May 24, 2016. The actual delivery date for the end product is March 31, 2017. However we could see delivery as early as December or January.

The latest update from the Ministry of Natural Resources and Forestry is that, due to the addition of additional partners and the refining of the actual number of tiles, it appears the total cost will be reduced from what was projected to be between \$16,850.00 and \$26,960.00 to now be approximately \$13,480.00 for the Planning Area.

c) Town of Northeastern Manitoulin and the Islands (NEMI)

i) Draft Official Plan for NEMI

In reply to a request to the Ministry of Municipal Affairs for the status on this proposed Official Plan, the Secretary-Treasurer was advised that MMA were in the process of finalizing the proposed modifications, which would be followed by meetings with NEMI staff and/or Council.

ii) Request to Province for Planning Authority

MMA advises that this request has been forwarded to the Minister with options.

6. Draft Manitoulin Official Plan - Adopting By-law

M. Peters, Board Member for the Town of Northeastern Manitoulin and the Islands (NEMI) advised that NEMI were opposing the Manitoulin Planning Board (MPB) draft Official Plan for the following reasons:

- that the United Chiefs and Councils of Mnidoo Mnising (UCCMM) letter of concerns has not been addressed with regard to the MPB draft Official Plan;
- that very few concerns of NEMI were addressed by the planners/MPB;
- that this plan exceeds role of MPB into municipality governance. It is more regulatory rather than positive planning.

The Secretary-Treasurer advised that a letter, dated June 20, 2016, received from the UCCMM was attached to the Notice of Meeting. This letter states many of the same concerns contained in the letter, dated August 21, 2013, received from UCCMM as a result of consultation with the UCCMM, MPB and the Ministry of Municipal Affairs and Housing during 2012 and 2013. That letter was acknowledged and was forwarded to the Ministry of Municipal Affairs and Housing (MMAH) for response.

The Secretary-Treasurer recommended that the letter dated June 20, 2016 also be forwarded to the MMA for response and that Planning Board advise they are prepared to review and consider any modifications to the draft Official Plan that may be recommended by the Ministry of Municipal Affairs as a result of the stated concerns.

MOTION

It was moved by I. Anderson and seconded by D. Osborne that the Manitoulin Planning Board, in consideration that many of the issues raised are not within the scope of the Official Plan, forward the letter received from the UCCMM to the Ministry of Municipal Affairs for response. - Carried.

The Secretary-Treasurer confirmed that the Statutory Public Meeting was held on June 22, 2016 and that under Section 18(2) of the Planning Act the Board should now submit certified copies of the draft Official Plan to the Municipalities with a recommendation that it be adopted.

MOTION

It was moved by P. Moffatt and seconded by L. Hayden that a certified copy of the Official Plan dated May 2016 be forwarded to the Municipalities with a request to be adopted by by-law and that the Secretary-Treasurer, in accordance with the provisions of the Planning Act, be directed to make application to the Minister of Municipal Affairs for approval of this Official Plan. - Carried.

As requested by Board Member M. Peters, the member for the Town of Northeastern Manitoulin and the Islands, the Chair called for a recorded vote.

Recorded Vote

	<u>In Favour</u>	<u>Opposed</u>
1. I. Anderson	X	
2. M. Peters		X
3. L. Hayden	X	
4. D. Osborne	X	
5. E. Russell	X	
6. P. Moffatt	X	
7. A. Hunt	X	
8. K. Noland	X	

Motion was carried.

The Board were then advised that in their capacity as Council for the Unincorporated Townships the following By-law was read and tabled:

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6. Draft Manitoulin Official Plan - Adopting By-law - Continued

BY-LAW NO. 2016-01
Being a By-law to adopt an Official Plan for the
Manitoulin Planning Area including the
Unincorporated Townships of Robinson and Dawson

WHEREAS the Manitoulin Planning Board has recommended the adoption and submission of an Official Plan for the Manitoulin Planning Area.

AND WHEREAS the Manitoulin Planning Board deems it appropriate to adopt the Official Plan for the Manitoulin Planning Area.

NOW THEREFORE, the Manitoulin Planning Board, under Section 18 of the Planning Act, RSO 1990, as amended, hereby enacts as follows:

1. THAT the Official Plan for the Manitoulin Planning Area consisting of the attached maps and explanatory text is hereby adopted.
2. THAT the Official Plan for the Manitoulin Planning Area consisting of the attached maps and explanatory text is attached hereto and forms part of this By-law.
3. THAT this By-Law shall come into force and take effect on the day of the final passing thereof subject to the requirements of the Planning Act.

It was moved by P. Moffatt and seconded by D. Osborne that the Official Plan be adopted.
- Carried.

The Board were advised that there is a draft guideline for Wildland Fire Risk Assessment and Mitigation available at www.ebr.gov.on.ca - posting number 012-7075. Jake Diebolt has participated in a web session provided by the Ministry of Natural Resources and Forestry.

The time now being 10:05 p.m. the Chair requested that, in accordance with Section IV, 13 of the Procedural By-law, there would need to be a motion to extend this meeting one-half hour to finish the business on the agenda.

MOTION

It was moved by D. Osborne and seconded by L. Hayden that this meeting be extended one-half hour.
- Carried.

7. SERVICE DELIVERY REVIEW

The Chair advised that this topic had been requested to be placed on the agenda by Board Member Peters and he invited her to speak to the topic.

Ms. Peters requested that the Board consider commissioning a service delivery review. However, she also stated that she would not support this unless there was funding available as previously discussed with the Ministry of Municipal Affairs (MMA).

The Secretary-Treasurer advised she review the possibility of funding for this purpose under the Special Business Case funding available to the Planning Board.

8. CLOSED SESSION

The Chair requested the Board to go In Camera to discuss matters about identifiable individuals.

MOTION

It was moved by E. Russell and seconded by L. Hayden that the Board go In Camera at 10:13 p.m. to discuss matters about identifiable individuals. - Carried.

MOTION

It was moved by A. Hunt and seconded by D. Osborne that the Board rise from the In Camera session at 10:20 p.m. - Carried.

The In Camera session was to discuss matters about an identifiable person and there were no motions resulting from the In Camera.

PRESENTATION OF APPLICATIONS FOR CONSENT TO SEVER

The Chair announced that the purpose of this phase of the meeting is:

- (a) to consider applications for consent under Section 52 of the Planning Act,
- (b) to make decision in regard to the applications scheduled to be heard, and, explained that this phase is open to the public and any interested parties will be given the opportunity to speak in support or oppose an application.

The Chair then asked if any Board Members have or wish to declare a "Conflict of Interest", at this meeting or previous meeting. L. Hayden declared a conflict of interest with Applications for Consent, File No's. B07-16 and B08-16 prior to the consideration and decision. There were no other conflicts declared.

Following is the list of Applications for Consent considered at this meeting.

	<u>Moved By</u>	<u>Seconded By</u>
1. B05-16 H. J. & J. A. Turner	A. H. Hunt	L. Hayden
2. B06-16 Goodwin & Mellan	I. Anderson	M. Peters
3. B07-16 & B08-16 Austin & Barney	D. Osborne	L. Addison
That these applications be deferred for reasons given within the Decision. - Carried.		
4. B09-16, B10-16 & B11-16 Tann & 1662201 Ontario Ltd.	P. Moffatt	D. Osborne
That these applications be deferred for reasons given within the Decision. - Carried.		

It was moved and seconded that the above applications be conditionally approved, subject to all conditions being fulfilled as stated in the Decision. - Carried.

The above motion applies to all applications excepting B07-16, B08-16, B09-16, B10-16 & B11-16.

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Application File No. B05-16 _____ **No. of Members Present: 8** _____

Date of Decision: June 28, 2016 _____

**Location of Property: Part Lot 21, Conc. X, Surveyed as Part 1, Plan 31R-2505, Township of
Allan West, Municipality of Gordon/Barrie Island, District of Manitoulin** _____

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by Heather J. Turner and John A. Turner is to provide for a lot addition, being Pt. of Part 1, Plan 31R-2505, having a frontage of ±25 M. on the 10th Side Road, a maintained municipal road, and a depth of ±146 M., thereby containing an area of ±0.37 Hec. which is to be added to Lot 21, Conc. X, having a frontage of ±346.8 M. on the 10th Side Road and an average depth of ±482 M., and containing ±39 Hec. This lot addition will result in a lot, containing a dwelling and farm related buildings owned by Mr. Turner, having a frontage of ±371.8 M. on the 10th Side Road, and an average depth of ±933 M., thereby containing a total area of ±39.4 Hec. The lot addition will provide for a lot line adjustment and dissolve joint ownership between family members.

The land to be retained, being the remainder of Part 1, Plan 31R-2505, has a minimum frontage of ±30.5 M. on the 10th Side Road, a maintained municipal road, and a depth of ±146 M., thereby containing an area of ±0.44 Hec. There are no structures on this land.

Consent File No. B08-93 created the subject land, surveyed as Part 1, Plan 31R-2505, which was proposed for a retirement home for a retiring farmer. However no dwelling was constructed.

Services for the retained land will consist of private well and private individual sewage disposal system when required. The Sudbury and District Health Unit have advised they have no concerns as the retained portion would appear capable of supporting a sub-surface sewage disposal system.

Access is via the 10th Side Road, a maintained municipal road.

From information available the subject proposal does not appear to have any species at risk (SAR) concerns.

There is a Deer Wintering Habitat identified at the north west part of the proposed lot addition and within the land receiving the lot addition. This proposal for a lot addition is considered to have little or no impact due to the continued agricultural uses.

The proposal is considered to be consistent with the Provincial Policy Statement (PPS) 2014.

The subject land has been designated Agriculture District and zoned Agriculture (A). The lot addition is considered to have no negative impact on existing agricultural uses. Non-farm related residential uses are proposed for the retained land.

During discussion of the application with Ms. Turner, it was explained that the residential uses proposed for the retained land would not conform to Zoning By-law No. 492 for the Municipality of Gordon/Barrie Island and that an approved amendment permitting non-farm related residential uses in the Agriculture (A) Zone would be required.

The application was circulated on May 18, 2016 to the Municipality of Gordon/Barrie Island and to all property owners within 60 metres and by the posting of a notice, clearly visible and legible from a public highway or other place to which the public has access, as required by Ontario Regulation 197/96.

There has been a visit to the office from Mr. Beange, land owner of Lot 20, Conc. XI, requesting further explanation of the application and asked if a new survey would be completed. It was explained that a condition of consent approval would require a new survey.

There have been no other inquiries or concerns received as a result of circulation to property owners and/or the posting of a notice.

The Clerk for the Municipality advised via email that:

'The Municipality would require that the Agriculture Zoned property should be used for that purpose, otherwise an amendment may be applied for.; and

There is one location that we feel would be safe to install a driveway (Aaron on site with Kevin Glasby) but there are a couple sites that are not where we would want a driveway installed. The Municipal By-law and policy is that ALL driveways are installed by our Roads Department by approved permit (\$600.00) Driveway Entrance permits. Then we know they are done correctly.'

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Application File No. B05-16 - continued
June 28, 2016

During a site visit to the property it was considered the proposed lot addition will not further impact a safe entrance from the 10th Side Road for the retained land.

There was no one in attendance who wished to speak in support or opposition to the application.

Consent is tentatively granted, subject to the following conditions:

The following documents must be submitted to the Secretary-Treasurer of the Board within one year from the date of the notice of decision for certification:

- a) the Transfer of Land form(s) prepared by a solicitor/lawyer; and
- b) a Schedule to the Transfer of Land form on which is set out the entire legal description of the parcel(s). This Schedule must also:
 - i) contain the names of the parties indicated on the Transfer of Land form; and
 - ii) state this conveyance is a consolidation of the severed lands with lands identified by the property identification number (PIN) and confirmed by a copy of the Parcel Register.

Accompanying the transfer documents shall be:

- i) a reference plan of survey, which bears the Land Registry Office registration number and signature as evidence of its deposit therein, illustrating the parcel(s) to which the consent approval relates;
- ii) an undertaking from a Solicitor stating that the severed parcel, being the west part of Part 1, Plan 31R-2505, will be consolidated on title with the benefiting lands at the time of registration of the Transfer, and a copy of the resulting Transfer, and the new resulting Property Identification Number (PIN) will be provided to the Manitoulin Planning Board;
- iii) confirmation that any portion of a travelled road, which is maintained by the municipality, encroaching on the subject land, has been surveyed and conveyed to the municipality, satisfactory to the municipality;
- iv) a copy of an approved amendment to Zoning By-law No. 492, permitting a non-farm residential use within the east ±half of Part 1, Plan 31R-2505, in an Agriculture (A) Zone;
- v) a fee of \$100.00 for each Transfer of Land submitted for Certification; and
- vi) a written confirmation from the municipality that all outstanding municipal taxes have been paid.

Note: Subsection 3 or 5, as the case may be, of Section 50 of the Planning Act shall apply to any subsequent conveyances of or in relation to the parcel of land being the subject of this application.

Note: All entrances/driveways must have an approved Driveway Entrance Permit.

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Application File No.: B06-16 **No. of Members Present:** 8

Date of Decision: June 28, 2016

Location of Property: Lot 21, Conc. III, Township of Howland, Town of Northeastern
Manitoulin and the Islands, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by David M. Goodwin and Robby Mellan is to provide for the creation of a new lot, being the north ±half of Lot 21, Conc. III, having a frontage of ±505 M. on the travelling non-maintained 20th side road, and an average depth ±402 M., thereby containing an area of ±20 Hec. The result of this application will dissolve joint ownership. There are no structures on this land.

The land to be retained, being the south ±half of Lot 21, Conc. III, has a frontage of ±505 M. on the travelling non-maintained 20th side road, and a depth ±402 M., thereby containing an area of ±20 Hec. According to the agent for the application, there is a trailer located on this land, that was moved onto the property in 2009, which is old and used for storage only. A portable saw mill is also located within this land and has been since 2013.

Consent File No. B103-07 created the subject ±40 Hec. parcel of land.

Access is from the maintained Green Bush Road via the travelling non-maintained 20th side road allowance.

Services will consist of private wells and private individual septic systems when required.

From information available the subject proposal does not appear to have any natural heritage features or species at risk (SAR) concerns.

This proposal is considered to be consistent with the Provincial Policy Statement (PPS) 2014.

The subject land has been designated Rural District and zoned Rural (R). Recreational/hunting uses are proposed to continue.

The application was circulated on May 19th, 2016 to the Town of Northeastern Manitoulin and the Islands, and to all property owners within 60 metres and by the posting of a notice, clearly visible and legible from a public highway or other place to which the public has access, as required by Ontario Regulation 197/96.

The Municipality advised by Resolution No. 135-06-16 as follows:

'RESOLVED THAT the Council of the Corporation of the Town of Northeastern Manitoulin and the Islands has no comment or concern with the application for consent as applied for by Goodwin/Mellan.....carried.'

There have been no inquiries or concerns received as a result of circulation to property owners within 60 metres and/or posting of notice.

During consideration of the application, there was a discussion regarding the old trailer located on the retained land and if it conforms to the Zoning By-law No. 2002-32. Previous applications for consent have contained conditions where the accessory structure(s) be removed or that there are plans for a dwelling unit to be constructed and a complete building permit for a dwelling unit is received which would provide conformity to the Zoning By-law.

M. Peters, Board Member for the Town of Northeastern Manitoulin and the Islands, had no concerns as the trailer was old and used for storage purposes.

There was no one in attendance who wished to speak in support or opposition to the application.

Consent is tentatively granted, subject to the following conditions:

The following documents must be submitted to the Secretary-Treasurer of the Board within one year from the date of the notice of decision for certification:

- a) the Transfer of Land form(s) prepared by a solicitor/lawyer, and
- b) a Schedule to the Transfer of Land form on which is set out the entire legal description of the parcel(s), given conditional approval. This Schedule must also contain the names of the parties indicated on the Transfer of Land form.

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Application File No. B06-16 - continued
June 28, 2016

Accompanying the transfer documents shall be:

- i) a reference plan of survey, which bears the Land Registry Office registration number and signature as evidence of its deposit therein, illustrating the parcel(s) to which the consent approval relates;
or
a boundary line survey identifying the new lot line(s) resulting from the severance(s);
- ii) confirmation that the access from the proposed retained land, being the south Part of Lot 21, Conc. III, to the maintained municipal road, known as Green Bush Road, has been constructed to a standard for travel by emergency vehicles satisfactory to the Municipality;
- iii) a fee of \$100.00 for each Transfer of Land submitted for Certification; and
- iv) a written confirmation from the municipality that all outstanding municipal taxes have been paid.

Note: Subsection 3 or 5, as the case may be, of Section 50 of the Planning Act shall not apply to any subsequent conveyances of or in relation to the parcel of land being the subject of this application.

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Application File No.: B07-16 **No. of Members Present:**

Date of Decision: June 28, 2016 - Deferred

Location of Property: Lot 21, Conc. VI, including Part 1, Plan 31R-2237, Township of Sandfield, Municipality of Central Manitoulin, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by Jane C. Austin and Norman R. Barney is to provide for right-of-way (ROW) along the west boundary and then south easterly to the south east corner of Lot 21, Conc. VI, having a width of ±20 M. and a length of ±1,200 M., thereby containing an area of ±24,000 Sq. M., in favour of Lot 21, Conc. V, owned by Norman B. Austin and the east half of Lot 22, Conc. V, owned by Jane Austin. This proposed ROW is to follow an existing travelled private road.

The land to be retained has a frontages of ±270 M. on Dace Lake and ±330 M. on the non-maintained 6th Concession Road Allowance and a depth of ±1,000 M., thereby containing an area of ±38 Hec. According to the application there is a dilapidated barn encroaching on the west boundary of the subject land. This land is subject to ROW in favour of Lot 21, Conc. V and will be subject to ROW in favour of the ±east half of Lot 22, Conc. V.

If approved, this proposal will replace an existing (ROW), surveyed as Part 1, Plan 31R-2237, approved by Consent File No. B124-90, which was never made travelable. There have been two (2) previous Applications for Consent, involving the subject land.

File No. B124-90 provided for legal ROW over Lot 21, Conc. VI, surveyed as Part 1, Plan 31R-2237 and over Lot 21, Conc. VII, surveyed as Part 2, Plan 31R-2237, in favour of Lot 21, Conc. V and VI; and

File No. B48-00 approved the technical severance of Lots 21 and 22, Conc. VI.

There is also a simultaneous Application for Consent, File No. B08-16, which proposes a right-of-way over Lot 21, Conc. V, in favour of the east half of Lot 22, Conc. V.

Presently access is over the non-maintained 6th Concession Road Allowance to Homestead Road, a seasonally maintained forced road to Myles Side Road, a maintained municipal road. According to the applicants they do not use Part 2, Plan 31R-2237, over Lot 21, Conc. VII, to access their property(s).

No new services are required as a result of this application for ROW.

The subject land has been designated Rural District and zoned Rural (R).

From information available the subject proposal does not appear to have any natural heritage features or species at risk (SAR) concerns.

This proposal is considered to be in conformity with the Provincial Policy Statement (PPS) 2014.

The application was circulated on June 6th, 2016 to the Municipality of Central Manitoulin and to all property owners within 60 metres and by the posting of a notice, clearly visible and legible from a public highway or other place to which the public has access, as required by Ontario Regulation 197/96.

The Municipality advised they have no concerns.

There have been several telephone calls, emails, and visits to the office, which resulted in three letters.

1. Letter from Ian and Elizabeth Gilchrist, owners of Lot 22, Conc. VI, dated June 19, 2016:

‘Members of the Board:

Purpose of this letter: To oppose the application of File No's B07-16 and B08-16

Re: the proposed letter from Norm Barney and Jane Austin suggesting moving an existing ROW, and relocating closer to, or even onto our property.

Since Norm Barney and Jane Austin purchased lot 21 Conc 6, Sandfield, we have been in conflict and disagreement regarding the boundary locations between our properties. There are visible 1" square original survey property pins located at the NE corner of our property, clearly providing a location of our boundary. Both property's; lot 21, and 22 con 6; belonged to the early settlers of the property (Young family) it was the original homestead. It seems clear the original applicant and also the planning board's original approval was to avoid disturbance of the original homestead, with the existing ROW (part 1-2 ROW 31R-2237 File No. B124-90)'

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Application File No. B07-16 - Continued
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Letter from Ian and Elizabeth Gilchrist - continued
June 19, 2016

'There are valuable buildings, and an original viable drilled well located on our property lot 22 con 6, close to the boundary of lots 22 and 21 con 6, that we have put a fair bit of effort into repair and upgrading to keep the value of the property. One of the buildings is an original homesteader built timber frame barn, construction dating 1837. It has some deterioration because of lack of maintenance, but is still a viable repairable building. It has an existing concrete foundation and floor, and access to the building on its eastern side as it was originally constructed.

We oppose the proposed right of way application , (B07-16 and B08-16) and would recommend leaving the original right of way (part 1-2 ROW 31R-2237 File No. B124-90) in place for the following reasons.

1. The existing ROW was accepted, as it's proposal was to go around the existing structures and the original home of the settlers of the area. The reason for the existence of the main road, called "Homestead Road". Many of these structures still remain today.

2. The original right of way was created for a good reason; to avoid property disputes (as there was no conflict on land ownership), to avoid existing buildings, also avoiding noise disturbances; garbage pollution, vegetation disturbance, animal disturbance, and should remain in effect.

3. The proposed right of way would pass too close to an existing well on our property on Lot 22 con 6 Sandfield Township. There is potential of contamination of the well, if the ROW is too close

4. The proposed right of way would pass too close to our existing barn, which is listed on the deed for Lot 22 Conc 6 Sandfield. The implement access and storage access to this barn is on its east side, and has always been.

5. The proposed ROW change (B07-16) will be either too close or will trespass on our property on lot 22 Conc 5 Sandfield.

6. We have plans to plant crops. Including replanting the existing garden at the NE corner, and deer plots at the SE corner. We don't want any further disturbances in those areas.

7. (speaking to File No.B08-16) At our SE corner of our lot 22 con 6, we again strongly oppose this application, as we do not want any traffic closer to our property. We, have access through our property to that corner so there is no benefit to us. It will again cause noise pollution to a quite pristine area of Manitoulin Island, causing further garbage pollution and vegetation and animal disturbances. There is also a safety issue as it is an area used for deer hunting already every year.

8. We feel the governing planning board at the time took this into consideration? There is a road allowance to use. There is a good viable ROW accepted and approved in place. (part 1-2 ROW 31R-2237 File No. B124-90) We feel that it should be used correctly as per the planning.

9. We suggest that with the original survey of property on the Manitoulin, the planning board and /or Surveyors were careful to put in enough road allowances, that road access to all areas of the island, could be possible. We feel they should be used as intended. If a property becomes land locked due to "property splitting" this should only be the concern of the purchaser/seller involved and not be made an ownice on connecting land owners.

10. The existing ROW (part 1-2 ROW 31R-2237 File No. B124-90), was formed to gain access to the road allowance on the east side of lot 21 con 6 to around Dace Lake, from Homestead Road without disturbance of existing homestead located on lot 22 con 6. That original surveyed road allowance between lots 20-21 con 5, goes south all the way to Windfall Lake. We do not feel that it is necessary to have more roads or ROW in this area, if the proper road allowances and ROW's are used as per original acceptance and planning.'

'11. We purchased our property with no official survey and there have been no registered plan changes since original survey in 1800's. It is normal to purchase property on the island this way. We were aware of original survey pins at our NE corner and have yet to find the pin at our SE corner, but it is in the process.... 2 original pins exist on our south boundary line between con 5 and 6. It should be very easy now to find or plot our SE corner.

Moving forward we would like to request a copy of any decision pronounced by the planning board including (if any) conditions that may come into effect, as well as any other documents that have been, or have yet to be, presented to the planning board, on these files.'

In closing We feel that any change to ROW's as proposed in File no, B07-16 and B08-16, is completely unnecessary and unwarranted. Any change would cause us undue hardships and unnecessary pollution to our property. We strongly oppose any further consideration of these proposals.

Thank You.

Ian Gilchrist and Elizabeth Gilchrist'

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Application File No. B07-16 - continued
June 28, 2016

A copy of this letter was sent to the applicants, via email, on June 22nd, 2016 and the following letter, dated June 23rd, 2016, resulted:

2. 'REF: Consent Applications File No's B07-16 and B08-16
Township of Sandfield

Summary by Jane Austin and Norman Barney in response to the Letter of Concern of Ian and Elizabeth Gilchrist.

I, Jane Austin, and Norman Barney own 3 lots in Sandfield Township. We are both on title as owners of Lot 21 Concession 6 which we bought in March 2013 because it would give us possession of the established road on that lot that travelled back and accessed Lot 21 Conc. 5 on Windfall Lake owned by Norman Barney. I own the neighboring lot, East half lot 22, Concession 5.

On Lot 21 Conc. 6 there is a deeded road access in favour of Lot 21 Conc 5 that was established in 1991. There is another part to this access on Lot 21 Concession 7 also in favour of Lot 21 concession 5 (Part 2 and Part 1 Plan 31R-2237). This particular access was never developed or used because it goes into soft wet bottom land neighboring Dace Lake (Mud Lake) and would require an enormous amount of fill to make it passable during wet weather. This was tried by previous owners of Lot 21, Conc. 5 and their equipment became heavily mired in the muck. With this in mind, we bought Lot 21 Concession 6 from Mark and Bonnie Young on March 1, 2013. Previous to that, we had their permission to travel on their established road in order to go to our cottage on Windfall Lake. We used this road from 2003 to 2013 with their permission. According to Mark Young, that road was made by his great grandfather, Myles Young, in order to access his property, Lot 21 Concession 6, which he bought in 1894.

We bought Lot 21 Concession 6, Twp of Sandfield with the understanding that the road was on that lot. The reason we understood this was that Mark and Bonnie Young had Mr. Gord Keatley of Keatley Surveying, Little Current ON, find the boundary between Lot 21 and Lot 22 due to conflict with the neighbours, Greg and Jennifer Young then owners of Lot 22. Mr. Keatley placed a bar beside the foundation of the barn and within the rock row that is the original settler/farmer built rock row between the 2 lots. This rock row runs roughly north/south for several hundreds of feet. At this point Greg Young placed a no trespassing sign within the barn on the property line established by Gord Keatley and he also put a no trespassing sign at the south end of the rock row. Both signs faced into Lot 21. He also never made any objection to Mr. Keatley. The conflict over the boundary ended and there were no more issues with it between the 2 brothers according to Mark Young. Many times we drove by the sign which was clearly visible inside the barn until lot 22 passed into the hands of the Gilchrists. When we drove up to our property in May, 2013 the sign was gone.

However, since then the Gilchrists have been attempting to take over possession of our road. After they received the notice of our application, they blocked our access to our property with a vehicle parked across the road and with a pile of logs and rubble taken from lot 22 and laid across our road. I have attached pictures to the email to Teresa Carlisle of the Planning Board along with this summary.

We have made many attempts to negotiate the property boundary with our neighbours at our sole and considerable expense and time. We first tried to work out an encroachment agreement in the spring of 2014 through our lawyer Robert Gray. They refused that solution. We then worked through Mr. Keatley to negotiate a boundary with them that would start at the bar at the north corner, go south to the barn, go around the drip line of the barn to where the line would then pick up the rock row, follow it to the end and then go due south to establish the south corner of the boundary. This would give them the property under the barn and establish the boundary line so as to ease conflict. Mr. Keatley met all 4 owners of the lots in August of 2014 and explained the plan.'

'He had prepared affidavits for everyone. We all reached a verbal agreement in front of Mr. Keatley. Norm and I signed our affidavits but the Gilchrists wanted to consult their lawyer before signing. Neither Mr. Keatley, Norm, nor I heard another word from the Gilchrists regarding this matter. So, after about a month, we hired Mr. Keatley to proceed with a survey of the property. It was unclear as to what approach to take to this issue so on the advice of and through of our lawyer Robert Gray of Sarnia ON, we hired Mr. Izaak de Rijcke of Guelph On to investigate the boundary which he did in August of 2015. He has been an Ontario Land Surveyor since 1978 and has a Masters of Law Degree in Real Property Law. He is considered an expert in his field. We obtained a 14 page report with 17 additions of maps etc. Attached to the email are Mr. de Rijcke's conclusions and the first 2 pages of his CV. We have had no direct communication with Mr. de Rijcke as we want an independent decision, if this matter goes to court.

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Application File No. B07-16 - continued
June 28, 2016

Letter from Jane Austin and Norman Barney - continued
June 23, 2016

In conclusion:

1. We believe we have established our ownership of the road. We have gone to considerable expense to do this.
2. Our neighbours make reference in their concerns to having established the south east corner of their property but there is no bar there and they have not had it surveyed. Mr. Keatley has been hired by us and Mr. Halliday, the next closest surveyor, told Mr. Keatley that he has not been hired by the Gilchrists so until they hire their own surveyor and contest these findings, they have no valid objection and they need to clear our road and stay off our property.'
3. We own 2 lots on Windfall Lake that have no county road allowance available. East Half of Lot 22 Conc. 5, Twsp of Sandfield has no public road access available at all, and never has. Lot 21, Conc. 5 has a county road allowance on its eastern boundary that goes through Dace Lake and is, therefore, unavailable. We are applying for these easements so that the lakefront properties have deeded road access. The existing right of way that was never opened is impractical because of the soft wet land it goes over when it passes near Dace Lake. We already have a road on our property which is why we wish to have made it into an easement for our 2 lake front properties. The Gilchrists make assumptions about why the original easement of 1991 was placed where it is, but no one knows what was decided between Ken Young and Peter Tilston when the easement was made in 1991.
4. We don't find that our neighbours' concerns for their well, garbage, pollution, garden's etc. are valid. We have the right to a road on our property.
5. Their access to the east side of the abandoned barn is not valid. Ken Young declared the barn as abandoned when the 2 properties were divided in 2001. The Gilchrists can create an access through the other side of the barn if it is important to them but the barn is in terrible condition and hasn't been used in many years. They have done little to fix the barn since buying the land 3 years ago. The walls are gone on the south side and it is open to the elements. The south side is falling down. They have no prescriptive rights to use the road to access the barn because the division of the lots happened in 2001, less than 10 years before the conversion of property into Land Titles, and that is not a long enough period to give them prescriptive rights. They themselves have only possessed the property for just over 3 years.'

In response to the letter from Ian Gilchrist, Mr. Keatley has provided the following letter on behalf of Mr. and Mrs. Austin on June 28, 2016:

- 3.** *'The statement regarding the visible 1" square survey "pins" is inaccurate; there is a single survey bar at the northeast corner of their property. There are, however, a series of bars along the boundary that we are working on with another 0.85m north of the barn and the third being 125.5m south of the barn in the middle of the stone row along the fence remains. This alignment places the lane they have blocked on Lot 21. These bars were all planted prior to Gilchrists purchasing the property and at no time did their predecessor in title (Greg Young) contact this office to dispute them.*

The reason for the location of the easement as surveyed on Plan 31R-2237 may have been to stay away from the location of the old house and barn; but that is irrelevant at this point. The location of that easement was established as the far eastern edge of the Young property in an area that turned out to be unsuitable for building a road. This has no bearing on the lane along the boundary between Lots 21 & 22 as that road belonged to Kenneth Young at the time of the application and he did not wish to have someone else using it for reasons only he would know.

The location of the buildings and well are irrelevant to a planning application. The boundary between Lots 21 & 22 became relevant again in 2001 with the severance by Kenneth Young; in absence of a survey establishing a boundary at that time, the historical boundary as established over 100 years ago with the stone row and fence remains clearly visible to owners of both lots at the time of purchase remains the boundary. Access to the barn may have been historically on the east side of the barn; but that barn was built when one person owned both lots. Since it is not possible to gain prescriptive rights over your own land through long continued use, historical access to the eastern side of the barn is irrelevant and could have been dealt with in the Kenneth Young severance in 2001.'

It is plausible that Kenneth Young never considered access to the barn to be important, or even required, since he listed the barn as 'abandoned' in his 2000 severance application to split Lots 21 & 22. Intentionally and clearly stating that the barn was abandoned indicates that he wouldn't have considered it necessary to retain access to the easterly end of the barn from Lot 22.'

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Application File No. B07-16 - continued
June 28, 2016

Letter from G. Keatley - continued
June 28, 2016

'Addressing the numbered points in their letter:

1. The fact that a road was never built on the legal easement over the property contradicts the statement that it "was accepted". The recipients of the easement didn't build it and continued to use the existing road passing immediately to the east of the barn. Lot 21, Concession 6 was purchased solely because the actual traveled access to Concession 5 is on the lane by the barn and not on the easement Kenneth Young had surveyed.

2. There was no property dispute to own when the easement was created in 1992 as Kenneth Young owned all of the property; he could locate the easement anywhere on his property he chose to; much like the current applicant having the same right to locate the easement along his traveled lane immediately to the east of the barn. Using the current lane will avoid additional unnecessary animal and vegetation disturbance. I won't even address the ridiculousness of the "garbage pollution" and noise disturbance; this is a laneway that is already being used for the desired access to Concession 5; this application doesn't propose it to access more properties than it already does; it is simply to formalize it.

3. The proposed right-of-way is over the existing lane. If it hasn't already destroyed the water quality in the well, it won't start to.

4. As previously noted; historical access to the east side of the barn is irrelevant given that it was built when the lots were under common ownership. Prescriptive rights cannot exist as the properties were separated less than 10 years prior to title conversion to Land Titles.

5. It is fairly common for rights-of-way to follow property boundaries and dozens, if not hundreds, of instances of this can be found to have been approved by the Manitoulin Planning Board. The proposed right-of-way does not cross into Lot 22.

6. Continued use of the lane will not affect their ability to plant crops or put a garden on Lot 22.

7. The easement across Lot 21, Concession 5 ends near the southeast corner of the Gilchrist property. One would presume that the road would immediately veer southerly towards the shoreline should Lot 22, Concession 5 be transferred. Irregardless of the location of the road to be built, those hunting on the Gilchrist lands should be well aware of what direction they are firing in when shooting at deer. Even if there isn't a road in that area, recklessly shooting into neighbouring properties is illegal.

8. There is no road allowance access to Lot 22, Concession 5 without building on the shore road allowance. Good planning is against this as laid out in the Official Plan for Manitoulin Island.

9. There was no Planning Board involved with the original survey of the Manitoulin Island. Also, the original surveyors had no regard whatsoever to the practical accessibility to each lot in the Township. It is a simple grid system with road allowances every 1.25 miles with no regard for topography, lakes, rivers, or other natural obstacles that make access on the original road allowance impractical, and sometimes impossible.

10. As above, no planning went into the location of the road allowances. As to the easement as surveyed on Plan 31R-2237; using said easement as surveyed, and then continuing southerly in the road allowance between Lots 20 & 21 is poor planning when there is a proposal to use the existing road in Lot 21, Concession 6. Using the existing road results in the least possible disturbance to vegetation and wildlife, obviously. Building two road running between the same beginning and end points is unnecessary destruction of natural habitat and a waste of resources.

11. There is no pin at their southeast corner to find; the limit has not been surveyed. There aren't two original pins on their south boundary; there is one at their southwest corner planted by L.A. Emon in 1983 for the survey of Plan 31R-1299 in Lot 23. We respectfully request clarification on "...pin at our SE corner, but it is in the process..." such that we can request the records of the surveyor working to establish that corner.

In closing; changing the legal right-of-way to the location of the existing road as opposed to an un-buildable location through the edge of wetlands and virgin bush will not result in pollution or hardships. The Gilchrists own Lot 22 and will continue to own Lot 22. Running an easement down the boundary between the lots is within the legal rights of the owner of Lot 21.'

These two letters were forwarded to John and Ian Gilchrist, as per their written request.

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The following letter from Ian Gilchrist was received on June 28th, 2016:

' Dear Members of the Board,

*RE: Meeting June 28, 2016 at 7:00 PM in Gore Bay
Re: File No's B07-16 and B08-16*

Further to my letter dated June 19, 2016 opposing the application for right-of-way per above file numbers, neither owner will be able to attend there meeting where this will be discussed on June 28, 2016.

*I hereby authorize John Gilchrist as my agent in these matters at this meeting.
I respectfully request that the Board will allow him to speak on our behalf. I trust this will meet with the Board's approval.'*

There has been no other inquiries or concerns received as a result of circulation to property owners within 60 metres and/or the posting of notice.

Jane Austin, Norman Barney and John Gilchrist were in attendance during consideration of the application.

Mr. Gilchrist addressed their concerns with the proposed new right-of-way as stated in his letter of June 19, 2016, and the following is his submission at the Board Meeting:

'The Gilchrists believe that they are the rightful owners of the property of 100 acres on Lot 22, Conc 6 Sandfield Township. We believe the lot line goes due south from an established pin on the northeast corner of the property. This would clearly allow access to the barn from the east side, and would have the barn sit completely on Lot 22, Conc 6, Sandfield. Norm Barney and Jane Austin have tried to use a rock pile as a property line. This revised property line would make ownership of the Gilchrist property less than 100 acres.

*There is also an established pin on northwest corner of lot 22, conc 6. Plan 31R-1299 – May 2, 1983.
There is also an existing pin at the southwest corner of lot 22, Conc 6. Discussed in an email with Jane Austin from Ian Gilchrist on Aug 7, 2014.*

The barn is also evidence of a lot line.

The Gilchrist's purchased the property at Lot 22, Conc 6 Sandfield being aware of the right of way established over lot 21 Conc 6 and lot 21 Conc 7 in 1991. The Barney and Austin's lawyer should have made them aware of that when they purchased their property as well.

The Barney's statement said the road has been there since 1874. It should be noted that the sketch for the application the previous right of way shows the area where the road is supposed to be as "open field".

There is also an existing unopened road allowance that is useable on the east side of lot 21 Conc 6 that the Right of Way 31R-2237 leads to. This road allowance goes all the way through to the Road Allowance around Windfall Lake.

It makes no sense to the Gilchrists, that the Barney/Austin's ignore the existing road allowances and right of ways that cause no undue disturbance or surprises to any land owners over which they pass, in favor of a right of way that causes problems to the owners of Lot 22, Conc 6 as outlined in their initial response to this proposal dated June 19, 2016.

The proposed right of way would cause problems to the Gilchrists to access their barn. It may cause problems to water for a recently re-opened well.

Further to that, there is a clear dispute of the property line between Lot 22, Conc 6 and Lot 21 Conc 6, evidenced by numerous emails and documentation that needs to be resolved before any right of way along or close to this boundary can be approved.

Response to Barney's response.

- 1. Austin Barney speculate that the existing right of way was never opened, because it goes into soft bottom land. We have no evidence of this soft bottom, and no evidence of equipment getting stuck, or where it was if it did get stuck. They say it was tried by the previous owner, but there is no evidence that road construction was ever started and halted due the conditions described. Where is the estimate from a contractor or road builder on the cost and requirements to build this road?*
- 2. In saying that Mark Young gave them permission to travel to their property behind, Mark had no authority to give them permission travel on the road except for the part that is clearly on lot 21 Conc 6.'*
- 3. There is no R plan for Lot 21 Conc 6 except for the road allowance Plan 31R-2237. There is also no R plan for Lots 21 Conc 5 or both halves of Lot 22 Conc 5.*

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Application File No. B07-16 - continued
June 28, 2016

Submission from John Gilchrist - continued
June 28, 2016

4. They talk about looking to negotiate the property boundary, which clearly shows they are not sure where the boundary is. Every attempt at negotiation was in favor of Barney/Austin gaining extra property and Gilchrists giving up property, so they were never completed. The Gilchrists and Austin/Barney's did not reach a verbal agreement in front of Mr. Keatley as they allege. If we did, we would not have had to have a lawyer review it. Also, what they neglect to mention is the barn agreement that Mr. Keatley drew up was part 2 of a 2 part deal, where Norm Barney was to sell to the Gilchrists the west half of lot 22 Conc 5, Sandfield. This would have given the Gilchrists access to Windfall Lake directly from their property. So we were willing to accept the fact that we would give up property, in order to make the deal to get the property on Windfall Lake. (agreement of purchase and sale dated Mar 19, 2014 in my file, plus email from Ian dated Mar 24, 2014).
5. Before their conclusion in hiring another Land Surveyor to review the property, they were clear that they did not speak to him as they are quoted "if this matter goes to court". That may be where this needs to be resolved, but not at the planning board.

They have not proved ownership of the Gilchrists property on the east side of the barn.

They claim there is no bar on the southeast corner, but the Gilchrists will continue to look for it.

They claim the Gilchrists have not hired Mr. Halliday, but they did contact him to consider doing the survey for them. (pending contract in my file)

They say they the Gilchrists concerns for their property and buildings and water supply are not valid. We feel all assets on the property and the property itself are of value to the Gilchrists, and this concern should not simply be ignored. The Barney/Austins say they have a right to a road across their property. The Gilchrists contend they already have a right of way and road allowance across their property, they do not need another

They call the barn an abandoned barn. Whether it was or not, it is still our intention to repair it to a useable condition and use if for secure dry storage. The access has always been and continues to be on the east side of the barn. This barn has become even more important to the Gilchrists with the chance that the township may outlaw ocean containers that could otherwise be used for secure dry storage.

Gord Keatley's response.

He acknowledges there is a survey bar at the northeast corner of the property. The Gilchrists apologize if their description was not in surveyor terminology.

He acknowledges that the easement for 31R-2237 may have been to go around buildings.

In the Gilchrists Agreement of Purchase and Sale with Gregory K Young and Jennifer M Young, one of the chattels included is the barn.

1. It was accepted in that they were aware of the legal right of way when they purchased the property.
2. There are multiple owner lots being added to the lakeshore on Big Lake. There are no restrictions to stop this from happening on Windfall Lake, which would be much more traffic than is travelling over the proposed right of way.
3. The well was recently opened, and it is now going to be upgraded to supply water to the cabin on the property. With respect, not sure Mr. Keatley has expertise as a health inspector that can validate what he is claiming.
4. It seems unfair that it is the Gilchrists expense to remove historical access. That is the way the barn was built.
5. The proposed right of way does cross into Lot 22 Conc 6.
6. It may.
7. That is a very big assumption. We feel the road may well continue directly across the south end of the Gilchrists' property.
8. The road allowance does exist. This right of way could be proposed further south in Lot 21 Conc 5 where it will not interfere with the Gilchrists property as it continues into Lot 22 Conc 5.
9. However, this road allowance has been in place and was approved by the planning board at the time in 1991.
10. The road allowance exists and was approved by the planning board in 1991.
11. We will provide when the surveyor does his work in that area.'

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Application File No. B07-16 - continued
June 28, 2016

Jane Austin gave a bit of history of the subject land and the access to their properties, supported with imagery. She further explained concerns as addressed in her letter of June 23, 2016 and Mr. Keatley's comments of June 28th, 2016.

During consideration of the application, there was discussion regarding the possible effect the location of the new right-of-way would have on the existing well, the barn, and the boundary line between Lots 21 and 22, Conc. VI.

Following discussion regarding the boundary dispute and location of the barn which may effect the location of the proposed right-of-way, and a request from Ms. Austin, a motion was moved, duly seconded and carried that this application be deferred in order to provide an opportunity for the boundary dispute, as stated, to be resolved, prior to further consideration of this application.

Note: Board Member Lee Hayden declared a conflict of interest prior to consideration of this application.

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Application File No.: B08-16 **No. of Members Present:** _____

Date of Decision: June 28, 2016 - Deferred

Location of Property: Lot 21, Conc. V, Township of Sandfield, Municipality of Central Manitoulin, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by Norman b. Austin is to provide for right-of-way (ROW) along the north boundary of Lot 21, Conc. V, Having a width of 20 metres and a length of ±387 M., thereby containing an area of ±7,700 Sq. M., in favour of the east half of Lot 22, Conc. V, owned by Jane Austin. The proposed new ROW is to occupy the travelled access that has been used for several years.

The land to be retained has a frontage of ±696.5 M. on Windfall Lake and a depth of ±756 M., thereby containing an area of ±20 Hec. The applicant's cottage and three accessory structures are located within this land.

Consent File No. B124-90 provided for legal ROW over Lot 21, Conc. VI, surveyed as Part 1, Plan 31R-2237 and over Lot 21, Conc. VII, surveyed as Part 2, Plan 31R-2237, in favour of Lot 21, Conc. V.

There is also a simultaneous Application for Consent, File No. B07-16, which proposes a ROW over Lot 21, Conc. VI, in favour of Lot 21, Conc. V and the east half of Lot 22, Conc. V.

Legal deeded access is via ROW over Parts 1 & 2, Plan 31R-2237 to Homestead Road, a seasonally maintained forced road to Myles Side Road, a maintained municipal road. According to the applicant Part 2, Plan 31R-2237 is not used to access his property and the actual travelled access over Lot 21, Conc. VI deviates from part 1, Plan 31r-2237.

Services consist of compost toilet and water from Windfall Lake. No new services are required as a result of this application for ROW.

The subject land has been designated Rural District and zoned Rural (R).

From information available the subject proposal does not appear to have any natural heritage features or species at risk (SAR) concerns.

This proposal is considered to be in conformity with the Provincial Policy Statement 2014.

The application was circulated on June 6th, 2016 to the Municipality of Central Manitoulin and to all property owners within 60 metres and by the posting of a notice, clearly visible and legible from a public highway or other place to which the public has access, as required by Ontario Regulation 197/96.

The Municipality advised they have no concerns.

There have been several telephone calls, emails, and visits to the office, which resulted in three letters.

(Please refer to File B07-16 for all relative correspondence)

There has been no other inquiries or concerns received as a result of circulation to property owners within 60 metres and/or the posting of notice.

Jane Austin, Norman Barney and John Gilchrist were in attendance during consideration of the application.

Mr. Gilchrist addressed their concerns with the proposed new right-of-way as stated in his letter of June 19, 2016, and the following is his submission at the Board Meeting:

(Refer to File B07-16 for submission)

Jane Austin gave a bit of history of the subject land and the access to their properties, supported with imagery. She further explained concerns as addressed in her letter of June 23, 2016 and Mr. Keatley's comments of June 28th, 2016.

During consideration of the application, there was discussion regarding the possible effect the location of the new right-of-way would have on the existing well, the barn, and the boundary line between Lots 21 and 22, Conc. VI.

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Application File No. B08-16 - continued
June 28, 2016

Following discussion regarding the boundary dispute and location of the barn which may effect the location of the proposed right-of-way, for Consent File No. B07-16, the applicant requested a deferral of this simultaneous application, File B08-16.

A motion was moved, duly seconded and carried that this application be deferred in order to provide an opportunity for the boundary dispute to be resolved, as stated, prior to further consideration of this application.

Note: Board Member, Lee Hayden, declared a conflict of interest prior to consideration of this application.

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Application File No's.: B09-16, B10-16 and B11-16 **No. of Members Present:** _____

Date of Decision: June 28, 2016 - Deferred

Location of Property: Part Lots 22 and 23, Conc. VII, surveyed as Parts 1 and 2, Plan 31R-3131, Township of Sandfield, Municipality of Central Manitoulin, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act, by Freida S.E. Tann and 1662201 Ontario Limited is to provide for the creation of three (3) new lots together with right-of-way for seasonal residential uses.

File No. B09-16 proposes a new lot, having a frontage of ± 89.9 M. on Big Lake and an average depth of ± 207.7 M., thereby containing an area of ± 1.6 Hec. This lot will be together with right-of-way, having a width of 20 M., to the unopened 6th concession road allowance.

File No. B10-16 proposes a new lot, having a frontage of ± 89.9 M. on Big Lake and an average depth of ± 243 M., thereby containing an area of ± 2.2 Hec. This lot will be together with right-of-way, having a width of 20 M., to the unopened 6th concession road allowance.

File No. B11-16 proposes a new lot, having a frontage of ± 89.9 M. on Big Lake and an average depth of ± 251 M., thereby containing an area of ± 2.2 Hec. This lot will be together with right-of-way, having a width of 20 M., to the unopened 6th concession road allowance.

The land to be retained has frontages of ± 271 M. on Big Lake, ± 435 M. on Young Street, a maintained municipal road, and ± 191.9 M. on the unopened 6th concession road allowance, and an irregular depth of ± 864 M., thereby containing an area of ± 15 Hec. This land will be subject to right-of-way in favour of the three proposed new lots.

There are no structures on the subject lands.

A Subdivision, Plan 31M-200, approved 8 lots in 1993 within Lots 22 and 23, Conc. VII.

There have been two previous application for consent.

File No. B56-93 created 4 new lots, within Block 9 of Subdivision Plan 31M-200 and Lot 22, Conc. VII, surveyed as Parts 1 to 12, Plan 31R-2572; and

File No. B59-01, created a new lot surveyed as Part 3, Plan 31R-3131 and retained Parts 1 & 2, Plan 31R-3131, being the land subject to this application.

Services will consist of private wells and private individual septic systems when required. The Sudbury and District Health Unit have advised they have no concerns as it appears that the proposed severed and retained lots are capable of development for installation of a septic tank and leaching bed system.

Access is proposed via right-of-way along the boundary line between Lots 22 and 23, Conc. VII and the unopened 6th concession road allowance to Homestead Road, a municipal seasonally maintained forced road, to Myles Side Road, a maintained municipal road. Accompanying the application is a Road Opening Agreement between the applicant and the Municipality to open the 6th concession road allowance.

From information available the subject proposal does not appear to have any species at risk (SAR) concerns.

There is an unevaluated wetland identified along the shoreline of Big Lake.

The PPS states in part, under Section 2.1 - Natural Heritage:

2.1.1 Natural features and areas shall be protected for the long term.

2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and area, surface water features and ground water features.

2.1.5 development and site alteration shall not be permitted unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.'

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Application File No's. B09-16, B10-16 and B11-16 - continued
June 28, 2016

The subject land has been designated Shoreline Development and Rural Districts and zoned Shoreline Residential (SR), Rural (R), and Conservation (02). Seasonal residential uses are proposed.

Dwelling units and accessory buildings are not permitted uses in the Conservation (02) Zone. The boundary lines within the 02 zoning surround most water courses and are generally in place to identify land that may be prone to flooding. The boundaries are a general guideline and open to interpretation. An approved amendment may be required to rezone from Conservation (02) Zone to Shoreline Residential (SR) Zone if building sites are proposed within the 02 Zone.

This application was circulated on June 9th, 2016 to the Municipality of Central Manitoulin, and to all property owners within 60 metres and by the posting of a notice, clearly visible and legible from a public highway or other place to which the public has access, as required by Ontario Regulation 197/96.

The Municipality have advised they have no concerns.

The following email was received from Roseann and James Follebout, on June 16, 2016:

'Hi Theresa, Manitoulin Planning Board,

I spoke with you by phone yesterday, 6-15 re: the above proposed lots to be dissected and sold. My husband and I own a cottage on Big Lake and are concerned about the effect/repercussions of extending these lots to sell and build upon and what it might have on the environment and especially the wildlife of the 3 lakes in the area, Big, Dace, and Pine Lakes. As you are aware this proposed area is a designated wetlands area. I am familiar with this area and for the months of April, May and sometimes June, if it is a wet spring, this is a very marshy area with spongy ground because of the underground springs throughout that area and also the stream that greatly fingers out through that whole area. Probably not suitable to build on. I know that is the planning boards decision but we thought we would pass our comments along to you.

I spoke with Eric Cobb from the Ministry of Natural Resources and Forestry, who was a great help with information about the area as well. This area is designated as federal wetlands and there is an official lake plan that has been made up for Big lake. He said there should be an impact study done in order for any development to be done and ensure it complies with policy. Also it should be checked into to see if these three lakes are designated in a Natural Heritage Corridor. My question is have these things been done? Our great concern is for the wildlife that uses that area as a thoroughfare between lakes. The beaver families, otter and fishers, mink, all travel this area that is proposed and we are afraid they would be greatly restricted if not leaving them completely cut off from traveling between these lakes.

On Big Lake that proposed development site is the only open available place for wildlife to live in undisturbed peace, all the rest of the lakeshore is taken up by cottages. The loons, along with a great many waterfowl species all nest along that small site along that waterfront. Also, the bald eagle seen on the lake comes directly from that area so we are supposing it has a nest in that area also. We greatly love the lake and want to see it thrive. We are concerned with overcrowding on the lake and would hope you would take our comments into consideration and not allow development to take place on these proposed sites. Thank you for your time in this matter.'

The Ministry of Natural Resources and Forestry (MNRF) were contacted regarding the concerns received from Mr. and Mrs. Follebout and the following reply email to Ms. Follebout was copied to Planning Board from Eric Cobb, District Planner:

'Good day Roseann:

I took a look at our natural heritage information that we have for the property where the creation of three lots is proposed. There are no known significant wildlife habitats, vegetation communities, or endangered/threatened species at risk records or habitats on or immediately adjacent to the property.

There is a wetland that covers part of the proposed new lots, but it has not been evaluated as provincially significant. I have attached a map with aerial imagery. Wetlands are depicted by light green, squiggly symbols.

The Official Plan (OP) for Manitoulin Island (final draft) does contain wetland policies, including those for unevaluated wetlands (UW). I have provided a scan of OP policy D.4.2 that outlines the constraints and requirements for building in or adjacent to a UW. The wetland of interest is identified in OP Schedule D6 (have to really zoom in thought). The OP and its schedules can be viewed on-line at <http://www.manitoulinplanning.ca> '

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Application File No's. B09-16, B10-16 and B11-16 - continued
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E-Mail from MNRF - continued

'As discussed, confirmation of a bald eagle nest within 120 m of a proposed development on the new lots would trigger additional assessment requirements for evaluating potential impacts to significant wildlife habitat. If you have any further questions, please contact me.'

The following email was received from Jamie Conroy, on June 22, 2016:

'Dear Board Members:

Re: File No's: B09-16, B10-16, B11-16

Owners: Freida S. Term and 1682201 Ontario Ltd].

Location: Part Lot 22 and 23, Conc. VII Being Parts 1 and 2, Plan 31R-3131, Township of Sandfield, Municipality of Central Manitoulin

In regards to the above noted proposal for the creation of three (3) new seasonal residential lots. I would like to submit the following comments for consideration prior to the granting of any consent or approval.

It is quite obvious that the intent here is to create 3 lakeside lots that could be developed for cottage/residential purposes. While the lots are quite large and can afford sufficient land area to support residential building(s) it is the lake access that concerns me and the changes required to make the waterfront accessible.

As you can clearly see on the sketch map attached to the application there is a stream that flows from Dace Lake to Big Lake. In reality the stream never actually reaches Big Lake but rather creates a large wetland/swamp area and the excess water flows down into "sink holes" feeding the ground water table below. As you may be aware Big Lake is spring fed so you can understand the importance and relationship with the ground water table.

The stream does not flow year round and it is dependent on the weather conditions (i.e. dry summers) and the beaver activity of damming the water flow at the Homestead Road/Dace Lake junction. When flowing at "normal levels" the stream has depths of 1 to 2 feet and to provide an idea as to the volume of water that is flowing through, the current owners put in 4 culverts at the end of Young Street to allow for the water to flow through properly. initially perhaps the thought was to extend Young Street over these culverts as the access route for the 3 proposed lots, but the wetlands/swamp prevented this from being a viable option.

On Saturday, June 18th, I walked the proposed Road Allowance and the proposed Right-of-Way access, plus viewed the bush area for the three lots. it was apparent to me that the wetlands/swamp/stream is present at the front of all three lots and only the southern most lot, file B11-16, has some small frontage that is not impacted by the stream course. From the Road Allowance moving north towards Young Street the wetland area only broadens and expands outward to cover the entire front of both lots, files B10-16 and B09-16.

My concern is simple — without landscaping and/or backfilling the three pending lots are not viable for the purposes of using the lake frontage. What would the impact be to the environment, the wetlands and stream, and the Big Lake water eco-system if the creation of the lots is approved? Would the stream course be blocked in any way? Is there potential for covering of the "sink holes" causing possible flooding of Young Street and those residential properties? What are the implications for the ground water table

Before providing any type of consent, I suggest that it would be prudent to have an environmental assessment performed by qualified individuals to determine the impacts of this proposal. Rejection of this proposal or restrictions on the way the lots are developed may be required to protect and address environmental concerns.

I surmise it will be argued that there is no intent to disturb the natural environment, watercourse, and lake front with the creation of these three lots. However, I can only reiterate my opinion that the three lots are not viable as lakefront lots without some type of physical change occurring to the current landscape. I cannot support this proposal without some type of guarantee or assurance that there will be no adverse consequences to the natural environment and eco-water system.

In conjunction with this letter, please accept this as my request to be notified of the Planning Board Decision on this Application for Consent.'

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The following letter was received by fax, from Suzanne and Mark Zmijowskyj, on June 22nd, 2016:

' I am sending you this letter with regards to the notice we have received regarding an application for consent by the Planning Board, by Freida S. Tann.

We wish to make comments and have questions with regards to this application.

We are concerned about the application, as the area is adjacent to a federally designated wetland. Should not a proper evaluation study be done, to show what the possible impact would be to the environment, permitting further development to these lots? Any development done to this property, which could include bringing in fill, may disturb the waterfront, wetlands, eco-system, and the streams that run into the lake. We pride ourselves that Big Lake is a beautiful clear lake, with very good water quality. It is our understanding, through the Big Lake Association, that no more cottages were to be built, due to the size of the lake, that environmentally speaking, the lake cannot take on extra cottages. Is this correct information? These lots, are of substantial size, belonging to Freida Tann. We are located on Lot 445, on Young Street. As you know there is also a creek that is located at the end of the road. We received information that a small bridge was going to be built over the creek, to not disturb the creek and eco-systems. A culvert was placed in the creek. This creek also serves as a filter, and allows fresh clear water to flow into the lake. There are a natural springs. It is, in my opinion, essential to have this creek flow properly, to keep the clarity of the water. What if, in the future, for easier accessibility to these properties, this becomes opened, into a thorough fare road? As I am sure you are aware, this creek also floods into the adjacent property in the spring, when there is run off from the winter. These properties being so close to the wetland, will also flood into the adjacent properties.

There is also a 20 year plan proposed for this area. What does this plan include?

My husband and I have taken time off, to hopefully attend the public meeting that is scheduled on Tuesday, June 28, 2016 at 7:00 p.m.

Should you need to contact me, I will provide you with e-mail at szmijowskyj@sisudbury.com Our home telephone number is 705-671-2872 in Sudbury.
Thank you.'

The three letters of concern were forwarded to Murray Tann, agent for the application.

There have been no other inquiries or concerns received as a result of circulation to property owners within 60 metres or the posting of the notice.

Mark and Sue Zmijowskyj, Annette Conroy, and Murray Tann, were in attendance during consideration of the application.

Mr. Tann, agent for the application, presented photographs of four 2 foot culverts that have been installed south of the cul de sac on Young Street. He explained that there is a municipal drain along Lot 8, of Subdivision Plan 31M-200. He addressed issues contained in the letters of concern and explained that the proposal to create three lots for seasonal residential uses are not intended to cause any negative impact on the drainage, wetland, or the lakes and shorelines and wildlife.

In response to a discussion regarding what could be done to ensure that the proposed development would not impact any Natural Heritage features the Secretary-Treasurer explained that having the flood contours identified on a copy of the registered plan of survey would be a minimum to assist a building official to identify the low lying area and determine the area that should be considered to be within the Conservation Zone. There is no knowledge regarding 20 year lake plans or any development restriction on Big Lake.

Natural heritage features could be protected by the registering of a site plan control agreement between the landowner and the Municipality, which, without additional information, may need to be quite restrictive. However, it was also noted that an Environmental Assessment could be completed to determine if, in fact, there are natural heritage features to be protected and if a full Environmental Impact Statement (EIS) may be required.

Further discussion resulted in Mr. Tann requesting a deferral of his application to provide him an opportunity to review the options with the owners.

A motion was regularly moved, duly seconded and carried that this application be deferred in order to provide the applicants additional time to consider how they would like to proceed.

The time now being 10:21 p.m. and all business before the Board having been dealt with, the Meeting was adjourned on a motion moved by P. Moffatt.