



December 05, 2016

MINUTES OF PLANNING BOARD MEETING - November 29, 2016

At a Meeting of the Manitoulin Planning Board, held in the Board Room at the Planning Board Office, Gore Bay, Ontario, on Tuesday, November 29<sup>th</sup>, 2016, the following Members of Planning Board were present:

- |    |             |     |             |
|----|-------------|-----|-------------|
| 1. | D. Osborne  | 7.  | I. Anderson |
| 2. | M. Peters   | 8.  | L. Hayden   |
| 3. | A. H. Hunt  | 9.  | E. Russell  |
| 4. | K. Noland   | 10. | P. Moffatt  |
| 5. | R. Stephens |     |             |
| 6. | L. Addison  |     |             |

Regrets: D. Head

Also in attendance was:

- G. Phillips, applicant, for Consent File No. B25-16,
- D. Marshall, interested party, for Consent File No. B25-16,
- G. Keatley, agent, for Consent applications File No's. B18-16, B19-16, B21-16, B26-16, B27-16 and B28-16, 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 October 25, 2016. L. Hayden, Board Member, declared a conflict of interest with Consent File No's B07-16 and B08-16. There were no other conflicts declared.

1. ORDER OF BUSINESS

The Chair requested the adoption of the order of business, with the addition of Item 6. Official Plan Update. The following motion resulted:

MOTION

It was moved by D. Osborne and seconded by P. Moffatt that the Order of Business be adopted, as amended, with the addition of Item 6. Official Plan Update.

- Carried.

2. MINUTES OF PREVIOUS BOARD MEETING - October 25, 2016.

The Chair announced that the Minutes of the Board Meeting held on October 25, 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 R. Stephens that the Minutes be adopted as circulated.

- Carried

BUSINESS ARISING FROM THE MINUTES OF THE PREVIOUS BOARD MEETING  
- October 25, 2016

R. Stephens, Board Member, asked if there was a software purchase required for the Minimum Distance Separation (MDS), item 5. a) I). It was noted that additional information would be provided under General Business

There was no other business arising from the Minutes of the Previous Board Meeting.

3. VARIABLE EXPENDITURES

There were no questions of the variable expenditures as circulated.

MOTION

It was moved by R. Stephens and seconded by L. Addison 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) Ministry of Agriculture, Food and Rural Affairs (OMAFRA)  
- Minimum Distance Separation (MDS) Update

The Board were advised that J. Diebolt, GIS Technician, participated in a webinar information session on November 16<sup>th</sup>, 2016 for the revised MDS, offered by OMAFRA. New MDS software has been provided by OMAFRA. Farmers will not be greatly impacted by the changes to the new version which takes effect on March 01, 2017. MDS I will continue to protect farm operations from intruding land uses, and MDS II will continue to apply to new building permits.

During discussion on this topic it was explained that OMAFRA has implemented a formulae to determine the minimum distances between proposed new development and existing, new, enlarged, or remodeled livestock facilities and/or permanent manure storage, which assists in potential conflicts between neighbouring land uses.

- ii) Central Ontario Orthophotography Project (COOP) 2016

The Secretary-Treasurer informed the Board that the licence agreement between the Board and the Ministry of Natural Resources and Forestry (MNR) has been finalized and the invoice has been received. Also the Municipalities have received the sub-licence agreements and invoices for their shares.

- b) Transition of Planning Authority  
- Town of Northeastern Manitoulin and the Islands

It was explained to the Board that during the Board Meeting held on October 25, 2016, all items stated within the transition plan, dated September 22, 2016, provided by the Town of Northeastern Manitoulin and the Islands (NEMI), were resolved with the exception of NEMI's request to receive 33% of the unallocated reserve account of the Manitoulin Planning Board. The Board Executive during a meeting following the regular Board Meeting, requested the Secretary-Treasurer to provide a report on the reserve account for consideration by the Board.

The Board were informed that a letter had been received from the Town of Northeastern Manitoulin and the Islands, dated November 16, 2016, containing Resolution No. 277-11-16 as follows:

*'Where As the Town of Northeast Manitoulin and the Islands has contributed 33% of the costs of the operation of the Manitoulin Planning Board on a consistent basis,*

*And whereas the Manitoulin Planning Board did not distribute annual surpluses from prior years to the contributing municipalities, but placed those surpluses into a reserve account,*

*And whereas the Town of Northeast Manitoulin and the Islands will be taking full responsibility for its own planning in 2017,*

*And whereas the reserve funds accumulated by the Manitoulin Planning Board are for the future planning needs of the contributing municipalities,*

*Now therefore be it resolved that the Town of Northeastern Manitoulin and the Islands requests that 33% of the balance in the reserve funds of the Manitoulin Planning Board be paid out to the Town of NEMI, once the Town of NEMI receives approval from the Minister of Municipal Affairs to become its own planning authority.....Carried'*

The Secretary-Treasurer provided the following information regarding the reserves:

- The Reserve Account has exceeded \$80,000.00 since before 1997, with the exception of 2 years when it dropped to ±77,000 in 2001 and 2002;
- Little Current and Howland Contributions (prior to amalgamation with McGregor Bay) were 5.66% and 7.36% of the budget and 29.61% and 29.37% of the total municipal requisition to the Municipalities for the years 1996 and 1997;
- The Ministry contribution in 1997 for the unincorporated townships was +35% of the budget;
- NEMI share of the municipal requisition in 1996 was \$6,662.25, in 1997 was \$8,708.50 compared to \$16,041.43 for 1998 when they amalgamated with McGregor Bay and the Ministry unincorporated grant dropped from \$43,048.00 to \$19,329.00;

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5. GENERAL, REGULAR AND NEW BUSINESS

b) Transition of Planning Authority  
- Town of Northeastern Manitoulin and the Islands - continued

- Total Reserves have been accumulated from:
  - ample years having fees which exceeded the budget from higher volume in applications;
  - total of +\$32,000.00 interest earned since 2000;
  - prior to amalgamation the grant received from the Province was ±20% of the assessment, however was ±65% of the funds required for the operation of the Board.

Allocation of Reserves:

While the reserve account has not specifically been allocated, the purpose of the reserves, in part, is:

- Next Official Plan Review
- Office space, rental property subject to change with lease renewal
- Update of Zoning By-law for unincorporated
- Capital Expenditures, i.e. equipment replacement - all GIS equipment +5 years old- with a value of ±25,000.00
- Staff work station - \$2,000.00
- Operating Reserves - 1/6 of operating budget

Therefore the estimated total amount of allocated reserves is approximately \$60,000.00.

MOTION

It was moved by D. Osborne and seconded by L. Addison that the reserves of the Manitoulin Planning Board will remain property of the Board being a Body Corporate under the Planning Act.

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

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

By a recorded vote this motion resulted in a tie vote.

MOTION DEFEATED

It was the general consensus of the Board that the information provided to the Board should be provided to NEMI so they may have a better understanding of the status of the reserve account and reconsider their request and that following an opportunity for NEMI to advise of any change to this request, a decision will be made by the Board during the next regular Board Meeting.

MOTION

It was moved by R. Stephens and seconded by M. Peters that the information provided to the Board, be sent to NEMI for comment, before a final decision is made by the Board. - Carried

5. c) Town of Northeastern Manitoulin and the Islands (NEMI) Request for Continued Geographic Information System (GIS) Maintenance

The Secretary-Treasurer informed the Board that an email was received from the Clerk for NEMI requesting a quote for the Manitoulin Planning Board office to continue the maintenance of their Geographic Information System (GIS) information.

The Board were provided with the figures as contained in the GIS Strategic Plan prepared by the Sault Ste. Marie Innovation Centre in 2009, for the projected maintenance costs for the GIS which states under Section 10.6 the NEMI share would be \$16,601.55.

It was the general consensus of the Board and considering these figures are +7 years old that the Board would consider continuing the maintenance and providing the ongoing support, etc., that NEMI has been accustomed to for a total cost of \$18,000.00 annually, and there could be an additional cost to incorporate the Official Plan mapping prepared by JL Richards if the mapping is not available in GIS format, i.e. geodatabase or shape files.

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5. GENERAL, REGULAR AND NEW BUSINESS

d) Draft Budget 2017

The Secretary-Treasurer provided a Comparison of the Actual and Budget for 2016 as well as a Draft 2017 Budget.

The following motions resulted from the discussion:

MOTION

It was moved by R. Stephens and seconded by L. Addison the Manitoulin Planning Board does hereby authorize that T. Carlisle be added as signing authority and that due to retirement, the Secretary-Treasurer, E. Carter, be removed as a signing authority, effective January 1<sup>st</sup>, 2017 and that the other three signing authorities, D. Osborne, L. Hayden, and K. Noland remain unchanged. - Carried

MOTION

It was moved by L. Hayden and seconded by P. Moffatt that Freelandt Caldwell Reilly, Chartered Accountants, will continue as the auditor for the 2016 Financial Year. - Carried.

6. Official Plan (OP) Update - Manitoulin District

It was explained to the Board that the Ministry of Municipal Affairs (MMA) approved the Official Plan (OP) for the Town of Northeastern Manitoulin and the Islands (NEMI) with different private road policies than the policies negotiated with MMA for the Manitoulin Planning Board's adopted OP. The policies approved for the NEMI OP are similar to the original policies that the Planning Board had requested back in 2014, prepared by MMM Group.

MOTION

It was moved by M. Peters and seconded by A. Hunt that Planning Board request similar Official Plan Policies regarding Private Roads as the Ministry approved for the Town of Northeastern Manitoulin and the Islands - Carried.

MOTION

It was moved by D. Osborne and seconded by I. Anderson that the Secretary-Treasurer request MMM Group to rewrite the Private Roads Policies. - Carried.

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. 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. B07-16 Austin & Barney	P. Moffatt	D. Osborne
	That this application be deferred, to permit additional time for the applicants to proceed with an application under the Boundaries Act, as requested.....Carried.	
2. B08-16 Jane & N.B. Austin	P. Moffatt	D. Osborne
	That this application be deferred, to permit additional time for the applicants to proceed with an application under the Boundaries Act, as requested.....Carried.	

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PRESENTATION OF APPLICATIONS FOR CONSENT TO SEVER - Continued

3.	B18-16 & B19-16 J. & L. Ferguson	L. Hayden	M. Peters
4.	B20-16 D. & M. Freeman	R. Stephens	I. Anderson
5.	B21-16 W. & C. Cosby	E. Russell	A. Hunt
6.	B22-16 M. Gelbke	L. Hayden	I. Anderson
7.	B23-16 & B24-16 Town of Gore Bay	R. Stephens	P. Moffatt
8.	B25-16 G. Phillips	M. Peters	I. Anderson
9.	B26-16 , B27-16 & B28-16 J. & L. Ferguson	M. Peters	A. Hunt

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 and B08-16.

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Application File No's.: B18-16 and B19-16 No. of Members Present: 10  
Date of Decision: [October 25, 2016-Deferred] November 29, 2016  
Location of Property: Part of Island T.P. 1977, AE 422, PCL 733, McGregor Bay of Lake Huron, 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 James R. and Linda D. Ferguson is to provide for the creation of two (2) new lots for seasonal residential uses.

File No. B18-16 proposes to create a new lot having frontages of ±107 M. and ±122 M. on McGregor Bay of Lake Huron and a depth of ±60 M., thereby containing an area of ±0.58 Hec.

File No. B19-16 proposes to create a new lot having a frontage of ±65 M. on McGregor Bay of Lake Huron and a depth of ±40 M., thereby containing an area of ±0.46 Hec.

There are no structures on the two new proposed lots.

The land to be retained has a frontage of ±245 M. on McGregor Bay of Lake Huron, an irregular depth, and containing an area of ±0.48 Hec. The applicants' seasonal dwelling is located within this land.

Water access is available from J & G Marina and Stillwater Marina at Birch Island, Ontario.

Services will consist of water from Lake Huron and private individual sewage disposal system.

The Sudbury and District Health Unit have advised that the proposed severed and retained lots appear to be capable of development for installation of a septic tank and leaching bed system.

The subject land has been designated Shoreline Development and Rural Districts and zoned Shoreline Residential (SR) and Hazard (HZ). Seasonal residential uses are proposed to continue.

During discussion of the application with Mr. Keatley, agent for the application, it was explained that part of the subject land appears to be zoned Hazard (HZ) and that an approved amendment may be required to Zoning By-law No. 2002-32 for the Corporation of the Town of Northeastern Manitoulin and the Islands rezoning from Hazard (HZ) Zone to Shoreline Residential (SR) Zone, which will then permit seasonal residential uses.

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

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

The application was circulated on October 11, 2016 to the Town of Northeastern Manitoulin and the Islands, the Whitefish River First Nation. There are no property owners within 400 metres. The Public Notice, as required by Ontario Regulation 197/96, was posted on the Island, and at J & G Marina & Still Water Marina, Birch Island, Ontario.

The Clerk for the Municipality advised, via email, on October 25, 2016, that Council has not seen the application and has not had the opportunity to make comments at this time. The application will be presented to Council at the next regularly scheduled meeting of November 01, 2016.

The Whitefish First Nation have not responded or requested additional time to do so.

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

During discussion of the application it was explained that the mapping used was established back in the 1980's and was delineated on the current Geographic Information System (GIS) mapping by applying the best information available. The Hazard (HZ) Zone identified on the mapping could be treated with discretion or corrected by the zoning amendment process which would clearly identify the land to be within a Shoreline Residential (SR) Zone.

A motion was moved, duly seconded and carried that this application be deferred to provide the Municipality additional time to provide comments.....carried.

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Mr. Keatley advised that there is an Island directly in front of Island T.P. 1977 which is privately owned. It was discovered that notice to this property owner was missed and a copy of the Notice of Application was sent to the land owner of Island T.P. 2085.

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Application File No's. B18-16 and B19-16 - continued

The Municipality advised by letter, dated November 3<sup>rd</sup>, 2016, that consent be given with no specific conditions and of the following Resolution, No. 250-11-16:

*'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 Jim and Linda Ferguson file # B18-16 and B19-16.....carried'*

However, a Notice of Application for Amendment, File No. 2016-06-ZBL, to rezone the subject land from Hazard (HZ) Zone to Shoreline Residential (SR) Zone was received from the Municipality for a Public Meeting date of December 6<sup>th</sup>, 2016.

There have been no inquiries or concerns received as a result of those circulated or by the posting of a notices.

Gord Keatley, agent for the application, was in attendance during consideration of 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.

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) a copy of an elevation report for the proposed severed lands identifying the 178.3 metre elevation contour;
- iii) a copy of the approved By-law Amendment to Comprehensive Zoning By-law No. 2002-32 which rezones the subject land from Hazard (HZ) Zone to Shoreline Residential (SR) Zone;
- iv) proof satisfactory to Planning Board that all minimum yard requirements, resulting from the new lot line, for the existing seasonal dwelling, conforms to Zoning By-law No. 2002-32; i.e. written verification from the Ontario Land Surveyor;
- iv) a fee of \$100.00 for each Transfer of Land submitted for Certification; and
- v) 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.

Note: Any shoreline improvements shall be done only with the consultation of The Ministry of Natural Resources and Forestry (MNR).

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Application File No.: B20-16 No. of Members Present: 10  
Date of Decision: November 29, 2016  
Location of Property: Part of Island T.P. 1936, Part of Parcel 320, and Part of the bed of McGregor Bay, surveyed as Part 1, Plan 31R-3913, McGregor Bay of Lake Huron, 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 Daniel and Matthew Freeman is to provide for the creation of a new lot having frontages of  $\pm 218$  M. and  $\pm 123$  M. on McGregor Bay of Lake Huron and an average depth of  $\pm 85$  M., thereby containing an area of  $\pm 1.5$  Hec. The applicants' cottage, sleep camp, shed, and pump house are located within this land. Seasonal residential uses are proposed to continue.

The land to be retained has a frontage of  $\pm 260$  M. on McGregor Bay of Lake Huron, an irregular depth, and containing an area of  $\pm 0.6$  Hec. The applicants' two storey boat house containing a residential unit is located within this land.

Daniel Freeman advised via e-mail that the existing structures have existed since 1920.

According to the agent for the application, Robert Halliday, the Ministry of Natural Resources and Forestry (MNR) gave the applicants a Quit Claim by a Crown Grant for the bed of McGregor Bay, occupied by the boathouse, which gave them ownership of Part 1, Plan 31R-3913, in 2014 by transfer MD9950.

During discussion of the application with Mr. Halliday, it was explained that the existing structures, if built in the 1920's, before the Zoning By-law was in place, would have legal non-complying status, and that confirmation from the Municipality may be a condition of Consent approval.

Water access is available from J & G Marina and Still Water Marina at Birch Island, Ontario.

Services consist of water from Lake Huron for both the severed and retained land, and private individual sewage disposal system for the severed land.

The Sudbury and District Health Unit have advised they have no concerns and that the proposed severed and retained lots are capable of development for installation of a septic tank and leaching bed system.

There is crown land and a proposed Provincial Park (Killarney Coast and Islands Proposed Provincial Park) identified within 120 metres of Island T.P. 1936.

The PPS states in part, under Section 1.5 - Public Spaces, Parks, Trails and Open Space:

*'1.5.1 d) Healthy, active communities should be promoted by: recognizing provincial parks, conservation reserves, and other protected areas, and minimizing negative impacts on these areas.'*

The Ministry of Natural Resources and Forestry (MNR) were consulted for technical advice regarding the proposed park. Eric Cobb, District Planner, MNR, provided the following comments via e-mail:

*'Proposed or candidate provincial parks are not technically provincially protected areas, and instead fall under the jurisdiction of the Public Lands Act. However, our Crown land management direction is to still manage the area within the boundary as if it were an actual park; considering potential impacts on identified values that may or may not one day be within an actual park. So, the boundary on the water should be considered when making a decision on whether notification is needed or not.'*

*'It looks like development has already occurred on Island TP 1936 and that the severance would not likely result in new residential structures. If this is the case than we have no concerns or further comments.'*

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

This proposal is considered to be consistent with the Provincial Policy Statement 2014. The subject land has been designated Shoreline Development and zoned Shoreline Residential (SR). Seasonal residential uses are proposed to continue.

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Application File No. B20-16 - continued  
December 05, 2016

The application was circulated on November 1<sup>st</sup>, 2016 to the Town of Northeastern Manitoulin and the Islands, the Whitefish River First Nation, and to all property owners within 400 metres. The Public Notice, as required by Ontario Regulation 197/96, were posted at J & G Marina & Still Water Marina, Birch Island, Ontario.

The Clerk for the Municipality advised consent be granted with no specific conditions and of Resolution No. 266-11-16 as follows:

*'RESOLVED THAT the Council of the Town of Northeastern Manitoulin and the Islands has no comment or concern with the application for consent as applied for by Daniel and Matthew Freeman, Island TP1936.....carried.'*

The Whitefish First Nation have not responded or requested additional time to do so.

An e-mail of support was received on November 3<sup>rd</sup>, 2016, from Mr. Tompkins, owner of Island T.P. 1944 to the south east of the subject land.

An e-mail was received on November 14, 2016, from Mr. and Mrs. Melton, requesting a copy of the Decision of Planning Board. They are the owners of the remainder of Island T.P. 1936, surveyed as Part 1, Plan 31R-2342, created by Consent, File No. B61-91.

There have been no other inquiries or concerns received as a result of circulation to property owners within 400 metres or by the posting of a notice.

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.

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) a fee of \$100.00 for each Transfer of Land submitted for Certification; and
- iii) 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.

**Note:** Any shoreline improvements shall be done only with the consultation of The Ministry of Natural Resources and Forestry (MNRF).

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Application File No.: B21-16 No. of Members Present: 10  
Date of Decision: November 29, 2016  
Location of Property: Part Lot 20, Conc. VII and Part Lot 20, Conc. VIII, surveyed as Parts 1, 4, 5, 7, and 12 to 26, Plan 31R-3932, Township of Bidwell, 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 Wayne and Carolyn Cosby is to provide for a lot addition, being Pt. of Part 1, Plan 31R-3932, having a width of  $\pm 41$  M. and a length of  $\pm 227$  M. along the non-maintained 8<sup>th</sup> concession road allowance, thereby containing an area of  $\pm 0.93$  Hec., which is to be added to land owned by Anthony and Carol Yaroshak, identified by PIN 47125-0770, which includes Parts 2 and 3, Plan 31R-3932, having a frontage of  $\pm 56$  M. on Green Bay of Lake Manitou and a depth of  $\pm 107$  M., thereby containing an area of  $\pm 0.42$  Hec. This lot addition will result in a lot containing a cottage and garage, having a frontage of  $\pm 56$  M. on Green Bay of Lake Manitou and a depth of  $\pm 341$  M. along the non-maintained 8<sup>th</sup> concession road, thereby containing a total area of  $\pm 1.35$  Hec. This land is subject to right-of-way over the existing travelled access, known as Parkinson Lane North, surveyed as Part 3, Plan 31R-3932, having a width of  $\pm 9.7$  metres.

The land to be retained, being Part of Lot 20, Conc's. VII and VIII, surveyed as Parts 1, 4, 5, 7, and 12 to 26, Plan 31R-3932, has frontages of  $\pm 40$  M. &  $\pm 550$  M. on Green Bay of Lake Manitou, and  $\pm 1,188$  M. on the non-maintained 20<sup>th</sup> side road allowance, and an irregular depth, thereby containing an area of  $\pm 28.6$  Hec. The applicants' cottage is located within Part 17, Plan 31R-3932. This land is subject to right-of-way for all development in this area.

There have been fourteen (14) previous applications for Consent, involving the subject land.

File No. 04-51C-75-178, approved by the Ministry of Housing, provided for the creation of a new lot surveyed as Part 1, Plan 31R-479, being Part of Lot 20, Conc. VII;

File No. B92-87 provided for a lot addition of Parts 2 and 3, Plan 31R-1079 to Part 1, Plan 31R-1079;

File No. B93-87 provided for a lot addition of Parts 1 and 2, Plan 31R-1778 which was added to lands described in Inst. No. T-11992;

File No. B71-88 provided for a lot addition of Parts 1 and 2, Plan 31R-1952 which was added to lands described in Inst. No. T-30142;

File No. B72-88 provided for a lot addition of Part 3, Plan 31R-1952 which was added to lands described in Inst. No. T-10521; subsequent to this approved application File No. B130-89 provided for Part 3, Plan 31R-1952 to be added to Inst. No. T-30142;

File No. B93-89 provided for the creation of a new lot, surveyed as Part 1, Plan 31R-2021;

File No's. B16-12, B17-12 and B18-12 proposed three lot additions to lands identified as PINS 47125-0290, 47125-0298 and 47125-0302. These files lapsed when conditions of consent approval were not fulfilled within one year as required under the Planning Act;

File No. B20-12 proposed a lot addition to lands identified by PINs 47125-0300 & 47125-0301, which also lapsed; and

File No. B15-14, a resubmission of Consent File No. B18-12, proposed a lot addition to lands identified by PIN 47125-0302, which has not been completed;

File No.'s B22-15, B23-15 and B26-15, were resubmissions of File No's B16-12, B17-12 and B20-12 and provided for three (3) lot additions to lands identified as PINS 47125-0290, 47125-0298 and 47125-0302.

Access to the subject lands is from the Rockville Road, a maintained township road and the existing travelled private road known as Cosby Subdivision Road, and Parkinson Lane.

There are no new services required as a result of the application for lot addition.

From information available there are no natural heritage features or species at risk (SAR) identified that require further consideration.

The subject land has been designated Shoreline Area and Rural Area in the new Official Plan for the Town of Northeastern Manitoulin and the Islands and zoned Rural (R) and Shoreline Residential (SR). Seasonal residential uses are proposed to continue.

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

The application was circulated on November 4<sup>th</sup>, 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.

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A telephone call was received from Walter Bowman requesting additional information, however he advised he had no concerns with the proposed lot addition.

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

The Clerk for the Municipality advised consent be granted with no specific conditions and of Resolution No. 267-11-16 as follows:

*'RESOLVED THAT the Council of the Town of Northeastern Manitoulin and the Islands has no comment or concern with the application for consent as applied for by Wayne and Carolyn Cosby, File #B21-16.....carried.'*

Gordon Keatley, agent for the application, was in attendance during discussion of this 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 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 PIN page(s), will be provided to the Manitoulin Planning Board;
- iii) written confirmation from the Municipality, that access to Rockville Road, the maintained municipal road, has been constructed to a standard for travel by emergency vehicles satisfactory to the Municipality;
- iv) proof 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;
- 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: Any shoreline improvements shall be done only with the consultation of The Ministry of Natural Resources and Forestry (MNRF) and the Municipality.

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Application File No.: B22-16 No. of Members Present: 10  
Date of Decision: November 29, 2016  
Location of Property: Part Lots 28, 29 and 30, Conc. IX, surveyed as Parts 3, 4, and 7, Plan R.R. 109, (north of Hwy 540A), Township of Gordon, Municipality of Gordon/Barrie Island, District of Manitoulin

### **DECISION**

The purpose of this application made under Section 53(1) of the Planning Act, by Michael Gelbke is to provide for the creation of a new lot having frontages of ±151 M. on Julia Bay of the North Channel of Lake Huron and ±137 M. on Highway No. 540A, a provincially maintained highway, and an irregular depth, thereby containing a minimum area of 0.4 Hec. The applicant proposes to convey this lot, consisting of Part 7 and Pt. Part 4, Plan R.R. 109, to Ruth and Brad Montgomery. There are no structures on this proposed new lot.

The land to be retained, consisting of Lot 28 and the remainder of Lot 29, Conc. IX, surveyed as Part 3, and Pt. Part 4, Plan R.R. 109, north of Hwy 540A, has frontages of ±1,023 M. on Julia Bay of the North Channel of Lake Huron, and ±882 M. on Highway No. 540A, a provincially maintained highway, and an irregular depth, thereby containing an area of ±39 Hec. According to the application the applicant's dwelling, garage and accessory structures are located within this land.

Services for the retained land consist of water from Lake Huron and private individual septic system. The same is proposed for the new lot.

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 via Highway No. 540A, a provincially maintained highway.

Carla Riche, Corridor Management Planner, Ministry of Transportation, advised by e-mail on October 28, 2016, as follows:

*'I have reviewed the submitted documentation and would advise that the Ministry of Transportation of Ontario (MTO) has no objections to the proposed application for consent to sever.*

*Since the property in question is located within MTO's permit control area, I would like to advise the Planning Board and the owner of the following:*

- An MTO entrance permit will be required for any new entrances and to reflect any changes to land ownership.*
- MTO building/land use permits will be required for any proposed buildings, wells, or septic systems, located within 45 metres of the MTO right-of-way (ROW) limits or within 180 metres of intersections. New buildings, septic systems etc. must be setback a minimum of 8 metres from the limits of the MTO ROW. New wells must be setback a minimum of 30 metres from the limits of the MTO ROW.*

*Further information with respect to these permit and setback requirements can be obtained by contacting Ms. Lise Taylor at our Sudbury Area Office at (705) 564-7707 (Toll free: 1-800-222-1047 ext 7707).*

*Should you wish to discuss the contents of this letter, please contact me.  
Thank you for the opportunity to provide our comments.'*

There is an unevaluated wetland identified within the retained land.

The Provincial Policy Statement (PPS) 2014 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.'*

It is considered that the unevaluated wetland, which is not identified within the proposed severed land, would have no impact on the development.

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

There does not appear to be any adverse impacts to policies expressed by the PPS 2014.

The subject land has been designated Rural District and zoned Rural ( R) and Shoreline Residential. Residential uses are proposed to continue.

During discussion of the application with Mrs. Montgomery, agent for the application, it was explained that from information available the proposed severed land appears to be low lying and may be below the 179 metre contour, which would restrict a building site/building permit.

Zoning By-law No. 492 for the Municipality under Section 8 - Special Provisions - states:

*'8.2 - Setback From Lake Huron  
no new habitable structures shall be constructed below the 178.3 metre contour adjacent to Lake Huron unless the setback from the shoreline is a minimum of sixty-one (61) metres and the structure is flood proofed to the 179.6 metre contour. For the purpose of this by-law, a flood proofed structure is that which has no opening below the minimum elevation of 179.6 metres, Canadian Geodetic Datum.'*

Gordon Keatley, surveyor, completed an elevation study for the proposed severed land and the resulting sketch identifying the 178 metre contour was emailed to Planning Board, on behalf of Mrs. Montgomery, on October 25, 2016. The sketch identifies sufficient land to provide a building envelope with appropriate setback distances outside the 178 metre contour.

This application was circulated on November 04, 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.

The Municipality have advised they recommend consent be given with no specific conditions. However they provided the following information:

*'Notes to the applicant.*

*This property is located beside a well used public beach. The beach is used for swimming lesson programming run by the Municipality from time to time. It is also very well used by the general public. Rafts are used in this area. This can sometimes become noisy in the summer months.*

*Because of the health concerns in the past, we have periodically had to control birds that attempt to nest on the beach. This causes a big problem with the feces on the beach and in the water. Measures are often used to control geese and the Municipality will continue to seek the Ministry's support to control the geese on the public beach.*

*On the other point of interest in this area (the shoreline - Municipal 66 ft allowance - and further) has an invasive species growing there. This invasive species called phragmites is a very invasive grass that sends out runners and spreads very quickly, killing everything in its path. There are measures that can be used, and that a special group who received funding have worked on beginning 2016. Roads staff will be trying to continue to eradicate the phragmites in the future on municipal property. There is information on this available from the Clerk at the Municipal office of Gordon/Barrie Island.'*

This information was forwarded to Mrs. Montgomery, via email, on November 16, 2016.

During a site visit to the property by the Secretary-Treasurer on November 28, 2016 it was observed that there was a blue garbage bin and one portable storage container located within the retained land, in proximity to the dwelling.

By-law No. 2014-06 for the Municipality of Gordon/Barrie Island permits the storage container as an accessory use for lots located in a Rural Zone and containing a minimum area of 10 hectares.

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

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

In consideration of the information provided regarding the 178.3 metre elevation contour for the severed land, the Board considered they had adequate information to make a decision on this 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.

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) a fee of \$100.00 for each Transfer of Land submitted for Certification; and
- iii) 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.

Note: Any shoreline improvements shall be done only with the consultation of The Ministry of Natural Resources and Forestry (MNRF) and the Municipality.

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**Application File No's.:** B23-16 and B24-16 **No. of Members Present:** 10  
**Date of Decision:** November 29, 2016  
**Location of Property:** Part Lot 20, East Range, Including Parts 1 to 4, Plan 31R-3972, Township of Gordon, Municipality of Gordon/Barrie Island, District of Manitoulin

### DECISION

The purpose of this application made under Section 53(1) of the Planning Act by The Town of Gore Bay is to provide for the creation of a Two (2) new lots for Rural Residential uses.

File No. B23-16 proposes a new lot, surveyed as Part 2, Plan 31R-3972, having a minimum frontage of 30.5 M. on Lighthouse Road, a maintained municipal road, and an average depth of  $\pm 108.6$  M., thereby containing a minimum area of  $\pm 3,038$  Sq. M. There are no structures on this land.

File No. B24-16 proposes a new lot, surveyed as Part 3, Plan 31R-3972, having a minimum frontage of 30.5 M. on Lighthouse Road, a maintained municipal road, and an average depth of  $\pm 107$  M., thereby containing a minimum area of  $\pm 3,038$  Sq. M. There are no structures on this land.

The land to be retained (which includes Parts 1 and 4, Plan 31R-3972), has a frontage of  $\pm 145.8$  M. on Lighthouse Road, a maintained municipal road, and an average depth of  $\pm 175$  M., thereby containing an area of  $\pm 2.9$  Hec. The Town of Gore Bay's Water Treatment Plant is located within this land.

Access is via Lighthouse Road, a maintained municipal road. Parts 5 and 6, Plan 31R-3972, a  $\pm 10$  M. X  $\pm 61$  M. strip of land along the west boundary of Lighthouse Road, has been conveyed to the Municipality of Gordon/Barrie Island, as recommended by the environmental site assessment.

Services consist of municipal water and sewers.

The subject land has been designated Rural and Shoreline Development Districts and zoned Shoreline Residential (SR). By-law No. 87-03 permits by Special Provision No. 8.5, single family detached dwellings within Lot 20, East Range, in the Township of Gordon. According to the application, rural residential uses are proposed for the two new lots.

According to the application the property was acquired by the Town of Gore Bay in 1904. Prior to 1950 a portion was used as a municipal dump site. In addition a portion of the land has been used as a municipal gravel pit. The Town of Gore Bay conducted a Phase One and a Phase Two Environmental Site Assessment (ESA) in 2014 for a portion of the land and received a Record of Site Condition (RSC) for Parts 2 and 3, Plan 31R-3972.

The RSC, #216147, accompanied the application and Mark McCalla, EXP Services Inc., states in part:

*'As of 2014/05/05, in my opinion, based on the phase one environmental site assessment and the phase two environmental site assessment, and any confirmatory sampling, there is no evidence of any contaminants in the soil, ground water or sediment on, in or under the RSC property that would interfere with the type of property use to which the RSC property will be put, as specified in the RSC.'*

The Provincial Policy Statement (PPS) 2014 under Section 3.2 - Human-Made Hazards states:

*'3.2.2 Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed uses such that there will be no adverse effects.'*

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

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

This application was circulated on November 10, 2016 to the Municipality of Gordon/Barrie Island, the Town of Gore Bay, 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.

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Application File No's. B23-16 and B24-16 - continued  
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A letter of concern was received from Mavis and Terry Noble, dated November 18, 2016 as follows:

*'We received notice there is an application to the Manitoulin Planning Board requesting permission to sever 2 lots from the same lot the Water Treatment Plant is at Lighthouse Road in the Township of Gordon/Barrie Island, District of Manitoulin.'*

*'We have noticed that the 2 mentioned lots to be severed only have 100 foot (30.5 m) frontage on the front (east side) facing the water.'*

*There are 4 lots to the north of the above mentioned property which all have 150 foot frontage. When these 4 lots were severed, there was a requirement to have a minimum of 150 foot frontage. In our opinion this makes it more attractive when developing this area. Has this requirement been changed?*

*When we contacted the Township of Gordon/Barrie island to verify this, we did not receive the answer to our question. The supervisor was busy and we were advised to go and see the Building Inspector Dan Osborne to get this information. We attended at his place of employment and he was not there.*

*We would be interested in knowing if this is in fact correct, and if so, why are the narrower lots being allowed? There appears to be enough room on the existing property for these lots to have 150 foot frontage. We believe this would be a much better decision by the Manitoulin Planning Board.*

*Would you please relay our comments in this letter to the Manitoulin Planning Board prior to any decision made on November 24. Thank you.'*

The Deputy Secretary-Treasure called and spoke to Mrs. Noble and explained that Zoning By-law No. 492 for the Municipality of Gordon/Barrie Island permits a minimum lot size of 30.5 metres frontage and a minimum area 3,038 Sq. M. if the lot is serviced by communal water. The two (2) lots proposed do meet this criteria. Mrs. Noble did not advise of any further concerns.

A copy of this letter was sent via email together with a copy of Schedule "A" Performance Chart for the Municipality to Ron Lane, agent for the application, Carrie Lewis, Clerk for the Municipality of Gordon/Barrie Island, Dan Osborne, Chief Building Official for the Municipality of Gordon/Barrie Island, and Annette Clarke, Clerk for the Town of Gore Bay.

The Clerk for the Municipality of Gordon/Barrie Island advised that Council has not met on this application and will not do so until December 13<sup>th</sup>, 2016. However it was recommended that consent be granted with no specific conditions.

The Clerk for the Town of Gore Bay did not provide any comments or concerns and did not request additional time to do so.

There were no other inquiries or concerns received as a result of circulation to property owners or the posting of the notice.

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

There was discussion if Parts 5 and 6, Plan 31R-3972 would be used as road access and if the land would be taken into the Municipality's Road Inventory.

Board member, Lee Hayden, advised that this strip of land was to be used for road access and that he would investigate on how it becomes part of the Municipality's Road Inventory. He also advised that he did not feel his Council would have any concerns with 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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December 05, 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;
- ii) proof that any portion of a travelled road, which is maintained by the Municipality, that encroaches on the subject land, has been surveyed and conveyed to the Municipality 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.

Note: Planning Board would like to receive confirmation that Parts 5 and 6, Plan 31R-3972 have been taken into the Municipality of Gordon/Barrie Island's Road Inventory.

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Application File No.: B25-16 No. of Members Present: 10  
Date of Decision: November 29, 2016  
Location of Property: Lot 23, Conc. I, and Lots 21 to 25, Conc. II, 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 Grenville Phillips is to provide for the technical severance of Lot 23, Conc. I, having a frontage of ±402 M. on the travelling non-maintained 12<sup>th</sup> concession, and a depth ±1,006 M., thereby containing an area of ±40 Hec. There are no structures on this land.

The land to be retained, consisting of Lots 21 to 25, Conc. II, has a frontage of ±1,006 M. on the travelling non-maintained 20<sup>th</sup> side road, and a depth ±2,010 M., thereby containing an area of ±200 Hec. According to the applicant there are no structures on this land.

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

Access is from the travelling non-maintained 12<sup>th</sup> concession for the severed land and the travelling non-maintained 20<sup>th</sup> side road for the retained land.

The subject land has been designated Rural District and zoned Rural (R) and Conservation (02). Pasture/recreational uses are proposed to continue.

A potential Wildland Fire Hazard was identified within the subject land.

The Provincial Policy Statement (PPS) 2014 states under Section 3.1.8:

*'Development shall generally be directed to area outside of lands that are unsafe for development due to the presence of hazardous forest types for wildland fire.'*

*'Development may however be permitted in lands with hazardous forest types for wildland fire where the risk is mitigated in accordance with wildland fire assessment and mitigation standards.'*

Due to the size of the proposed lots and the imagery available, which identifies the areas of tree cover and a wet area within the severed land, it appears there would be a building envelope within the subject lands, outside the area of influence, that would conform to the Natural Heritage Policies of the Provincial Policy Statement (PPS) 2014.

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

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

The application was circulated on November 10, 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 Clerk for the Municipality advised consent be granted with no specific conditions and of Resolution No. 268-11-16 as follows:

*'RESOLVED THAT the Council of the Town of Northeastern Manitoulin and the Islands has no comment or concern with the application for consent as applied for by Grenville Phillips, Lot 23 Con 1 and Lots 21 to 25 Concession 2.....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.

Grenville Phillips, land owner, and his neighbour, David Marshall, were in attendance during consideration of the application. Mr. Marshall stated that gravel had recently been added to the 12 concession, which has improved the access. He also stated that survey stakes had been planted identifying the lot corners of the proposed severed land.

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There was discussion regarding the potential Wildland Fire Hazard identified, the mapping available, and building restrictions that may apply, and in consideration of the information available the general consensus of the Board was that they had adequate information to make a decision on 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.

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 for the proposed severed land and retained land to the maintained municipal road(s) known as Townline Road and/or 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's.: B26-16, B27-16 and B28-16 No. of Members Present: 10  
Date of Decision: November 29, 2016  
Location of Property: Part of Island T.P. 1701, Lot 1, PCL 486, McGregor Bay of Lake Huron, 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 James R. and Linda D. Ferguson is to provide for the creation of three (3) new lots for seasonal residential uses.

File No. B26-16 proposes to create a new lot having frontages of  $\pm 165$  M. and  $\pm 77$  M. on McGregor Bay of Lake Huron and an average depth of  $\pm 41.5$  M., thereby containing an area of  $\pm 0.68$  Hec.

File No. B27-16 proposes to create a new lot having a frontage of  $\pm 92.5$  M. on McGregor Bay of Lake Huron and an average depth of  $\pm 57.8$  M., thereby containing an area of  $\pm 0.54$  Hec.

File No. B28-16 proposes to create a new lot having a frontage of  $\pm 230$  M. on McGregor Bay of Lake Huron and a depth of  $\pm 43$  M., thereby containing an area of  $\pm 0.67$  Hec.

There are no structures on the three new proposed lots.

The land to be retained consists of the remainder of Lot 1, Island T.P. 1701 having a frontage of  $\pm 335$  M. on McGregor Bay of Lake Huron, a depth of  $\pm 104.6$  M., and containing an area of  $\pm 0.81$  Hec. The applicants' seasonal dwelling and boathouse are located within this land.

Water access is available from J & G Marina and Still Water Marina at Birch Island, Ontario.

Services consist of water from Lake Huron and private individual sewage disposal system and the same if proposed for the three (3) new lots.

The Sudbury and District Health Unit have advised they have no concerns and that the proposed severed and retained lots are capable of development for installation of a septic tank and leaching bed system.

The subject land has been designated Shoreline Area in the Official Plan for the Town of Northeastern Manitoulin and the Islands and zoned Shoreline Residential (SR). Seasonal residential uses are proposed to continue.

Zoning By-law No. 2002-32 for the Town of Northeastern Manitoulin and the Islands under:

*'Section 8 - Special Provisions*

*8.2 - Setback From Lake Huron*

*Notwithstanding any other provisions of this By-law, no new habitable structures shall be constructed below the 178.3 metre contour adjacent to Lake Huron unless the setback from the shoreline is a minimum of sixty-one (61) metres and the structure is flood proofed to the 179.6 metre contour. For the purposes of this By-law, a flood-proofed structure is that which has no opening below the minimum elevation of 179.6 metres, Canadian Geodetic Datum.'*

*'Section 6 - General Provision - All Zones*

*6.5 - Building on Lake Huron Shoreline*

*No person shall erect any habitable building or structure in any zone abutting Lake Huron shoreline below one hundred and seventy eight and three-tenths (178.3) metres Canadian Geodetic Datum unless:*

- a) the building or structure is located at least 61 metres from the High Water Mark; and*
- b) the building or structure is flood-proofed to 179.6 metres Canadian Geodetic Datum'*

During discussion of the application with Gordon Keatley, agent for the application, it was explained that from information available the proposed severed land for File No. B26-16 appears to be low lying and may be below the 178.3 metre elevation contour, which could restrict a building site/building permit, and that an elevation report may be required as a condition of consent approval, confirming a building site above the flood elevation.

There is crown land and a proposed Provincial Park (Killarney Coast and Islands Proposed Provincial Park) identified within 120 metres of Island T.P. 1701. There are no Official Plan Policies restricting development near a Provincial park within private lands in the McGregor Bay Area.

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Application File No's. B26-16, B27-16 and B28-16 - continued  
December 05, 2016

The Provincial Policy Statement (PPS) 2014 states in part, under Section 1.5 - Public Spaces, Parks, Trails and Open Space:

*'1.5.1 d) Healthy, active communities should be promoted by: recognizing provincial parks, conservation reserves, and other protected areas, and minimizing negative impacts on these areas.'*

The Ministry of Natural Resources and Forestry (MNR) were consulted for technical advice regarding development within 120 metres of the proposed park.

MNR did not provide any specific comments about the development near the proposed Provincial Park. The subject land is under private ownership and the development of three (3) new lots could be considered to have no impact on the Proposed Provincial Park.

Eric Cobb, District Planner, MNR, provided the following comments via e-mail on November 9<sup>th</sup>, 2016:

*'Although no known fish habitat is mapped in the location of the subject land, the property is adjacent to the waters of McGregor Bay, which does contain fish communities and that also supports a recreational and commercial fishery on Lake Huron/Georgian Bay. Section 11.3 of the Natural Heritage Reference Manual recommends that where no detailed fish habitat mapping has been completed, all water bodies should be considered fish habitat, unless studies demonstrate otherwise.'*

*'Policy #2 in Section D.2.3 of the adopted NEMI Official Plan does not generally permit development or site alteration within 30 metres of fish habitat. This set-back aligns with the recommended minimum distance in Table 11-3 of the Natural Reference Manual. For this application, Sudbury MNR recommends that a naturally vegetated setback applied to subsequent development that may result after severance, measured from the high-water mark, should be adequate to address potential impacts without the need for additional fish habitat assessments.'*

The Values Mapping for the Ministry of Natural Resources was established and provided to the Manitoulin Planning Board in 1998 identifying significant areas that require protection. There was fish habitat identified in the general area of Island T.P. 1701, however not within 120 metres. This mapping was transferred and is identified on the current Geographic Information System (GIS).

From information available the subject proposal does not appear to have any species at risk (SAR) concerns as it is considered that there is detailed mapping available and the Planning Authority/Planning Board could be satisfied that there are no SAR concerns.

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

The application was circulated on November 10, 2016 to the Town of Northeastern Manitoulin and the Islands, and all property owners within 400 metres. The Public Notice, as required by Ontario Regulation 197/96, was posted on the Island, and at J & G Marina & Still Water Marina, Birch Island, Ontario.

The Clerk for the Municipality advised consent be granted with no specific conditions and of Resolution No. 269-11-16 as follows:

*'RESOLVED THAT the Council of the Town of Northeastern Manitoulin and the Islands has no comment or concern with the application for consent as applied for by Jim and Linda Ferguson, Island TP 1701.....carried.'*

There have been no inquiries or concerns received as a result of circulation to property owners within 400 metres or by the posting of a notices.

Gordon Keatley, agent for the application was present during consideration of the application.

During discussion of the application it was explained that a zoning amendment or a Site Plan Agreement between the Municipality and the land owner could address the 30 metre setback buffer at the time of the building permit(s) which could mitigate the concerns of MNR and conform to the Official Plan.

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Application File No's. B26-16, B27-16 and B28-16 - continued  
December 05, 2016

The general consensus of the Board was that the mapping used on the current Geographic Information System (GIS) is derived from detailed mapping and there would be no Species at Risk (SAR) concerns.

**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.

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) a copy of an elevation report for the proposed severed land, File No. B26-16, identifying the 178.3 metre elevation contour;
- iii) proof satisfactory to Planning Board that all minimum yard requirements, resulting from the new lot line, for the existing structures conform to Zoning By-law No. 2002-32; i.e. written verification from the Ontario Land Surveyor or Chief Building Officer for the Municipality;
- iv) a fee of \$100.00 for each Transfer of Land submitted for Certification; and
- v) 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.

Note: Any shoreline improvements shall be done only with the consultation of The Ministry of Natural Resources and Forestry (MNRF).

Note: Further development by the consent procedure will not be considered.

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The time now being 10:02 p.m. and all business before the Board having been dealt with, the Meeting was adjourned on a motion moved by A. Hunt.

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K. E. NOLAND, CHAIR

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E. L. CARTER, SECRETARY-TREASURER

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