



April 24, 2024

**MINUTES OF PLANNING BOARD MEETING - April 23<sup>rd</sup>, 2024**

At a Meeting of the Manitoulin Planning Board held at the Planning Board Office, Gore Bay, Ontario, on Tuesday, April 23<sup>rd</sup>, 2024, the following Members of Planning Board were present:

- |    |              |    |             |
|----|--------------|----|-------------|
| 1. | L. Hayden    | 6. | K. Noland   |
| 2. | D. Osborne   | 7. | R. Stephens |
| 3. | T. Mackinlay | 8. | B. Barker   |
| 4. | J. DeForge   | 9. | D. McDowell |
| 5. | D. Head      |    |             |

Regrets: L. Chappell

Also in attendance for the meeting were:

T. Sasvari, reporter, Manitoulin Expositor,  
S. Tobey and B. Tobey, interested parties, File No. B12-24,  
L. Kieswetter, applicant and G. Keatley, OLS, File No. SUB2023-001,  
B. Mitchell, Council Member, J. Bisailon, Council Member, File SUB2023-001, and  
K. Rautiainen, interested party, File SUB2023-001.

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

The Meeting was called to Order at 7:01 P.M. by Chair L. Hayden 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 March 26<sup>th</sup>, 2024. There were no conflicts declared.

**1. ORDER OF BUSINESS**

The Chair requested the adoption of the order of business.

The Secretary-Treasurer requested the addition of two items; MMAH Special Business Case Funding, under item 9. iii) and KPMG, LLP, invoice, under item 11.

Board Member, D. Head, requested an additional item of Little Lake Huron Road, under item 12.

**MOTION**

It was moved by D. McDowell and seconded by K. Noland that the Order of Business be adopted, as amended, with the additional three items as requested,  
- Carried.

**2. MINUTES OF PREVIOUS BOARD MEETING - March 26<sup>th</sup>, 2024**

The Chair announced that the Minutes of the Board Meeting held on March 26<sup>th</sup>, 2024 had been circulated to the Board Members and requested that any errors or omissions be stated.

There was none.

**MOTION**

It was moved by B. Barker and seconded by T. Mackinlay that the Minutes of March 26<sup>th</sup>, 2024 be adopted,  
- Carried.

**BUSINESS ARISING FROM THE MINUTES OF THE PREVIOUS BOARD MEETING  
- March 26<sup>th</sup>, 2024**

There was none.

**3. VARIABLE EXPENDITURES**

There were no questions of the variable expenditures as circulated.

**MOTION**

It was moved by D. Osborne and seconded by R. Stephens that the variable expenditures be accepted as presented,  
- Carried.

4. PRESENTATION OF APPLICATIONS FOR CONSENT TO SEVER

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 recorded in the usual fashion toward the end of the Minutes.

5. PLAN OF SUBDIVISION - FILE NO. SUB2023-001

Location: Lot 7, Conc. IV excepting Part 1, Plan 31R-2831 and Lot 8, Conc. IV  
(Located at #18 Tracy Road), Township of Carnarvon  
Municipality of Central Manitoulin, District of Manitoulin

The Secretary-Treasurer reported that at the March 26<sup>th</sup>, 2024 Board Meeting by motion of the Board, the Planning Board agreed to defer discussion of the Draft subdivision conditions prepared by the Secretary-Treasurer as requested by K. Lang, agent for the application. Since then, the draft conditions have been reviewed by the applicant and a 'red line' version has been submitted to the Planning Board Office for consideration. Both versions of the draft conditions have been provided to the Planning Board Members. The Secretary-Treasurer asked if the Board wished to discuss the draft conditions and/or ask any questions as the applicant was present, and nine of the ten Board Members were also present.

Chair, L. Hayden, requested comments from R. Stephens, Board Member, representing the Municipality of Central Manitoulin.

Mr. Stephens informed the Board that the proponents had organized a presentation with Council on March 25<sup>th</sup>, 2024; that there is a lot of work that goes into preparing draft conditions, and into a Subdivision Agreement with the Municipality; this needs to be done right; the Municipality needs outside advice; the Municipality will have a consultant conduct a review and a report for further consideration; that at the applicant's request a 60 day extension was approved by the Planning Board at the March 26<sup>th</sup>, 2024 Meeting; the Municipality is requesting additional time.

Board Member, K. Noland, stated that the Draft Conditions and the Subdivision Agreement go hand in hand; some of the conditions may be a Municipal Decision and may be included in the Subdivision Agreement; he does not want to rush into a Decision; he would like to hear from the Municipality once they have comments from their consultant.

Board Member, D. Head, advised that he needed more time to consider the planning proposal, the comments received, and the comparison of the two versions of the draft conditions; the First Nations comments need to be resolved; the location of the septic systems needs to be resolved; needs time to review the Municipality's and the consultant's comments.

Board Member, B. Barker, advised he would like to hear back from the Municipality once the Consultant's comments have been received, before making a decision.

R. Stephens, Board Member, requested that the Board consider tabling the application until the consultant has provided their report to the Municipality.

J. Bisailon and B. Mitchell, Municipal Councillors, were asked for comments. Mr. Bisailon advised that they were in agreement to table the application to give the Municipality time to consider the Consultant's report and a Subdivision Agreement.

Board Member, L. Hayden, advised that the 1<sup>st</sup> draft and the red line version of the subdivision conditions were similar but would like the opportunity to review further as some of the items had been removed; would like to know what is included in the Subdivision Agreement; would like to review the Consultant's report; would like the Municipality's comments before making a Decision.

L. Kieswetter, applicant, was in attendance and spoke to the application. He advised that the draft conditions had been reviewed by his development lawyer; most was correcting wording and removing duplications; his lawyer tried to capture the 'essence' of the original draft; some items would be handled at the building permit stage; and some items would be handled with the Subdivision Agreement with the Municipality. He also advised that he will be working with his lawyer and the Municipality to go through the conditions and that he is willing to address all concerns addressed. He commented that the usual planning process involves a staff report and recommendations.

Gord Keatley, Ontario Land Surveyor for the application, was also in attendance and spoke to the application. He asked if it would be possible to share comments, recommendations and any changes and have a discussion with the Board Members without having a Board Meeting, to help move things along.

It was agreed that this would be a possibility with all comments from the Board Members and the applicant funnelled through the Secretary-Treasurer to keep everyone in the loop.

Discussion resulted in the following motion,

MOTION

It was moved by R. Stephens and seconded by B. Barker that the Subdivision Application, File No. SUB2023-001 be tabled until the Municipality have received comments from their consultant and this information has been provided to the Planning Board for consideration,

- Carried Unanimously.

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6. MUNICIPAL INTERIM REQUISITIONS

The Secretary-Treasurer reported that a request for Final Requisitions has been sent to all Municipalities and two have already been received.

7. TOWNSHIP OF ASSIGINACK - BY-LAW UPDATE - OPEN HOUSE - MARCH 27, 2024

The Secretary-Treasurer reported that she had attended the Open House on March 27<sup>th</sup>, 2024 in Manitowaning. There was a good turn out and lots of questions. The Municipality has given until April 30<sup>th</sup>, 2024 to receive comments on the new updated By-law. There will be mapping corrections needed before the required statutory Public Meeting is held.

8. OFFICE INTERNET REVIEW

The Secretary-Treasurer advised that the Town of Gore Bay in partnership with the Museum Board have arranged for internet service via StarLink to be connected to the Harbour Centre Building for all tenants. She had reported at the March 26<sup>th</sup>, 2024 Board Meeting that the invitation for the Planning Board to connect to this service had an initial monthly cost of ±\$185.00 (plus tax). In order for the Planning Board to have added cyber security, there is an additional router connection required. The Planning Board staff are working with the Town on this and a test is to be conducted, to see if the internet service meets the needs of the Planning Board Office. If the usage does not exceed 40 GB per month then the cost would only be ±\$95.00 (plus tax) per month.

Discussion among the Board included:

- if the Planning Board Office should have it's own internet provider rather than a shared service with the Harbour Centre occupants; the more users the slower the speed; if the Public also uses the service this would slow it down even more; this would have installation costs; what is the difference between commercial service vs residential service; is 40 GB usage enough; is there enough bandwidth for ZOOM meetings; may cost ±\$100.00 per month additional to what is being paid now if StarLink is the provider; concerns with cyber security, hacking and compromising of the service,

The consensus of the Board is that this topic will be tabled until the next Planning Board Meeting and staff will provide a cost analysis and comparison associated with a new service for just the Planning Board Office (not a shared service), provide information if 40 GB usage is enough, what cyber security is needed with costs, and will report back at the next Board Meeting.

9. MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING (MMAH)

i) Provincial Appointments for the Unincorporated Area

The Secretary-Treasurer explained that the Ministry of Municipal Affairs and Housing (MMAH) was to appoint two Board Members to the Manitoulin Planning Board, representing the Unincorporated Townships of Robinson and Dawson, and a Notice had been advertised on January 11<sup>th</sup>, 2023. The current two Board Members representing the Unincorporated Area will remain until MMAH has advised of the (new) representatives.

She had followed up most recently with MMAH on March 27<sup>th</sup>, 2024 and received the following comments from A. White, MMAH:

*'The appointment process remains underway. We so appreciate everyone's patience and will be in touch as soon as we can with more information.'*

ii) Planning Administration Grant for the Unincorporated Townships  
- Request for Additional Funding

The Secretary-Treasurer explained that by motion of the Planning Board on November 28<sup>th</sup>, 2023 she had sent a letter to the Ministry of Municipal Affairs and Housing (MMAH) requesting additional Planning Administration Grant funding. The grant in the amount of \$16,073.00 has remained the same since 2009 . A request had been made in the amount of \$22,244.13 based on inflation for the past 14 years.

She had followed up most recently with MMAH on March 27<sup>th</sup>, 2024 and received the following comments from B. Schulte-Hostedde:

*'I apologize for not responding to your recent follow-up. I do appreciate the board's request. At this point I am afraid I do not have further information about any changes to annual funding.'*

*Please do keep in mind over the coming months any projects or costs that might be eligible for consideration under the business case component - and feel free to reach out to us in the early fall if you would like to discuss them further.*

*Should you wish, we are also always available to talk about any operational approaches if you see any areas where there could be efficiencies.'*

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9. MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING (MMAH) - Continued

iii) Special Business Case Funding

The Secretary-Treasurer informed the Board that she required a Resolution of the Board to accept the funding report in the amount of \$1,198.00 to forward to MMAH.

MOTION

It was moved by T. Mackinlay and seconded by D. Head that the Manitoulin Planning Board supports and accepts the Financial Report for the Business Case Funding component of the Assistance to Planning Boards Funding Program 2023-2024 as submitted in December 2023, in the amount of \$1,198.00, for two separate projects for the Unincorporated Townships of Robinson and Dawson,  
- Carried Unanimously.

MOTION

It was moved by D. Head and seconded by T. Mackinlay that BE IT RESOLVED the motion be adopted as read,  
- Carried Unanimously.

10. PROPOSED CUTTING RED TAPE TO BUILD MORE HOMES ACT, 2024  
(INCLUDING BILL 185)

The Secretary-Treasurer advised that she had attached an email from the Ontario Ministry of Municipal Affairs and Housing (MMAH) to the Board Agenda with six links to information. The comment period has been extended until May 12<sup>th</sup>, 2024. She provided the following highlights:

The Ontario Ministry of Municipal Affairs and Housing advised of several proposals regarding the government's recent introduction of the Spring 2024 Red Tape Reduction Package as part of its ongoing commitment to build at least 1.5 million homes by 2031, which was attached to the Board Agenda.

The government announced a series of proposed legislative, regulatory and policy changes as part of the government's housing initiatives, including through Bill 185, the proposed Cutting Red Tape to Build More Homes Act, 2024.

Under ERO 019-8462 - The Provincial Government has posted an updated proposed Provincial Policy Statement for 2024, incorporating feedback from the prior version in 2023.

Under ERO 019-8366, there is a proposal to streamline regulations for additional residential units in residential areas by removing zoning barriers for lot coverage, number of bedrooms/lot and allowing basement suites.

Under ERO-8368, the Province is proposing to expand reporting requirements for provincial housing targets to a further 21 municipalities – this proposed list does not include any on Manitoulin.

Under ERO 019-8368, the Province is proposing changes to the Planning Act, City of Toronto Act, and Municipal Act under Bill 185. The Planning Act is being amended to prevent Official Plans and Zoning By-laws from requiring parking spaces in existing or planned designated major transit areas, and has provision for the Minister to prescribe other areas where parking cannot be required. The Bill repeals sections that would have required refunding application fees if there is delays in some planning decisions. The bill adds a definition for Community Service Facility (development done by a school board, long term care home, or public hospital) and gives the Minister the ability to exempt those facilities from the Planning Act. The Municipal Act is being amended to allow municipalities to pass bylaws regarding sewer and water capacity apportionment, and set criteria for when they can withdraw the apportionment from proposed developments; it seems this is to allow Municipalities to reapportion capacity away from stalled or abandoned projects.

Under ERO 019-8370, the Province is proposing to change the regulations regarding public notice for OPAs, Zoning Bylaws, Consents, Subdivisions, Minor Variances, and Community Benefits Charges bylaws by allowing municipalities to advertise public notices on a municipal website if a local newspaper is not available. The province is also proposing to limit third party appeals to the Ontario Land Tribunal – Bill 185 would limit who can appeal Zoning By-laws and Official Plans to public bodies and "specified persons" who have made written or oral submissions to Council, which are an electric utility, Ontario Power Generation, Hydro One, Natural Gas utilities, Pipeline companies, people preparing Propane safety management plans, railway companies, and telecommunications companies.

Under ERO 019-8371, the Province is proposing to repeal mandatory 5 year phase-ins of Development Charges previously added in 2022, Reinstate studies as an eligible capital cost for Development Charges, streamline the process for extending Development Charges bylaws without doing a background study, and reduce the two year development charge freeze period after a site plan approval to 18 months.

Along with these measures, the government is introducing the next edition of the Building Code and will be sharing an updated draft of the next Provincial Planning Statement (PPS) for a 30 day consultation.

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11. KPMG, LLP - ADDITIONAL INVOICE

The Secretary-Treasurer informed the Board that a 2<sup>nd</sup> invoice has been received from KPMG, LLP for the 2023 Planning Board Audit. The cost of the Planning Board Audit has increased and has more than doubled since 2022 (for the 2021 year audit). She provided the following comparison:

2021		\$4972.00
2022		\$5220.60
2023	\$5085.00	
	<u>\$4214.90</u>	\$9299.90
2024	\$8475.00	
	<u>\$2176.38</u>	\$10,651.38

Discussion among the Board included:

- what are the costs for; need a cost breakdown; what are other municipalities paying; have their costs increased as much; could a By-law be passed by the Municipality of Central Manitoulin supporting a change of auditor and a letter be sent to MMAH requesting that the Planning Board use a different auditor if costs are determined to be lower with a different auditor.

The Secretary-Treasurer explained that under the Planning Act, the Planning Board must use the same auditor as the largest contributing municipality, which is KPMG, LLP and the Municipality of Central Manitoulin.

The Board directed the Secretary-Treasurer to investigate and do a cost comparison of the eight Municipalities of their audit costs for the past five years and provided this information to the Planning Board.

The following motion resulted:

MOTION

It was moved by D. Osborne and seconded by K. Noland that the Secretary-Treasurer request a detailed cost breakdown for the two invoices received from KPMG, LLP for the 2023 Planning Board Audit,

- Carried Unanimously.

12. LITTLE LAKE HURON ROAD - TOWNSHIP OF ROBINSON

D. Head, Board Member, spoke to the status of the Little Lake Huron Road, in the Township of Robinson. He had travelled on the road in March 2024 and found it was bad with overgrown trees and vegetation which causes issues with passing and meeting other vehicles; it is a safety concern for Fire and Ambulance services; it will get worse and worse without clearing as the vegetation grows; a lot of people use the road. He asked if the Planning Board could organize a work bee or support a work bee to cut trees and under brush and widen the road for better visibility and safety.

It was explained that the access is a private right-of-way and that the Planning Board has no jurisdiction to allow for the removal of trees and brush from private land. When the Manitoulin Planning Board approves planning applications they are conditional on the access being travelable by emergency vehicles, satisfactory to the Robinson Local Roads Board (RLRB). The Planning Board cannot compel a land owner to maintain the road or the surrounding area. It may be possible to organize a road maintenance committee for the Little Lake Huron Road. This is common in other areas on Manitoulin Island.

The private right-of-way is not owned by the land owners. It may be possible for the landowners to improve the right-of-way but they would not have the authority to remove trees and brush from abutting private property without the land owner(s) permission.

It may be possible that the RLRB has some jurisdiction for the status of the road for safety of the residents and passage for emergency vehicles and may be able to post signs of caution that it is not maintained by the RLRB.

Mr. Head also asked if Board Members are allowed to go on to private property to conduct a site visit for a Planning Application that required Planning Board approval. The Secretary-Treasurer explained that Planning Board Staff have permission to enter, but the Board Members would require permission from the land owner(s).

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Application File No: B11-24 No. of Members Present: 9  
Date of Decision: April 23, 2024  
Location of Property: Lots 14 and 15, Conc. IV Lying North of Government Road, except Part 1, Plan 31R-713, Township of Tehkummah, District of Manitoulin

### **DECISION**

The purpose of this application made under Section 53(1) of the Planning Act by J. Lynn McGillis and Trevor P. Cress is to provide for the creation of a new lot, (being Lot 14, Conc. IV north of Government Road), having a frontage of  $\pm 452.6$  M. on Government Road, a maintained municipal road, and an irregular depth of  $\pm 276$  M., thereby containing an area of  $\pm 5.0$  Hec. There are no structures within this pasture land. The applicants propose to sell this lot for non-farm related residential uses.

The retained land (being Lot 15, Conc. IV north of Government Road) has frontages of  $\pm 521$  M. on Government Road and  $\pm 569.7$  M. on the 15<sup>th</sup> Side Road, both maintained municipal roads, and an average depth of  $\pm 422.9$  M., thereby containing an area of  $\pm 19.3$  Hec. There are no structures within this pasture land.

There has been a previous application for Consent to Sever, File No. 04-51C-76-1126, approved by the Ministry of Housing that created a new lot surveyed as Part 1, Plan 31R-713, located at the south west corner of the proposed retained land.

There is a simultaneous application for Amendment, File No. 8002ZBL-24-001, to permit a non-farm related residential use in the Agriculture (A) Zone, for the proposed new lot.

There is also a simultaneous application for Consent to Sever, File No. B12-24, that proposes to sever Lot 14 from Lot 15, Conc. IV, south of Government Road. The applicants also own this property.

Access is via existing field entrances from the Government Road, a maintained municipal road.

The Ontario Ministry of Transportation (MTO) have no concerns and advised that the subject lands are not within the MTO's permit control area and have no comments to provide at this time.

Hydro One has no concerns and advised that they have no easements; they do not require any easements; and they do not own the hydro poles. The Hydro line appears to be located south of Government Road.

Services will consist of private well and private individual septic system when required.

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

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.

During discussion of the application it was explained to Ms. McGillis that proof of potable water for the proposed new lot, that would conform to the Provincial requirements, may be required at the building permit stage, when the dwelling is proposed for the severed land.

The subject land has been designated Rural Area in the Official Plan for the District of Manitoulin. The proposed new lot is zoned both Rural ( R ) and Agriculture ( A ). The retained land is zoned Rural ( R ), Agriculture ( A ) and Hazard ( 02 ).

There is a livestock facility located within Lot 13, Conc. IV to the east of the proposed new lot. The farm related structures must meet the requirements of the Minimum Distance Separation (MDS) Formulae as required by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA). There is a small portion (at the north east) of the severed land that is within a Rural Zone. Ms. McGillis was advised that due to the location of the neighbouring barn and the minimum distance separation needed from the barn for a new residential use if/when a dwelling is proposed, the dwelling may need to be located within the Agriculture Zone. Zoning By-law No. 80-02 for the Township of Tehkummah does not permit a non-farm dwelling in the Agriculture (A) Zone. Therefore, by File No. 8002ZBL-24-001, the applicants have submitted an amendment application

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Application File No. B11-24  
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Official Plan Policy F.4.4.2.5 - Consents - states:

- ' 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 (severed and retained) will comply with the provisions of the local zoning bylaw.'

The soil classification for the severed land (±5.0 Hec.) is Class 3. The soil classification for the retained land (±19 Hec.) is also Class 3 with some Class 5 following the stream that traverses the property.

Official Plan Policy C.5.2. Rural Area - Land Use states in part:

- ' 6. Locally significant agriculture and other resource-related lands will be identified and protected in the Zoning By-law and as a guide an approximate minimum lot area of 40 Hectares will be applied to prevent fragmentation of lands.

The subject land has a total area of ±24 Hec., which is less than the 40 Hec. requirement. There is a drain known as the Black Creek Drain and catchment area identified within the subject lands. Ms. McGillis was advised that Section 65 of the Drainage Act may apply and that 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 as a condition of the consent to sever approval.

From information available, the subject proposal 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 (PPS) 2020.

This application was circulated on April 5<sup>th</sup>, 2024 to the 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.

Charleyne Hall, Bell Canada, advised via email on April 8<sup>th</sup>, 2024 that Bell Canada has no facilities in the vicinity of the application, and therefore has no comments/concerns.

The Township of Tehkummah recommend that Consent to Sever approval be given and note that an amendment is being considered to permit a non-farm residential use for the proposed severed land.

A land owner, E, Spadzinski, who owns a small lot along the 15<sup>th</sup> Side road being of Part of Lot 15, Conc. IV, surveyed as Part 1, Plan 31R-3498 visited the Planning Board Office to obtain a copy of the Notice of Public Meeting. She was missed on the circulation list. She did not advise of any concerns with the application as proposed.

There have been no other inquiries or comments received as a result of circulation to property owners within 60 metres and/or the posting of the 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 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 identified 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 approval relates;
- ii) a written confirmation from the municipality that any reassessment required for the subject lands as required by Section 65 of the Drainage Act has been mutually agreed upon, satisfactory to the land owner and the municipality;
- iii) a written confirmation from the municipality(s) that any portion of the travelled road (s) that encroaches onto the subject land(s), has been surveyed and conveyed to the municipality satisfactory to the municipality;
- iv) a written confirmation from the municipality that an entrance permit has been issued or can be issued for the proposed severed and retained land, satisfactory to the municipality;
- v) a fee of \$130.00 for each Transfer of Land submitted for Certification; and
- vi) a written confirmation from the Municipality that all outstanding municipal taxes have been paid for the subject 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: This property may be subject to reassessment under the Drainage Act due to the Municipal Drain.



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Application File No: B12-24 No. of Members Present: 9  
Date of Decision: April 23, 2024  
Location of Property: Lots 14 and 15, Conc. IV Lying South of Government Road, excepting Part 1, Plan 31R-3497 & Part 1, Plan 31R-2661 & Part 1, Plan 31R-3498, Township of Tehkummah, District of Manitoulin

### DECISION

The purpose of this application made under Section 53(1) of the Planning Act by J. Lynn McGillis and Trevor P. Cress is to provide for the creation of a new lot, (being Lot 14, Conc. IV south of Government Road), having frontages of  $\pm 236$  M. and  $\pm 173.7$  M. on Government Road, a maintained municipal road, and  $\pm 402$  M. on the travelling, non-maintained 5<sup>th</sup> concession allowance, and an average depth of  $\pm 851$  M., thereby containing an area of  $\pm 34.0$  Hec. The applicants' storage shed is located within this land. The applicants propose to sell this lot for farm related uses.

The retained land (being Lot 15, Conc. IV south of Government Road) has frontages of  $\pm 206$  M. and  $\pm 289.1$  M. on Government Road, and  $\pm 120.6$  M. and  $\pm 181.6$  M. on the 15<sup>th</sup> Side Road, both maintained municipal roads and an average depth of  $\pm 523.9$  M., thereby containing an area of  $\pm 18.0$  Hec. The applicants' storage shed is located within this land.

There is an existing lot of record within Lot 15, Conc. IV, surveyed as Part 1, Plan 31R-3498.

There has been two previous applications for Consent to Sever, involving the subject land.

File No. B31-95 created a new lot surveyed as Part 1, Plan 31R-2661; and  
File No. B36-06 created a new lot, surveyed as Part 1, Plan 31R-3497.

There is a simultaneous application for Consent to Sever, File No. B11-24, that proposes to sever Lot 14 from Lot 15, Conc. IV, north of Government Road. The applicants also own this property.

Access is via existing field entrances from the Government Road, a maintained municipal road.

The Ontario Ministry of Transportation (MTO) have no concerns and advised that the subject lands are not within the MTO's permit control area and have no comments to provide at this time.

Hydro One has no concerns and advised that they have an easement over the subject land; they do not require any additional easements; and they own the hydro poles. The Hydro line appears to be located south of Government Road.

Services will consist of private well and private individual septic system when required.

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

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.

During discussion of the application it was explained to Ms. McGillis that proof of potable water that would conform to the Provincial requirements, may be required at the building permit stage, when/if a dwelling is proposed for the severed land.

The subject land has been designated Rural Area in the Official Plan for the District of Manitoulin and is zoned Agriculture (A), Rural (R) and Hazard (O2). The proposed new lot is zoned both Rural (R) and Agriculture (A).

Official Plan Policy F.4.4.2.5 - Consents - states:

'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 (severed and retained) will comply with the provisions of the local zoning bylaw.'

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The soil classifications for the severed land (±34.0 Hec.) are Class 3, 5 with some class 0. The soil classifications for the retained land (±18 Hec.) are Class 3, 4 and 5. The subject land has not been designated as Prime Agriculture, which typically designates land with Class 1, 2, and 3 soils.

Official Plan Policy C.5.2. Rural Area - Land Use states in part:

- '6. *Locally significant agriculture and other resource-related lands will be identified and protected in the Zoning By-law and as a guide an approximate minimum lot area of 40 Hectares will be applied to prevent fragmentation of lands.'*

There is a livestock facility located within Lot 13, Conc. IV to the east of the proposed new lot. The farm related structures must meet the requirements of the Minimum Distance Separation (MDS) Formulae as required by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA). There is a small portion (at the north east) of the severed land that does not meet the minimum separation distance. However there are building sites within the proposed new lot that are outside this area of influence.

Zoning By-law No. 80-02 for the Township of Tehkummah does not permit a non-farm dwelling in the Agriculture (A) Zone. Ms. McGillis was advised that an amendment to the Municipal Zoning By-law may be required if a dwelling is proposed within the Agriculture (A) Zone.

There is a drain, known as the Black Creek Drain, and catchment area identified within the subject lands. Ms. McGillis was advised that Section 65 of the Drainage Act may apply and that 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 as a condition of the consent to sever approval.

From information available, the subject proposal 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 (PPS) 2020.

This application was circulated on April 5<sup>th</sup>, 2024 to the 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.

Charleyne Hall, Bell Canada, advised via email on April 8<sup>th</sup>, 2024 that Bell Canada has no facilities in the vicinity of the application, and therefore has no comments/concerns.

The Township of Tehkummah recommends approval with no specific conditions.

A land owner, E, Spadzinski, who owns a small lot along the 15<sup>th</sup> Side road being of Part of Lot 15, Conc. IV, surveyed as Part 1, Plan 31R-3498 visited the Planning Board Office to obtain a copy of the Notice of Public Meeting. She was missed on the circulation list. She did not advise of any concerns with the application as proposed.

There was a telephone call to the Office from S. Tobey concerned about the applicants continuing to use her drive way, at #331 Government Road. The following email was received:

*'This email is a follow up to our conversation yesterday regarding my concern about access to the farmland. My driveway has been used in the past to get to this land as well as the drive shed directly behind my house. I want to clarify that the new owners not use the driveway and thus create a new access to their land. The driveway that I am referring to is on the north side of Government Road, lot 31R-3497.'*

*Thank you for your consideration.'*

The email was provided to the applicant, Ms. McGillis.

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

Discussion among the Board included how to best address a new entrance for the proposed new lot; imagery and sketch; is the drive shed on the severed land; looks close to the lot line.

S. Tobey and B. Tobey were in attendance during consideration of the application. They advised that there is no legal right-of-way over their property and that the drive shed is located within the severed land.

There was no one else 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 identified 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 that any reassessment required for the subject lands as required by Section 65 of the Drainage Act has been mutually agreed upon, satisfactory to the land owner and the municipality;
- iii) a written confirmation from the municipality(s) that any portion of the travelled road (s) that encroaches onto the subject land(s), has been surveyed and conveyed to the municipality satisfactory to the municipality;
- iv) a written confirmation from the municipality that a new entrance permit has been issued for the proposed severed and retained land, satisfactory to the municipality;
- v) a fee of \$130.00 for each Transfer of Land submitted for Certification; and
- vi) a written confirmation from the Municipality that all outstanding municipal taxes have been paid for the subject 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:** This property may be subject to reassessment under the Drainage Act due to the Municipal Drain.

**Note:** A new access for the proposed new lot will be required.

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

- (a) to consider applications for consent under Section 53 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.

There were none.

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

	<u>Moved By</u>	<u>Seconded By</u>
1. B11-24	D. Osborne	D. Head
2. B12-24	R. Stephens	T. Mackinlay

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

- Carried.

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The time now being 8:25 p.m. and all business before the Board having been dealt with, the Meeting was adjourned on a motion moved by D. McDowell.

\_\_\_\_\_  
L. HAYDEN, CHAIR

  
\_\_\_\_\_  
T.A. CARLISLE  
SECRETARY-TREASURER