

Board Minutes
July 26, 2022 - Continued

Application File No: B19-22 No. of Members Present: 8
Date of Decision: July 26, 2022
Location of Property: Lot 3 and the West Half of Lot 4, Conc. 2, Township of
Carnarvon, Municipality of Central Manitoulin, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by David Thompson on behalf of Sylvain and Rejean Gravel is to provide for a lot addition having a width of ± 45 M. and an irregular length of ± 45 M., thereby containing an area of ± 1200 Sq. M. (0.12 Hec.). This lot addition is to be added to vacant lot to the east, being the easterly half of Lot 4, Conc. 2, excepting Part 1, Plan 31R-1703, having a frontage of ± 102 M. on Learmont Road, a maintained municipal road, and a depth of $\pm 1,006$ M., and containing an area of ± 18.6 Hec. This lot addition will permit the location of a new access/driveway that will conform to the municipal guidelines regarding site lines. This lot addition will result in the lot having a frontage of ± 147.4 M. on Learmont Road, a maintained municipal road, and a depth of $\pm 1,006$ M., thereby having an total area of ± 18.7 Hec.

The land to be retained, located at #236 Learmont Road, will have a frontage of ± 558 M. on Learmont Road, a maintained municipal road, and a depth of $\pm 1,006$ M., thereby containing an area of ± 59.9 Hec. The applicants' dwelling and accessory garage and shed are located within this land.

The subject land has been designated as Rural Area and zoned Rural (R). According to the application residential uses are proposed to continue.

According to the agent for the application, there is an old life interest registered on title for Lot 3, Conc. 2 which will need to be removed as it was granted 40 years ago and appears to have been missed by the lawyer acting on prior transfers.

Access is via an existing entrance at #236 Learmont Road. A new entrance will be required for the lot being granted the lot addition.

According to the application services consist of a privy and water hauled from Lake Mindemoya. There are no new services required as a result of this application for lot addition.

From information available, the subject land 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) 2020.

There is a drain, known as the Campbell Line Drain, traversing the westerly half of Lot 4, Conc. 2.

This application was circulated on July 7th, 2022 to the Municipality of Central Manitoulin, Bell Canada, 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 recommend that Consent be granted and provided the following comments, via letter, dated July 12th, 2022:

' Re: B19-22

As part of the conditions of consent on the above noted application, Section 65 of the Drainage Act may apply.'

Mary McCartney, Bell Canada, advised via email on July 25th, 2022 that Bell Canada does not have any comments or concerns regarding this application.

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

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

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Consent is tentatively granted subject to the following conditions:

The following documents must be submitted to the Secretary-Treasurer of the Board within two years 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 and 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 the new resulting Property Identification Number (PIN) will be provided to the Manitoulin Planning Board;
- iii) a written confirmation from a solicitor that the parcel/recipient of the lot addition has been removed from title, prior to the registration of the new transfer;
- iv) a written confirmation from the municipality that an entrance permit can be or has been issued for the severed land, satisfactory to the municipality;
- v) a fee of \$125.00 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: The property may be subject to a reassessment under the Drainage Act and an agreement between the land owner and the municipality may be required.

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Application File No.: B20-22 No. of Members Present: 8
Date of Decision: July 26, 2022
Location of Property: Part Lot 2, Conc. V, Surveyed as Part 3, Plan 31R-1859, Township of Robinson, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by Darren and Sharon Domic is to provide for the creation of a new lot, having a minimum frontage of 46 M. on Beach Road, a maintained municipal road, and an average depth of ± 85.6 M., thereby containing a minimum area of 0.4 Hec. The applicants are proposing to offer this lot for sale for residential uses. There are no structures on this land.

The land to be retained has a frontage of ± 80.8 M. on Beach Road, a maintained road, and an average depth of ± 85.6 M., thereby containing an area of ± 0.93 Hec. There are no structures located within this land.

There have been five (5) previous applications for Consent involving the subject land.

Consent File No's. 04-51C-79-127, 128 and 129 approved by the Ministry of Housing in 1979, provided for the creation of three new lots.

- i) new lot surveyed as Part 1, 31R-1009;
- ii) new lot surveyed as Parts 9 & 11, 31R-1009;
- iii) new lot surveyed as Parts 8 & 14, 31R-1009; resulting in Part 12, 31R-1009 being the retained land.

Consent File No. B58-88, approved by the Manitoulin Planning Board, created one new lot and provided for two lot additions/lot line adjustments.

- i) new lot surveyed as Part 2, Plan 31R-1859;
- ii) Part 1, 31R-1859 was added to Part 13, 31R-1009; and
- iii) Parts 3 & 4 31R-1859 & Part 8, 31R-1009 were added to Part 12, 31R-1009;

File No. B23-21 provided for the creation of a new lot, surveyed as Part 3, Plan 31R-1859, which is the land subject to this current application.

This application was circulated on May 17th, 2022 to the United Chiefs and Councils of Mnidoo Mnising (UCCMM), and to the Wiikwemkoong Unceded Territory as per Official Plan Policy F.5 - Consultation and Engagement.

Saul Bombery, UCCMM, advised via email on May 19th, 2022 that he reviewed the application and has no comments to submit at this time.

The Wiikwemkoong Unceded Territory have not responded or requested additional time to do so.

The subject land has been designated Shoreline Area and zoned Shoreline Residential (SR). According to the application seasonal residential uses are proposed.

Services will consist of a private individual septic system and private well or water from Lake Huron. The Public Health Sudbury and District advised they have no concerns and that it appears that the proposed severed and retained lots are capable of development for installation of a septic tank and leaching bed system.

There is a hydro line traversing the subject land and Hydro One was circulated as part of the preliminary review. S. Salt advised via email on May 19th, 2022 that:

- ' - Hydro One has an unregistered easement across the property;
- that Hydro One owns the poles;
- If building dwelling/septic system take place on the property it must comply with the proper setbacks from the Hydro line; and
- and if the property owner requests the line be relocated the property owner will be responsible for the relocation costs as per the Hydro One Provincial Line Relocation Costing Procedures.'

The Hydro One comments were provided to the applicants, via email, on June 2nd, 2022.

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From information available, the proposed severed and retained land is above the 180 flood contour.

Access for the severed and the retained parcels will be from Beach Road, which is maintained by the Robinson Local Roads Board.

From information available, the subject land 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) 2020.

The application was circulated on July 7th, 2022 to Bell Canada, the Robinson Local Roads Board 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.

Mary McCartney, Bell Canada, advised via email on July 25th, 2022, that Bell Canada has no concerns regarding the application.

The Secretary-Treasurer for the Robinson Local Roads Board (RLRB) advised, via email on July 25th, 2022, that they recommend Consent to Sever be granted and that the RLRB wishes to advise the existing owner and any prospective buyers that they must consult the Local Roads Board (contact Mr. Eric Thiessen, Chair) regarding placement of a driveway entrance off Beach Road, and if required, the placement of a culvert, prior to any work being done. The RLRB also wishes to advise the property owner that digging up the township road is strictly prohibited.

The applicants were provided with the comments received from the RLRB.

During a site visit to the property on July 19th, 2022, conducted by staff member, J. Diebolt, he observed a new driveway, a travel trailer with a deck/platform and a privy located within the subject land. There have been no Zoning Conformity permits issued or a civic address number assigned to the property. Mr. Diebolt followed up with an email to the landowners on July 20th, 2022 as follows:

' Hello Mr. Domic,

During a site inspection of your property of Part Lot 2 Concession V, Being Part 3 Plan 31R-1859, Township of Robinson, in support of your application for consent to sever, file No. B20-22, I noted a new driveway, travel trailer, and privy on the southern portion of the property.

Travel trailers are not a permitted use in the Shoreline Residential zone under by-law 96-01. Accessory structures such as privies must be accessory to a primary structure (i.e. a dwelling) in order to conform to the by-law.

You must obtain a Letter of Conformity from the Manitoulin Planning Board before beginning any construction in the unorganized township of Robinson— this letter serves as confirmation that your proposed structures and uses conform to zoning by-law 96-01. Currently, there have been no Letters of Conformity issued on your property.

Therefore, the property is not in conformity with zoning by-law 96-01.

The trailer must be removed so that the property will conform to the zoning by-law. Additionally, the privy must either be removed, or a primary structure meeting the minimum standards in the by-law be constructed for it to be accessory to. Before beginning any further construction, you must obtain a Letter of Conformity from our office that includes all structures on the subject land.

Please contact this office as soon as possible to obtain an application for Letter of Conformity and begin the process of correcting these violations of the zoning by-law. '

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The Secretary-Treasurer provided Mr. and Mrs. Domic with an Application for Amendment to Zoning By-law No. 96-01 and an Application for Zoning Conformity Permit, via email, on July 22nd, 2022, as per their request.

The following letter was received from Mr. and Mrs. Domic on July 25th, 2022:

' To the Manitoulin Planning Board,

We are writing to you today in regards to recent events that has brought light to our current situation. In December 2021 we purchased the property known as 2 Beach Road in Robinson Township. The intention is to complete the build independently for our future retirement. In the beginning of our planning stages, we reviewed by-law No.96-01. We were under the impression from item 20 "Temporary Uses Permitted" that our travel trailer could be used as our sleeping/eating quarters while construction is being completed. The privy was temporarily installed due to medical conditions and when we are not present acts as tool storage. Due to increase in travel costs, the travel back and forth to Sudbury daily is not feasible and would be a financial burden. These structures were never intended to be permanent and would be removed once construction is completed. Since the visit from the GIS technician, we have a better understanding of the process we misunderstood. We have filed an application for amendment to by law No. 96-01 and paid applicable fees, in hopes that you will grant us permission to leave our travel trailer while we build our forever home.

*Thank you for your time and consideration.
Sincerely, Darren & Sharon Domik'*

The Secretary-Treasurer informed the Board that an Amendment Application to permit their travel trailer as a 'Temporary Use' for up to three years as well as an Application for Zoning Conformity Permit to construct a dwelling and accessory structures has been submitted to the Planning Board Office by agent, Gail Hunter, for review.

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

In consideration of the information presented, the Planning Board were in agreement to support an Amendment Application to permit the travel trailer with platform, and the privy to be located within the property for up to three years, while construction of their dwelling is completed.

During consideration of the application, the Board discussed the number of lots that have been created from the original parcel of land and were in agreement to add a note to the Decision regarding further development.

Mr. and Mrs. Domic, land owners, and Gail Hunter were in attendance during consideration of the application.

There was no one else 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 two years 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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Accompanying the transfer documents shall be:

- i) a reference plan of survey, which bears the Land Registry Office registration number as evidence of its deposit therein, illustrating the parcel(s) to which the consent to sever approval relates;
- ii) a written confirmation from the Robinson Local Roads Board (LRB) that the location of the new entrance from Beach Road for the retained land has been or can be obtained, satisfactory to the Robinson LRB;
- iii) a written confirmation from the Robinson Local Roads Board (LRB) that a civic address number has been assigned and that a sign has been posted on the retained land, satisfactory to the Planning Board;
- iv) a fee of \$125.00 for each Transfer of Land submitted for Certification; and
- v) proof satisfactory to Planning Board that there are no outstanding taxes for the severed and the retained land.

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) , the Department of Oceans and Fisheries of Canada, (DFO) and the Municipality.

Note: Further development by the consent procedure for the subject lands may not be considered.

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Application File No.: B21-22 **No. of Members Present:** 8
Date of Decision: July 26, 2022
Location of Property: Part Lot 5 and Lots 6 and 7, Conc. 2, and Part Lot 5, Conc. 1, including Parts 1 and 2, Plan 31R2197 and Part 1, Plan 31R-4215, Township of Assiginack, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by Matthew Shoemaker on behalf of the Estate of Dennis Quackenbush is to provide for the creation of a new lot having a frontage of ± 68.7 M. on Hwy No. 6, a provincially maintained highway and an average depth of 612 M., thereby containing an area of ± 25.2 Hec. There are no structures on this land. This land is to be conveyed to Tom Quackenbush.

The retained land, located at #18261 Hwy 6, has frontages ± 505.3 M. on Hwy 6, a provincially maintained highway, and ± 644.8 M. on the non-maintained/unopened municipal allowance between Concession 1 and 2, and an irregular depth of ± 1178 M. thereby containing an area of ± 92.3 Hec. According to the application, there is a dwelling, garage and a shed located within this land. According to the application, the shed is to be removed.

The Secretary-Treasurer explained that the application was first received in August 2019. Corrections were made and the corrected application was circulated to the Ontario Ministry of Transportation on December 05, 2019. Following consultation with the Ontario Ministry of Transportation (MTO), as part of the preliminary review, MTO did not support the application with access for the proposed severed land via right-of-way over Part 2, 31R-2197 to Hwy 6. Many emails were exchanged between the Planning Board Office, the Ontario Ministry of Transportation, and Wishart Law Firm who is acting for the application, since December 2019. The application was amended several times to provide for the creation of a new lot, having direct access to Hwy 6 rather than via private right-of-way to Hwy 6. The amended application with sketch and accompanying documentation was received and the application was considered complete and put into formal circulation on July 8th, 2022.

Access will be via Hwy 6, a provincially maintained Highway for both the severed and the retained land.

The following email was sent to Brent Quackenbush (Estate Trustee) and copied to the Planning Board Office, from Carla Riche, MTO, on July 16, 2020:

' Good morning Brent,

This email is in follow up to your call last week and in continuation of discussions on your property and proposed severance.

Following re-review of the proposal and consideration of the additional information provided, the ministry unfortunately remains unable to support the severance as proposed. The ministry remains unable to support a severance that creates a backlot or an easement to support backlot access to provincial highways. Current MTO policy does not allow for newly created backlots to have direct highway access. Unfortunately, the use of a lease to cross third party property to allow for highway access is not a secure or permanent option. As such the use of a lease is unable to mitigate the ministry's concerns and is not a viable option under the policy of the day.

There are however several alternative options you may wish to consider should you wish to continue moving forward with a severance of the property. These options do not create a back lot property and allow for legal access. The first option includes opening a municipal (township) road allowance to allow for indirect access, the second requires a significant modification of the proposed boundaries to allow for direct highway access, and the third option is to merge the proposed severed portion with the separate western parcel currently under the same ownership allowing for direct highway access.'

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Email from C. Riche, MTO - July 16, 2020 - Continued

' Should you wish to continue moving forward with a severance of the property the following alternative options remain available for continued discussions with the ministry:

Alternative 1:

The ministry would be willing to continue discussions on opening the unopened road allowance over the township owned lands to allow for access to the east or the west.

Opening the road would allow for indirect access to the highway. It must be noted that any new access to the properties with frontage along the new road would not be permitted direct highway access even if the property has highway frontage, i.e. the retained portion would also be required to access via the new road. In addition the township and all related parties must understand that the MTO and any local roads boards will not take on any responsibility for or costs associated with the new road.

Alternative 2:

The ministry would be willing to discuss significant modification of the proposed boundaries to allow for direct highway access to both the severed and retained parcels. The ministry would not consider minor boundary modifications which would create a sliver of property along the municipal owned property but would will be open to discussion on a significant modification of the proposed boundaries that allowed for direct highway frontage.

Alternative 3:

The ministry would be willing to discuss the possibility of merging the proposed severed portion and the separate western parcel currently under the same ownership, however, this option requires the purchase of a portion of the third party/ township owned property which divides the two. Please note that this alternative option requires the purchase of part of the property currently separating the two however the owner of the third party owned parcel is under no obligation to sell. Further, the ministry will not be involved in any way in such a purchase. This option would result in a single lot with direct highway frontage.

If you would like to discuss these options further or have any questions on the above please contact me.'

The following comments were sent to Jean Bright, Wishart Law Firm, and copied to the Planning Board Office from Laurel Muldoon, MTO, on February 23rd, 2022:

' Hello Jean,

I apologize for the delay. I have reviewed the last correspondence that was submitted to you on March 18th, 2021 by Carla Riche outlining the conditions to be met. I have reviewed the documentation that has been submitted:

*Plan31R-2197 Purchased
Plan31R-2197*

I can confirm that the documents submitted meet MTO's conditions. Please have the application apply for an entrance permit as Carla has previously directed. Applications can be made online at: <https://www.hcms.mto.gov.on.ca/>. In addition, the applicant will require a building and land use permit for any structure/building located within 45 meters of MTO's right-of-way or 180 meters of an intersection. Please see below for more information:

- 1. Building and Land Use Permit application form for all buildings, structures and entrances. Please follow the link below and complete the application form online. <https://www.hcms.mto.gov.on.ca/>*
- 2. All buildings and structures and all internal, private and municipal, roadways must be setback at least 14 metres from the highway property limit.*
- 3. Detailed site plans, to scale, showing setbacks of parking areas, grading and drainage plans, new or alterations to buildings, structures, wells, septic systems, exterior illumination, landscaping (including plantings), and fencing.*
- 4. MTO will not issue any permits for blasting or foundation works prior to the review and approval of a stormwater management plan / report.*
- 5. The MTO endeavours to coordinate permit review processes with the municipality's site plan review and building permit process. The municipality cannot issue building permits until the MTO has issued building and land use permits.*
- 6. Proof of ownership (i.e. copy of deed/tax bill) and confirmation of zoning from the municipality. The property must be zoned appropriately for the proposed use.*
- 7. Payment of the appropriate fee prior to final issuance of the permit.*

Please let me know if you have any questions, '

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A copy of the land transfer/deed (MD25670) for the conveyance of part of the municipal road allowance between Concession 1 and Concession 2 surveyed as Part 1, Plan 31R-4215, from the Municipality to Tom Quackenbush and a copy of the land transfer/deed (MD25746) for the conveyance from Tom Quackenbush to Brent Quackenbush (Estate Trustee), accompanied the application.

Services consist of private individual sewage disposal system and private well for the retained land. Services will consist of private individual sewage disposal system and private well for the severed land, when required.

The subject land has been designated Rural Area and zoned Rural (R). There are no land use changes proposed at this time.

Official Plan Policy under C.5 - Rural Areas - under C.5.2.2. states:

'Development in Rural Areas will be subject to policies of Section E.2.'

Official Plan Policy E.2.3. - PRIVATE WATER AND SEWAGE SERVICES - under 6. states;

'Potable water for new development will be provided in accordance with the Province's guidelines.'

The Provincial D-5-5 Guidelines require a minimum flow rate of 13.7 litres/per minute of potable water to be available for a permanent (year round) residential use.

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

The Provincial Policy Statement (PPS) 2020 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.'

Satellite imagery (2021) identifies the areas of tree cover within the subject land. It appears there would be building envelopes outside the area of influence, for the proposed new lot that would conform to the Natural Heritage Policies of the Provincial Policy Statement (PPS) 2020.

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

This proposal is considered to be in conformity with the Provincial Policy Statement 2020.

The application was circulated on July 8th, 2022 to the Township of Assiginack, the abutting Township of Tehkummah, Bell Canada, 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 of Assiginack recommends that Consent to be granted with no specific conditions.

The Township of Tehkummah have not provided any comments or concerns or requested additional time to do so.

Mary McCartney, Bell Canada, advised via email on July 26th, 2022, that Bell Canada does not have any comments or concerns regarding this application.

There have been two letters of concern received as a result of circulation of the Public Notice and/or the posting of signage.

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The following email was received from Mr. and Mrs. Spencer, landowners of Lots 3 & 4, Conc. IX and Lot 4, Conc. 2:

' Good Afternoon Theresa,

This is a request for Jack (John) and Coral Spencer to be in attendance for the Manitoulin Planning Board meeting slated for the 26th day of July 2022.

My wife and I are Property owners located immediately West of the said Property. I would like to bring forth a couple of comments for the planning board to consider prior to the Severance of Lot 4, Concession 2 in the Township of Assiginack..'

- 1) The said property Part 1, Plan 31R-2197, South half of Lot 4, Concession 2, I believe is currently subject to a R.O.W. to provide access to the North half of the said Lot. I also believe this subject R.O.W. again is applied to the North half of this Lot 5. My concern is would Part 1, Plan 31R-4215 plus Part 2, Plan 31R-2197 also be subject to the same R.O.W. I have spoken to the previous owner Arnold Lougheed of Lots 5 & 6 Concession 1, he stated to me his properties at that time had no mention of an R.O.W. in place.*
- 2) Being neighbours to the West we currently have individuals travelling thru our lot seeking a route from the Concession line between the Townships of Assiginack and Sandfield to Hwy No. 6. These individuals leave the Concession line as the trail gets very rough for wheeled vehicles from the North end of our lot to the North end of neighboring Lot 3 to the West. We often have to turn quads around and redirect them through the subject Parcels. We also on occasion have travelled through these Lots to visit our neighbour at the time Arnold Lougheed.*
- 3) Part 1, Plan 31R-4215 was original part of the 66' easement between Concession 1 and Concession 2, I am surprised to see that this 21.12 m x 21.12 m Parcel had been severed off. I would like to know when this occurred and reasoning, if possible.*

We would be very interested being notified in the Decision of the Manitoulin Planning Board for this matter. Could you please confirm receipt of the email.

Thank you. Jack (John) & Coral Spencer'

The Secretary-Treasurer provided the following email responses:

1. *' Good Morning Mr. Spencer,*

The subject land includes Part of Lot 5, Conc. 2 not Lot 4, Conc. 2.

You are correct. Part 2, Plan 31R-2197 is subject to right-of-way. I have requested a copy of the land transfer/deed from the applicant to determine which properties have legal access through Part 1, Plan 31R-2197.

As the proposed new lot is to include Parts 1 & 2, 31R-2197 and Part 1, 31R-4215 (as one new lot), I suspect the whole new lot would be subject to right-of-way. This is a legal question, that I will confirm. I will let you know what I find out.

Unless your property is subject to right-of-way in favour of others, there would not be a legal access thru your property. What does your land transfer/deed say. Access can be obtained using the municipal road allowance(s) as they are public. You may need to seek legal advice regarding the 'potential trespassing' on your property.

Yes Part 1, 31R-4215 was part of the original municipal allowance. The Municipality was in favour of transferring this small portion to the applicant in order for the new lot to be created with the access from Hwy 6, from Part 2, 31R-2197. This transfer was completed recently; June 2022.

I will add you to our list of participants at our Board Meeting. If you wish to speak to the application, I will send you a "Request to be Heard" form.

I have noted to provide you with a copy of the Decision of Planning Board.

Let me know if you have any questions or need any clarification.'

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2. 'Good afternoon,

As a follow up to my earlier email:

According to the agent for the application, the northerly part of Lot 5, Conc. 2 does have legal deeded right-of-way over the south part of Lot 5, Conc. 2, being Part 1, Plan 31R-2197.

The new lot is to be subject to right-of-way in favour of the north part of Lot 5, Conc. 2, over Parts 1 & 2, 31R-2197 and Part 1, 31R-4215.'

3. 'Good evening Mr. Spencer,

I am preparing this Consent to Sever application for our Board Meeting tomorrow evening, and I have given you some incorrect information.

Your lot will keep the right-of-way over Part Lot 5, Conc. 2, being Part 1, Plan 31R-2197.

Your lot will not have legal right-of-way over Part 1, Plan 31R-4215 or over Part 2, Plan 31R-2197, unless this is specifically stated on your land transfer/deed.

The following letter was received from Stanley Pawlowicz on July 15, 2022:

'I would like to bring to the Boards attention a few issues that could effect my property registered as the north half of Lot 5, Concession 2, Township of Assiginack:

- 1. The North Half of Lot 5 has an unrestricted right of way across all of Lot 5 to gain access to my property. Since I have owned the property (December 19, 1989) this right was fulfilled by accessing the historic Manitowaning to Sandfield Road also known as Mill Road to Highway 6 at Lot 5 and continuing to my property. I have taken the liberty to draw in an approximate route on the map which you have provided, and also included is a copy of my registered deed in support of my statement, for your information. My particular issue is that with all prospective changes that could arise from the severance application, would you please ensure that nothing that negatively impacts my right of access as per the registered deed is the result of any decision the Board would make.*
- 2. The second concern that I wish to rise is that yo in fact the Board could be severing property that in fact may not be owned by the applicant. When you review the copy of the description of the property is "North Half Lot 5, Concession 2, Township of Assiginack, District of Manitoulin". A review of the map you provided clearly shows that the To Be Severed outlined area is considerably larger than the North Parcel. The original representations made by the seller and legal representation stipulated that the lot was to be simply divided into two equal parcels. From the very cursory calculations which I have made, indicate that the North Half Lot is plus or minus 15.06 ha were as the To Be Severed Lot is plus or minus 25.2 ha. You must agree, this is a very significant difference which must be addressed before this application can be finalized.*

I thank you in advance for giving the issues raised above your consideration.'

Mr. Pawlowicz's letter was forwarded on to Matthew Shoemaker, agent for the application, for a written reply.

Mr. Shoemaker provided the following written reply to Mr. Pawlowicz on July 26th, 2022, which was copied to the Planning Board:

'Dear Mr. Pawlowicz,

Thank you for your letter dated July 12, 2022, which I received from Ms. Carlisle on July 18, 2022.

I provide herein the best responses I can provide, as the request for information set out in your letter was not completely clear.

- 1. There exists a right-of-way over all of Lot 5, Concession 2 which is described in instrument RM48657. Part of Lot 5, Concession 2 (being the northern portion) has been owned by Stanley Adolph Pawlowicz since 1989. The property in question being severed is not that property. The property in question is Part of Lot 5, Concession 1, which is further described as Part 2 and 3, on Plan 31R-2197 as well as Part of Lot 5, Concession 2, which is further described as Part 1 on Plan 31R-2197. The right-of-way which exists is all of Lot 5, Concession 2, meaning both the part owned by Mr. Pawlowicz and the part owned by the Quackenbush family, and will remain in place once the Quackenbush property is severed but it runs over the part which is further described as Part 1 on Plan 31R-2197. It does not run over Parts 2 and 3 on Plan 31R-2197 because that is in Concession 1, not Concession 2.'*

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July 26, 2022

Letter from Mr. Shoemaker to Mr. Pawlowicz - Continued

- ' 2. *The "North Half" description in the legal Description is not intended to be an indication that the two 'halves' are equal in size. The North Half of Lot 5 is not owned by the Quackenbush Family and will not be severed by this severance. It is and remains owned by Stanley Adolph Pawlowicz. The parts that will be severed are Part of Lot 5, Concession 1, which is further described as Part 2 and 3 on Plan 31R-2197 as well as Part of Lot 5, Concession 2, which is further described as Part 1 on Plan 31R-2197 as well as Part 1 on Plan 31R-4215, all of which will form a single lot, and all of which are being severed from the North Half of Lot 6, Concession 2 and Lot Number 7, Concession 2.*

I trust this information is satisfactory. Should you require further clarification, please do not hesitate to contact me.'

In consideration of the information presented, the Board discussed the issues raised regarding neighbouring property having or not having legal right-of-way over the proposed new lot. It appears, from the land transfer/deed, RM48657, that the legal right-of-way is only over Part of Lot 5, Conc. 2 being Part 1 on Plan 31R-2197 and not over Lot 5, Conc. 1 being Part 2 on Plan 31R-31R-2197 or over Part 1 on Plan 31R-4215.

Mr. Spencer was in attendance during consideration of the application. He spoke to the application and suggested that the Planning Board when approving the creation of the new lot, include a right-of-way over the whole new lot in favour of others.

Although the Board were sympathetic to Mr. Spencer's concern, it was explained that this could not be done with the current application. The landowners (Quackenbush) would need to be in agreement to this and would need to include provision for this in their application, which is not the case. The Board was in agreement that if there are legal rights-of-way in place over the severed land, they would be included on the new land transfer. It was suggested to Mr. Spencer that he may wish to seek legal advise to establish any access rights.

There was no one else 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 two years from the date of the notice of decision for certification:

- a) the Transfer of Land form, 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(s), which bears the Land Registry Office registration number as evidence of its deposit therein, which illustrates the parcel(s), to which the consent approval relates;
- ii) a written confirmation from the Ontario Ministry of Transportation (MTO) that an entrance permit from Hwy 6 for the severed lot, has been issued or can be issued, satisfactory to the MTO;
- iii) a written confirmation from the Ministry of Transportation (MTO) that a Permit Application for change of ownership for the severed land has been received, satisfactory to the requirements of MTO;
- iv) a fee of \$125.00 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: The Board considers it appropriate for the land transfer/deed for the new lot to include provision to be 'subject to right-of-way' if this is correct and acceptable by the Land Registry Office

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Application File No.: B22-22 No. of Members Present: 8
Date of Decision: July 26, 2022
Location of Property: Lot 12, East Range, excepting Parts 1 to 9, Plan 31R-3088, Parts 1 and 2, Plan 31R-2992, Part 1, Plan 31R-1010, Part 1, Plan 31R-935 and Part 1, Plan 31R-519, Township of Gordon, Within the Town of Gore Bay, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by Jim and Dayle Wright is to provide for the creation of a new lot having a frontage of ±53.5 M. on the non-maintained unopened municipal allowance known as Wright Street, and a depth of ±61.2 M., thereby containing an area of ±3283 Sq. M. (±0.32 Hec.) There are no structures on this proposed new lot. The applicants wish to convey this lot to their daughter for residential uses.

The land to be retained has frontages of ±682 M. on the non-maintained unopened municipal allowance, known as Wright Street, and ±328.6 M. & ±122.4 M. on Hwy 540B, a provincially maintained highway and an irregular depth of ±1127 M., thereby containing an area of ±31.7 Hec. There are no structures on this land

There have been six (6) previous applications for Consent to Sever, involving the subject land. File No. 04-51C-75-1366 created a new lot, surveyed as Part 1, Plan 31R-519; File No. 04-51C-79-630 created a new lot, surveyed as Part 1, Plan 31R-933; File No. B41-80 created a new lot, surveyed as Part 1, Plan 31R-1010; File No. B91-80 created a new lot by severing Lot 11 East Range from Lot 12, East Range; File No. B03-99 provided for an easement for water and sewer services over Parts 1, 2 & 3, 31R-2920 in favour of Lot 5, Conc. IX, Township of Gordon; and File No. B11-01 created a new lot, surveyed as Parts 1 to 9, Plan 31R-3088.

The subject land has been designated as Residential Area and zoned Residential (R1). and Development (D).

Official Plan Policy F.4.4.2 - Consents -states in part:

- ' 1. *A consent should only be considered where a plan of subdivision is deemed to be unnecessary, where the application conforms with the policies of this Plan, is consistent with the Provincial Policy Statement, and the consent will generally not result in the creation of more than three new lots on a lot that existed prior to the date of adoption of this Plan, unless it does not necessitate the creation of a new road, or the extension of municipal services.*
4.
 - a) *It is the preference of the Planning Board and municipality that the lot to be retained and the lot to be severed has frontage on and access to an open, improved public road which is maintained on a year round basis.*
 - b) *Lots will not be created which would create a traffic hazard due to limited sight lines on curves or grades.*
 - c) *Any required road widenings, improvements or extensions to existing rights-of-way may be required as a condition of severance approval.*
5. *The following lot size policies will be used to evaluate consent applications in all designations of this Official Plan, in addition to other provisions of this Plan, which may be applicable to a particular application:*
 - c) *The proposed lots will comply with the provisions of the local Zoning By-law.*

The applicants were advised that their application for the creation of a new lot, would result in a 5th lot being created by the Consent to Sever process. And that the proposed new lot is within a Development (D) Zone and an approved Amendment would be required as a condition of the consent approval to rezone to Residential (R1) Zone.

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July 26, 2022 - Continued

Application File No. B22-22
July 26, 2022 - Continued

The applicants were also advised during the preliminary review of the application, that the new lot would need to have frontage on a maintained municipal street, and that Wright Street would need to be extended, satisfactory to the Town of Gore Bay. It was suggested that they preconsult with the Town of Gore Bay prior to submitting their application, for their support.

The following letter, from the Town of Gore Bay, addressed to Mr. and Mrs. Wright accompanied the application:

' Please be advised that your preliminary request for information regarding your application to sever your lot, Roll # 5126-000-002-354000000, was presented at the last Public Works & Properties meeting held on Tuesday, May 24th, 2022.

The Committee did have concerns regarding the level of standard of the road to be installed. They advise a stipulation to be included stating the road must be to municipal road standards. The Committee also stressed maintenance of the road is to be provided by the Town.

No further concern was mentioned during the meeting. A copy of the Minutes is attached to this letter for your record.'

Services will consist of municipal water and sewers when required. The applicants were advised that water and sewer connections would be required for the proposed severed land, and would need to be installed satisfactory to the municipality and may at their cost.

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 2020.

This application was circulated on July 8th, 2022 to Bell Canada, to the Town of Gore Bay, and to the abutting Municipality of Gordon/Barrie Island, 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.

Charleyne Hall, Bell Canada, advised via email on July 14th, 2022 that Bell Canada has no concerns with Application for Consent B22-22, regarding Lot 12, East Range.

The Town of Gore Bay recommends that Consent to Sever be granted and noted; with the installation of a road the lot will conform to the municipal zoning By-law; hook up to water and sewer will be at the expense of the homeowner as per the town's rate By-law; and they do not wish to apply their 'Cash-in-Lieu' By-law.

The Municipality of Gordon/Barrie Island, the abutting Township, have not provided any comments or concerns and advised that they do not meet again until August 9th, 2022.

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

Lee Hayden, Board Member and Reeve for the Municipality of Gordon/Barrie Island, spoke to the application and advised that he felt their Municipality would have no concerns with the severance application in the Town of Gore Bay.

Dan Osborne, Board Member and Mayor for the Town of Gore Bay, also spoke to the application and advised that the Town of Gore Bay supports the creation of the new lot with the extension of Wright Street.

In consideration that approval of this application will result in a 5th lot being created by Consent to Sever, and new lot creation requiring extension of municipal services, the Board were in agreement to add a note to the Decision regarding further development.

Jim and Dayle Wright, applicants were present during consideration of the Application.

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

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Application File No. B22-22
July 26, 2022 - Continued

Consent is tentatively granted, subject to the following conditions:

The following documents must be submitted to the Secretary-Treasurer of the Board within two years 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 as evidence of its deposit therein, which illustrates the parcel(s), to which the consent approval relates;
- ii) a written confirmation from the municipality that the opening of Wright Street, has been constructed to a standard satisfactory to the Municipal requirements and is travelling by emergency vehicles, satisfactory to the Municipality;
- iii) a written confirmation from the municipality that the severed land is in conformity to the requirements of Zoning By-law No. 80-19 satisfactory to the municipality, i.e frontage on a maintained municipal street;
- iv) a written confirmation from the municipality that water and sewer connections have been or can be installed for the proposed severed land, satisfactory to the municipality;
- v) a written confirmation from the municipality that an entrance permit from the extension of Wright Street, for the severed land has been issued or can be issued, satisfactory to the municipality;
- vi) a copy of an approved amendment to Zoning By-law No. 80-19 rezoning the proposed severed land from Development (D) Zone to Residential (R1) Zone, which is identified as a Part Number(s) on a Plan of Survey;
- vii) a fee of \$125.00 for each Transfer of Land submitted for Certification; and
- viii) 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: Further development by the consent to sever procedure for the subject lands may not be considered.

Note: Board Member, Lee Hayden, supported the application subject to approval by Municipal Council for the Municipality of Gordon/Barrie Island.

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July 26, 2022 - Continued

Application File No's.: B23-22 and B24-22 **No. of Members Present:** 8

Date of Decision: July 26, 2022

Location of Property: Part of Park Lot 1, West Side of Dennis Street, Townplot of Gore Bay, Surveyed as Part 2, Plan 31R-655, Town of Gore Bay, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by Henry and Debra Gilas is to provide for the creation of two (2) new lots to offer for sale for residential uses.

File No. B23-22 proposes to create a new lot having a frontage of ± 24.3 M. on Dennis Street, a maintained municipal Street, and an irregular depth of ± 39 M., thereby containing an area of ± 697 Sq. M. There are no structures on this land.

File No. B24-22 proposes to create a new lot, located at #10 Main Street, having a frontage of ± 17.4 M. on Main Street, a maintained municipal Street, and an average depth of ± 44 M., thereby containing an area of ± 776 Sq. M. There is an existing garage located on this land, which according to the application is to be removed.

The land to be retained has a frontage of ± 21.4 M. on Main Street, a maintained municipal street, and an average depth of ± 37.7 M., thereby containing an area of ± 802 Sq. M. There are no structures on this land.

The subject land, surveyed as Part 2, Plan 31R-665, was created by the Ministry of Housing, by Consent to Sever File No. 51C-41213.

Access is via Main Street and Dennis Street, both maintained Municipal Streets.

The subject land has been designated as Residential Area and zoned Residential (R1).

Services will consist of municipal water and sewers when required.

During the preliminary review of the application, the applicants were advised that the small storage shed located within the proposed severed land would not conform to the Zoning By-law No. 80-19 for Gore Bay, if it was to remain without a dwelling. The applicants did not have any concerns with the garage being removed.

There is a drainage swale identified running east/west through to northerly part of the subject land. The drain is proposed to provide a lot line boundary between the severed and retained land.

Roger Chenard, Public Works Manager for the Town of Gore Bay, advised by email on May 13th, 2022 as follows:

'Earlier today Henry and I met and took some measurements of the areas where the lots are and we agreed to ensure that the buildings should be placed on the lots where there is no interference with the natural drainage ditch that would abut all three properties. The Town is approving that on the basis that nothing else will be required in order to jeopardized the drainage.'

It would appear that there are building envelopes outside the area of influence. 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 2020.

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Application File No's. B23-22 and B24-22 - continued
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The application was circulated on July 11th, 2022 to the Town of Gore Bay, Bell Canada, 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 not returned the questionnaire or requested additional time to provide their comments.

Charleyne Hall, Bell Canada, advised via email on July 14th, 2022 that Bell Canada has no concerns with Application for Consent B23-22, B24-22, regarding 10 Main Street.

There was one inquiry from George Purvis, landowner of property on the south side of Main Street, requesting additional information regarding the application and the drainage. No written concerns have been received.

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.

Dan Osborne, Board Member and Mayor for the Town of Gore Bay spoke to the application and advised that the Town was supportive of the application to create the two new lots, as proposed.

The Secretary-Treasurer asked if the Town had any concerns with the new lots hooking into the municipal water and sewers or obtaining driveways from the Township streets and he advised he is not aware of any concerns.

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 two years 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 as evidence of its deposit therein, illustrating the parcel(s) to which the consent approval relates;
- ii) a written confirmation from the municipality of conformity to the requirements of Zoning By-law No. 80-19 satisfactory to the municipality, i.e removal of the garage;
- iii) a written confirmation from the municipality 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;
- iv) a written confirmation from the municipality that an entrance permit from Dennis Street and from Main Street have been or can be issued, satisfactory to the municipality;

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Application File No's. B23-22 and B24-22 - continued
July 26, 2022

- v) a written confirmation from the municipality that water and sewer connections have been or can be installed for the proposed severed and retained land, satisfactory to the municipality;
- vi) a fee of \$125.00 for each Transfer of Land submitted for Certification; and
- vii) 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: Board Member, D. Osborne supported the application subject to approval by Municipal Council for the Town of Gore Bay.

The time now being 10:12 p.m. and all business before the Board having been dealt with, the Meeting was adjourned on a motion moved by Ian Anderson.

L. HAYDEN, CHAIR


T.A. CARLISLE, SECRETARY-TREASURER