

June 29, 2022

MINUTES OF PLANNING BOARD MEETING - June 28, 2022

At an electronic Meeting of the Manitoulin Planning Board held at the Planning Board Office, Gore Bay, Ontario, on Tuesday, June 28th, 2022, the following Members of Planning Board were present:

- | | | | |
|----|-------------|----|--------------|
| 1. | L. Hayden | 5. | I. Anderson |
| 2. | R. Stephens | 6. | R. Brown |
| 3. | K. Noland | 7. | E. Russell |
| 4. | D. McDowell | 8. | T. Mackinlay |

Regrets: D. Head
Absent: D. Osborne

Also in attendance for the electronic meeting were:

- D. Banger, applicant, File No. B12-22;
- M. Wentzell, applicant, File No. B13-22;
- T. Trainor, applicant, File No. B14-22; and
- D. Watts, interested party.

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

The Meeting was called to Order at 7:00 p.m. by Chair 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 on May 24th, 2022.

There were no conflicts declared.

1. ORDER OF BUSINESS

The Chair requested the adoption of the order of business.

It was moved by T. Mackinlay, and seconded by D. McDowell that the Order of Business be adopted,
- Carried

2. MINUTES OF PREVIOUS BOARD MEETING - May 24th, 2022

The Chair announced that the Minutes of the electronic Board Meeting held on May 24th, 2022 had been circulated to the Board Members and requested that any errors or omissions be stated.

MOTION

A motion was moved by I. Anderson and seconded by K. Noland that the Minutes of May 24th, 2022 be adopted,
- Carried.

BUSINESS ARISING FROM THE MINUTES OF THE PREVIOUS BOARD MEETING
- May 24th, 2022

There was none.

3. VARIABLE EXPENDITURES

There were no questions of the variable expenditures as circulated.

MOTION

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

Board Minutes
June 28, 2022 - Continued

4. PRESENTATION OF APPLICATIONS FOR CONSENT

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

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

5. GENERAL, REGULAR AND NEW BUSINESS

a) CENTRAL ONTARIO ORTHOPHOTOGRAPHY PROJECT (COOP) 2021

The Secretary-Treasurer reported that all municipal requisitions for the COOP 2021 Project have been received. Thumb drives with the imagery have been delivered to each of the participating Municipalities, with the exception of the Township of Tehkummah which will be delivered soon.

b) NATURAL HERITAGE SYSTEM (NHS)

The Secretary-Treasurer advised that the draft NHS system is still being worked on and is not quite ready for the Boards' consideration. It is hopeful that a draft NHS will be ready for the Board Members at the next Board Meeting.

c) WIND TURBINES AND RECOMMENDED SETBACKS

The Secretary-Treasurer explained that an email had been forwarded to her from the Municipality of Burpee-Mills, received from the Deputy Clerk, Municipality of Arran-Elderslie. The email had been sent to all Municipalities in Ontario, including the Municipalities in the District of Manitoulin.

A Resolution had been passed by the Multi Municipal Working Group (MMWTWG) on behalf of the Municipality of Arran-Elderslie to address concerns related to noise and public safety and wind turbines and recommends setbacks from wind turbines.

She explained that the Official Plan for the District of Manitoulin had been approved by the Ministry and came into effect in October 2018. In 2019 when changes were made to the Planning Act, the province returned the powers to the Municipalities regarding energy projects in their communities.

There are currently no policies in the Official Plan that deal specifically with Wind Turbines or energy projects. Policies would need to be prepared and an Official Plan Amendment will be required in order to implement policies in the local Zoning By-laws. She had forwarded the email on to the consultants, J.L. Richards & Associates, for their comments in regard to policies during the updating of the Municipal Zoning By-laws. She is waiting to hear back from them with their comments.

During discussion, the general consensus of the Board was that with the Zoning By-law update project and the Natural Heritage System project, and a new project to establish policies regarding Wind Turbines, that this item should be tabled for review in three to six months time.

The following motion resulted:

MOTION

It was moved by R. Brown and seconded by D. McDowell that the topic of wind turbines will be tabled and will be reviewed at a Board Meeting at a later date,
- Carried.

Note: The email was provided to the Board Members with their agenda and is attached to the Board Minutes as Appendix A.

d) MUNICIPAL ZONING BY-LAW UPDATES - OPEN HOUSES

The Secretary-Treasurer reported that an Open House was held at the Silver Water Community Hall on June 14th, 2022 for the Unincorporated Townships of Robinson and Dawson for the update of the Zoning By-law No. 96-01. It had been well attended with about 20 people in attendance, which included the two staff members and two consultants from J.L. Richards & Associates. Comments from those in attendance are being reviewed.

She advised that the Board Members had been provided with a copy of the Draft Zoning By-law and Draft mapping and a comment sheet. She encouraged the Board to review the Draft By-law and provide their comments, suggestions, or concerns, as the By-law will eventually be adopted by the Planning Board.

The required statutory Public Meeting is anticipated to be mid August.

Other Open Houses had been held for the Municipalities for Billings & Allan East, Gordon/Barrie Island and for the Town of Gore Bay, that same week.

Note: The Draft By-law, draft mapping, and the comments sheet is available on the Planning Board website www.manitoulinplanning.ca

Board Minutes
June 28, 2022 - Continued

Application File No.: B11-22 No. of Members Present: 8
Date of Decision: [May 24, 2022 -Deferred] June 28, 2022
Location of Property: Lots 59, 60 and 61, Conc. I, Township of Assiginack,
District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by Bruce Rolston and Sherri Coburn-Rolston is to provide for right-of-way over Lots 59, 60, and 61, Conc. I, Township of Assiginack, having a minimum width of ± 20 M., and a length of $\pm 1,242.3$ M. thereby containing an area of $\pm 24,845.6$ Sq. M. (± 2.5 Hec.). This right-of-way is an existing private access within the subject land, that traverses south of the municipal road allowance between the Township of Sheguiandah and the Township of Assiginack. The applicants also own the land benefiting from the proposed right-of-way being Lots 7 to 10, Conc. I, Township of Sheguiandah, which contains the applicants' seasonal dwelling, boathouse, sauna, workshop, two guest cabins, two storage buildings, and solar panels.

The land to be retained has frontages of $\pm 1,433$ M. on Lake Manitou and ± 988.8 M. on the unopened municipal allowance, and an irregular depth, thereby containing an area of ± 32.2 Hec. According to the application there are no structures on this land.

By previous Consent to Sever File No's. B07-18 and B08-18 a legal right-of-way was granted over Lot 1, Conc. B, Township of Sheguiandah in favour of Lots 59 to 61, Conc. I, Township of Assiginack and Lots 7 to 10, Conc. I, Township of Sheguiandah.

Access is via the proposed (new) private right-of-way and over the right-of-way surveyed as Parts 1 and 2, Plan 31R-4115 to Monkhouse Road, a maintained municipal road.

No new services are required as a result of this application for right-of-way.

The subject land has been designated Rural Area and Shoreline Area and zoned Rural (R), Shoreline Residential (SR) and Conservation (02).

The Conservation zoning and the satellite imagery available (2016 and 2021) identifies a large wet area within the subject land north of the proposed right-of-way.

This proposal for right-of-way is considered to be in conformity with the Provincial Policy Statement (PPS) 2020.

This application was circulated on May 5th, 2022 to the Municipality of Assiginack, 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 CAO for the Municipality advised via email on May 20th, 2022 that:

' Council does not meet until June 7th, and they will need to review the application. I have included the Questionnaire but must caution that they may change slightly after Council's learned review.'

Mary McCartney, Bell Canada advised on May 6th, 2022 that Bell Canada has no comments or concerns regarding the application as proposed.

There was an inquiry received from Mr. Pidutti requesting additional information. He advised he had no concerns with the application to grant right-of-way.

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

Mr. Rolston, applicant, was present during the meeting and provided a summary of his application proposal.

Board Minutes
June 28, 2022 - Continued

Application File No.: B11-22 - continued
May 24, 2022

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

In consideration of the information presented, a motion was made and duly seconded that the application be deferred until the next Planning Board Meeting to allow the Municipality of Assiginack additional time to review the application and to provide comments to the Planning Board.

Mr. Rolston advised, he had no objections to this motion.

June 28, 2022

The following motion, No. 153-12-2022, was provided by the Municipality of Assiginack on June 8th, 2022:

'THAT we inform the Manitoulin Planning Board that we have no objections to Consent Application, B11-22, subject to our usual concerns.....Carried.'

The applicants were not present during consideration of their application.

There was no one participating in the teleconference, 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 right-of-way and 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 right-of-way having a minimum width of 20 M;
- ii) written confirmation from the municipality that access along the right-of-way to Monkhouse Road has been constructed to a standard for travel by emergency vehicles, satisfactory to the municipality;
- iii) a fee of \$125.00 for each Transfer of Land submitted for Certification; and
- iv) written confirmation from the municipality that any outstanding municipal taxes for the subject land, have been paid.

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

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Application File No.: B12-22 No. of Members Present: 8
Date of Decision: [May 24, 2022 - Deferred] June 28, 2022
Location of Property: Part Lots 14 and 15, Conc. I, Being Part 2, Plan 31R-059 excepting Part 1, Plan 31R3141, Township of Sheguiandah, Municipality of Assiginack, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by Dene Banger and Frances Boegli is to provide for the creation of a new lot having a frontage of ±366 M. on Bidwell Road, a maintained township road, and an average depth of ±61 M. thereby containing an area of ±2.9 Hec. The proposed new lot is surveyed as Part 1, Plan 31R-3870. According to the application there are no structures on this land.

The land to be retained has a frontage of ±508 M. on Bidwell Road, a maintained township road and an average depth of ±83 M., thereby containing an area of ±4.8 Hec. According to the application, this land contains the applicants' dwelling.

There have been three (3) previous applications for Consent to Sever involving the subject land. File No. B48-06 created a new lot surveyed as Part 1, Plan 31R-3141, which was a resubmission of File No. B41-01 which lapsed when conditions of consent approval were not fulfilled within one year as required under the Planning Act.

In 2011 by File No. B42-11 the creation of a new lot was proposed, which also lapsed when conditions of consent approval were not fulfilled within one year as required under the Planning Act. The current application (File B12-22) is a resubmission of File B42-11.

Access is via existing entrances, #525 and #653 Bidwell Road, a maintained township road.

The subject land has been designated Rural Area and zoned Agricultural. An amendment to the Zoning By-law No. 80-20 approved by By-law No. 2012-11, permits a non-farm related use in an Agricultural Zone within the proposed severed land. Non-farm related rural residential uses are proposed to continue.

The application was circulated on August 13th, 2021 to the Wiikwemkoong Unceded Territory and to the United Chiefs and Councils of Mnidoo Mnising (UCCMM), as per Official Plan Policy F.5 - Consultation and Engagement.

John Manitowabi, Wiikwemkoong Unceded Territory, advised via email that they have no comments with the application to sever.

Saul Bombery, UCCMM, advised via email on that they have reviewed the information and that they have no comments to submit at this time.

Services consist of private well and private individual septic system. Private well and private individual septic system are proposed for the new lot.

The Public Health Sudbury and District had advised previous (File No. B42-11) that they have no concerns and that the severed and retained portions would appear to be capable of supporting the installation of a septic tank and tile bed system.

Official Plan (2018) - Rural Area - under 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.

There is a licenced Aggregate Site, No. 616921, located to the south/west within Lot 1, Conc. A.

The Provincial Policy Statement 2020, Section 3.0 - Protecting Health and Safety states:

'Development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards.'

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Application File No. B12-22 - continued
May 24, 2022

The Provincial Policy Statement 2020, Section 2.5 - Mineral Aggregate Resources states under:

2.5.1

'Mineral aggregate resources shall be protected for long-term use and, where provincial information is available, deposits of mineral aggregate resources shall be identified.'

2.5.2.1

'As much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible.'

'Demonstration of need for mineral aggregate resources, including any type of supply/demand analysis, shall not be required, notwithstanding the availability, designation or licensing for extraction of mineral aggregate resources locally or elsewhere.'

2.5.2.2

'Extraction shall be undertaken in a manner which minimizes social, economic and environmental impacts.'

2.5.2.3

'Mineral aggregate resource conservation shall be undertaken, including through the use of accessory aggregate recycling facilities within operations, wherever feasible.'

2.5.2.4

'Mineral aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact. Existing mineral aggregate operations shall be permitted to continue without the need for official plan amendment, rezoning or development permit under the Planning Act. Where the Aggregate Resources Act applies, only processes under the Aggregate Resources Act shall address the depth of extraction of new or existing mineral aggregate operations. When a license for extraction or operation ceases to exist, policy 2.5.2.5 continues to apply.'

2.5.2.5

'In known deposits of mineral aggregate resources and on adjacent lands, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

- a) resource use would not be feasible; or*
- b) the proposed land use or development serves a greater long-term public interest; and*
- c) issues of public health, public safety and environmental impact are addressed.'*

2.5.3.1

'Progressive and final rehabilitation shall be required to accommodate subsequent land uses, to promote land use compatibility, to recognize the interim nature of extraction, and to mitigate negative impacts to the extent possible. Final rehabilitation shall take surrounding land use and approved land use designations into consideration.'

2.5.3.2

'Comprehensive rehabilitation planning is encouraged where there is a concentration of mineral aggregate operations.'

2.5.3.3

'In parts of the Province not designated under the Aggregate Resources Act, rehabilitation standards that are compatible with those under the Act should be adopted for extraction operations on private lands.'

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Application File No. B12-22 - continued
May 24, 2022

The Official Plan (2018) under Policy D.8.2 MINERAL AGGREGATE RESOURCES states:

1. *Mineral aggregate resources will be protected for long-term use. As much of the mineral aggregate resources as is realistically possible will be made available as close to markets as possible.*

2. *The following policies apply to Mineral Aggregate Resources:*

2. Development proposals in close proximity to licenced aggregate extraction areas will be evaluated in terms of potential incompatibilities and addressed accordingly in consultation with the Province. Pertinent information regarding surface and groundwater, dust, vibration, noise, traffic routes in connection with the licenced aggregate extraction area, and buffering will be considered to ascertain the effect these existing factors will have on the proposed new development. Residential and institutional development within 300 metres of mineral aggregate resource areas and licenced pits will generally not be permitted. Proposed residential or institutional development within these areas will be supported by studies that demonstrate that any land use conflicts will be fully mitigated.'

The Ministry of the Environment and Climate Change (MOECC) D-6 Series Guidelines, Under Section 1.2.4. - Other Facilities and Section 4.3 - Recommended Minimum Separation Distances: recommends that residential and institutional development within 300 metres of mineral aggregate resource areas and licenced pits will generally not be permitted. Proposed residential or institutional development within these areas will be supported by studies that demonstrate that any land use conflicts will be fully mitigated. i.e. feasibility study.

The subject land falls within the The MOECC D-6 Series Guidelines 300 metre buffer of the aggregate site.

As part of the preliminary review technical advise was requested from the Ministry of Northern Development and Mines, Natural Resources and Forestry (MNDMNRF) on April 25th, 2022, with follow-ups on May 2nd, 2022, and May 13th, 2022, regarding a new residential use within 300 metres of the licenced Aggregate Site. To date no comments/advice has been received from MNDMNRF.

Also, as part of the preliminary review technical advise was requested from the Ministry of the Environment, Conservation and Parks (MECP) on May 18th, 2022. No response from MECP has been received to date.

The following letter was sent to the applicants on August 10th, 2021 and copied to the Municipality:

'Dear Mr. Banger:

In review of your application for Consent to Sever, re: the above location, there is a licensed Aggregate Resource Site identified as being within Lot 1, Conc. A to the south of the subject land, on the south side of Bidwell Road.

As per the Ministry of the Environment (now the Ministry of the Environment, Conservation and Parks (MECP) the D-series guidelines require a minimum setback of 300 metres from the Aggregate Site for a new residential (sensitive) use.

I have attached a sketch identifying the 300 metre buffer; you will note that the subject land is entirely within the 300 metres buffer, as shown in the green hatched area.

Policies of our Official Plan for the District of Manitoulin and the Provincial Policy Statement 2020 do not support new sensitive uses within an Aggregate Resource Area. I have attached a copy of the policies from our Official Plan document and from the Provincial Policy Statement 2020.

If the licence is rescinded, or if a report can be obtained supporting the new residential use, there may be a possibility to proceed with an application for Consent to Sever.

Please advise if you wish to proceed with the application or if you would like me to return the application and application fee. If you have any questions or need any clarification, please do not hesitate to contact our Office. Thank you.'

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June 28, 2022 - Continued

Application File No. B12-22 - continued
May 24, 2022

Despite the concerns made available to the applicants, that the policies that had been provided to them do not support new lot creation within 300 metres of the Aggregate Site, Mr. Banger advised by email on April 22nd, 2022 and May 5th, 2022 that they wished to proceed with putting their application before the Planning Board for their consideration.

Therefore, the application was circulated on May 6th, 2022 to the Municipality of Assiginack, 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 CAO for the Municipality advised via email on May 20th, 2022 that:

' Council does not meet until June 7th, and they will need to review the application. I have included the Questionnaire but must caution that they may change slightly after Council's learned review.'

Mary McCartney, Bell Canada advised on May 6th, 2022 that Bell Canada has no comments or concerns regarding the application as proposed.

The Secretary-Treasurer conducted a Site Visit to the property on May 20th, 2022 and observed the civic address #653 on the proposed severed land and #525 on the proposed retained land. She also observed three accessory structures within the proposed retained land that were not indicated on the application.

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

Mr. Banger, applicant, had requested documentation (14 pages) be provided to the Board Members for consideration of their application.

Mr. Banger, applicant, was present during consideration of the application. He provided the History of their property and the History of the Aggregate Site; and explained their dilemma regarding the proposed new lot being within 300 metres of the Licenced Aggregate Site, which is currently not operating.

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

Discussion among the Board included:

- Provincial Policy regarding Licenced Aggregate Sites - states in part that (residential uses) generally not permitted; the 300 metre buffer is from the property line not from the active site; policies need to be taken into consideration; if the licence is revoked it would solve the problem; a reduced licence may help; the Ministry is not responding; the Township has not provided their comments; need more information to make an informative Decision.

Although the Board was sympathetic to Mr. Banger's concerns the Board was in favour of deferring their Decision until the Municipality has had a chance to provide their comments.

In consideration of the information presented, a motion was made and duly seconded that the application be deferred until the next Planning Board Meeting to allow the Municipality of Assiginack additional time to review the application and to provide comments to the Planning Board.

Mr. Banger advised he had no concerns with a deferral.

June 28th, 2022

The Secretary-Treasurer reported that this application had been deferred at the May 24th, 2022 Board Meeting to allow additional time for the Municipality to review the application and to provide comments.

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Application File No. B12-22
June 28, 2022 - Continued

The Municipality of Assiginack advised of the following two Motions:

Resolution No. 154-12-2022 - June 7th, 2022:

' That we inform the Manitoulin Planning Board that we wish to defer comments on Consent Application B12-22, as we are consulting a solicitor and a planning consultant and have not confirmed a municipal position as of this date.....Carried.'

Resolution No. 169-13-2022 - June 21st, 2022:

' That we inform the Manitoulin Planning Board that we support Consent Application B12-22 as presented, providing the applicant obtains an Impact Analysis Report favourable to the creation of a new lot and subject to the setback recommendations contained in the report.....Carried.'

The Ministry of the Environment, Conservation and Parks (MECP) provided the following comments via email, on June 22nd, 2022.

'The Ministry land use compatibility guidelines (D-Series Guidelines) were developed for Municipalities and other planning authorities to use when making land use planning decisions. These guidelines should be considered to help ensure relevant compatibility studies are completed before new sensitive land uses, such as residential areas, are built near existing major facilities and vice versa.'

Also via email on June 24th, 2022, to provide clarification, MECP acknowledged that they are in agreement that:

- the guidelines still apply to non-operating existing facilities such as an inactive Aggregate Site, like the one we are dealing with here;
- the guidelines set out minimum standards to be used by qualified professionals in preparing reports and recommending mitigation measures;
- newly proposed sensitive uses within the influence area of the facility should also comply with the guidelines;
- it is the proponent's responsibility to ensure that the new uses comply with the guidelines; and
- in order to conform to the guidelines, the proponent should consult with a professional engineer or other qualified person to conduct the study and determine mitigation measures (if any) so the new development meets the required guidelines.

The Secretary-Treasurer informed the Board that she had a telephone conversation with Mr. Hobbs, CAO for the Municipality of Assiginack on June 28th, 2022 regarding Resolution 169-13-2022, the OP Policies and the PPS 2020 Policies regarding new residential uses in the vicinity of a licensed Aggregate Site, and what information a favourable Impact Analysis Report would include.

The following email was received from Mr. Hobbs on June 28th, 2022:

' Theresa:

Thank you for speaking with me this morning on this file. I would ask that the Board defer this approval until your July meeting. My reasoning is that based on what we have reviewed in terms of the OP and PPS as well as a lack of response from the Provincial ministries and the potential involvement of planning and engineering consultants, who come at a cost to someone.

I would like to examine how to best move the file beyond the Board decision.

I think that regardless of what we would all like to see, the Board will have to refuse or at least impose financially onerous conditions on the approval. I would like to take the next 30 days to sit with the applicant, the planner, and any of the applicant's consultants, to determine how to appeal the board's decision in order to bring the Province to the table to explain their positions. As this fall is a municipal election, I don't see any councils proceeding with an official plan amendment but I do see a fundamental problem that the Province is not acknowledging and 30 days might allow all parties to plan a way forward to address this without working at cross purposes.

I thank the Board for its consideration.'

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June 28, 2022 - Continued

Application File No. B12-22
June 28, 2022 - Continued

Mr. Banger, applicant, was present during the electronic meeting. He advised he had no concerns with another deferral.

In consideration of the information presented, and at the request of the Municipality, a motion was made and duly seconded that the application be deferred until the next Planning Board Meeting.

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

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Application File No.: B13-22 No. of Members Present: 8
Date of Decision: June 28, 2022
Location of Property: Part Lot 9, Conc. IX, Surveyed as Part 1, Plan 31R-1242 and
Part 1, Plan 31R-2430, 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 Michael and Eileen Wentzell is to provide for the creation of a new lot having a frontage of ± 93.4 M. on Blue Road, a maintained municipal road, and a depth of ± 99 M., thereby containing an area of ± 0.93 Hec. The applicants are proposing to offer this lot for sale for residential uses. There are no structures within this land.

The land to be retained has a frontage of ± 127.8 M. on Blue Road, a maintained municipal road and a depth of ± 99 M., thereby containing an area of ± 1.22 Hec. The applicants' dwelling, and accessory shed are located within this land. Residential uses are proposed to continue.

Accompanying the application was a sketch, prepared by Gordon Keatley, Ontario Land Surveyor, identifying the location of the existing structures. From the information provided it appears that all structures, including the well, are located within the boundaries of the proposed retained land. However the well and the accessory structure appear to be very close to the westerly lot line. It was explained to Mr. Wentzell that an Amendment to the Municipal Zoning By-law may be required, if the structure(s) do not meet the required 3.0 metre side yard setback.

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

File No. B51-82 provided for the creation of a new lot, surveyed as Part 1, Plan 31R-1242; and

File No. B63-92 provided for a lot addition of Part 1, Plan 31R-2430 which was added to the previous lot, Part 1, Plan 31R-1242.

The current application is to sever the lot resulting from File No. B63-92, into a severed portion and a retained portion.

Services for the retained land consist of an existing private individual septic system and an existing private well. Services for the severed land will consist of private individual septic system and private well, when required.

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

Access for the retained land is via an existing entrance, #699 Blue Road, a maintained municipal road. According to the application, there is an existing driveway from Blue Road, for the proposed severed land.

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

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 applicants were advised that 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.

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June 28, 2022 - Continued

Application File No. B13-22 - continued
June 28, 2022

There is a drain catchment area identified within the north west corner of the proposed retained land, known as the Drainage System A - Bond Brain Catchment.

As part of the preliminary review of the application, P. Mader, Municipal Coordinator Special Projects, advised by email on June 9th, 2022:

' I can confirm that if requested severance is a property on a Municipal Drain or within its assessed watershed, that the steps of Section 65 of the drainage act will have to be followed, and this will form part of the cost of severance to the property owner requesting severance. So yes, a Section 65 re-assessment will apply. '

Mr. and Mrs. Wentzell were advised that a reassessment under Section 65 of the Drainage Act would apply.

A livestock facility is identified located within Lot 9, Conc. IX and within Lot 8, Conc. VIII. The farm related structures meet the requirements of the Minimum Distance Separation (MDS) Formulae as required by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA).

From information available habitat for Bobolink and Eastern Meadowlark were identified within the surrounding area, but not within the subject land.

Due to the existing dwelling, the size of the proposed lot, and building sites outside the identified habitat, 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 June 9th, 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 of Central Manitoulin advised they have no concerns and recommend consent be granted.

Mary McCartney, Bell Canada, advised via email on June 14th, 2022 that Bell Canada does not have any comments or concerns regarding the application.

During discussion of the application, it was suggested that the applicants have a discussion with the Municipality as the cost of maintenance of municipal drains is prorated to the landowners and if re-apportionment of the drain/catchment area can be done before the conveyance of the new lot, the cost to the applicants may be reduced or eliminated.

It was asked if the existing well needed to meet the 3.0 metres side yard setback. The Secretary-Treasurer explained that it was unclear and that the Municipality would determine if there is conformity to their Zoning By-law for the location of the well.

Mr. and Mrs. Wentzell, applicants, were present during consideration of the application.

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

Board Minutes
June 28, 2022 - Continued

Application File No. B13-22 - continued
June 28, 2022

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 an entrance permit from Blue Road has been issued or could be issued for the proposed severed land, satisfactory to the municipality;
- iii) 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 completed by the landowner, satisfactory to the municipality;
- iv) a written confirmation from the municipality that the existing structures conform to Zoning By-law No. 2002-07, 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 for the subject land, 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: Owners of the subject lands should be aware that the cost of maintenance of municipal drains is prorated to landowners.

Note: Board Member, Richard Stephens declared a conflict of interest with this application.

Board Minutes
June 28, 2022 - Continued

Application File No.: B14-22 No. of Members Present: 8
Date of Decision: June 28, 2022
Location of Property: Part Lot 11, Conc. XV, Surveyed as Part 1, Plan 31R-2539,
Township of Campbell, Municipality of Central Manitoulin, District of Manitoulin

DECISION

The purpose of this application made under Section 53(1) of the Planning Act by Therese Trainor is to provide for the creation of a new lot having a minimum frontage of 46 M. on Dean Bay of Lake Huron and an average depth of ± 170.5 M., thereby containing an area of ± 0.7 Hec. This new lot will include part of the existing right-of-way, surveyed as Part 1, Plan 31R-2949. The lot will be together with a right-of-way and will be subject to right-of way in favour of lots to the east. The applicant's seasonal dwelling is located within this land. Seasonal residential uses are proposed to continue.

The land to be retained has frontages of ± 91.2 M. on Dean Bay of Lake Huron, ± 107.2 M. on the municipal road allowance, and ± 369.7 M. on Burke Road, a maintained municipal road, and an average depth of ± 825 M., thereby containing an area of ± 8.7 Hec. This land will be subject to right-of-way over part of Part 1, Plan 31R-2949, in favour of the proposed new lot. According to the application there is a privy/out house located within this land that is to be removed. There are no new structures proposed at this time.

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

File No. B12-89 provided for a legal right-of-way over the one foot reserve being Block 21, on Subdivision Plan 31M-195, including Part 1, Plan 31R-1909, in favour of Lot 11, Conc. XV;

File No. B49-93 provided for the creation of two new lots from Lot 11, Conc. XV, surveyed as Part 1, Plan 31R-2539 and Part 3, Plan 31R-2539; and

File No. B19-99 provided for a legal right-of-way (having a width of ± 10.1 M./33 ft). over Part 1, Plan 31R-2949 (within Part 1, Plan 31R-2539) in favour of Part 2, Plan 31R-2539.

The current application involves Part 1, Plan 31R-2539, which is the lot created by File No. B49-93.

The application was circulated on May 19th, 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 Bomberry, UCCMM, advised via email that they have no comments to submit at this time.

John Manitowabi, Wiikwemkoong Unceded Territory, advised that they have no comments or objections to the severance request.

The subject land has been designated Rural Area and zoned Rural (R). Seasonal residential uses are proposed to continue. The structures located within the subject land(s) are permitted by Ontario Regulation 461/89 and amendment to Ontario Regulation 672/81 approved under File No. 51Z0-488-09.

Access for the proposed new lot will be via private right-of-way over Part of Part 1, Plan 31R-2949 and over the one foot reserve surveyed as Part 1, Plan 31R-1909 (± 7.3 M./ ± 23.95 ft. wide) and Block 21 on Subdivision Plan 31M-195, to Burke Road, to Grimsthorpe Road, both maintained municipal Roads. The retained land will be subject to right-of-way over the remainder of Part 1, Plan 31R-2949 in favour of the new lot.

Official Plan Policy F.4.4.2 - Consents - under 4.c) states:

' Any required road widenings, improvements or extensions to existing rights-of-way may be required as a condition of severance approval. '

Board Minutes
June 28, 2022 - Continued

Application File No. B14-22 - continued
June 28, 2022

The applicant was advised that the existing right-of-way may need to be re-surveyed to be 20 m./66 ft. wide.

Services consist of private individual septic system and private well. According to the application, the applicant has no intention to build on the retained land. There are no new services proposed as at this time.

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 an unground hydro line identified within the subject land. A request for comments was sent to Hydro One as part of the review and they provided the following comments, via email, on May 20th, 2022:

- They are unable to locate an unregistered easement over the subject land;
- Hydro One would like an easement because the line services multiple properties beyond the subject land;
- they require a survey; width is 5 m. both sides of centerline for overhead wire and 3 m. both sides of centerline for the underground wire; it is to be conveyed to Hydro One as a registered easement;
- Our concern would be continuing to service the other properties that have service now; the existing line was private at one time belonging to Trainor and Hydro purchased the line according to a retired employee however I am unable to locate any of the documentation for the purchase or any unregistered easements.

The comments received from Hydro One were forwarded to the applicant, via email, on May 24th, 2022.

There is an unevaluated wetland identified within a small portion of the proposed retained land.

There is a Deer Wintering Area identified within the northerly part of the proposed retained land.

There is an endangered species habitat identified to the south east along the shoreline. However none is identified within the subject land or directly in front of the property along the shoreline.

Due to the size of the proposed lots and a building envelope outside the identified habitat, the subject land does not appear to have any natural heritage features or species at risk (SAR) concerns.

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

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

This proposal is considered to be in conformity with the PPS 2020.

This application was circulated on June 9th, 2022 to Bell Canada, the Municipality of Central Manitoulin, and to all property owners within 60 metres and by the posting of a notice, clearly visible and legible from a public highway or other place to which the public has access, as required by Ontario Regulation 197/96.

Bell Canada advised that they have no comments or concerns regarding the application.

The Municipality of Central Manitoulin advised they have no concerns and recommend that Consent be granted.

There have been three telephone calls to the Office, from property owners in the vicinity of the subject land requesting further explanation of the application but they did not advise of any concerns. M. Poynter, owner of Part Lot 10, Conc. XV; M. Mckechnie, owner of Part Lot 10, Conc. XV; and L. Chauvin, owner of Part Lot 12, Conc. XV. Mr. Chauvin requested a copy of the Decision of Planning Board. No written concerns have been received.

Board Minutes
June 28, 2022 - Continued

Application File No. B14-22 - continued
June 28, 2022

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.

During consideration of the application, the Board discussed the width of the existing right-of-way and the request from Hydro One for an Easement. The Board were in agreement that taking into consideration the OP policy and good planning practices the current right-of-way should be re-surveyed having a minimum width of 20 metres.

Discussion regarding the Hydro One comments included:

- is it the landowner's responsibility to pay for an Easement because the paper work had been lost by Hydro One?;
- does the Planning Board need to honour the Hydro One request for a surveyed Easement?;
- Is this a Planning Board problem?;
- what is the fall back if the Hydro Easement is not a condition of the Consent to Sever approval?

Therese Trainor, applicant, was in attendance and spoke to the application. She was not in favour of having a wider access, as this would cut into the new lot and into the retained parcel. It was explained that although the right-of-way would be surveyed having a minimum width of 20 metres, the actual travelled portion could remain at 10 metres.

Ms. Trainer reported that she had not received the email from the Planning Board with the Hydro One comments and explained that she had some paper work that Hydro One did have an easement or an agreement in place.

Due to this new information, the Board felt that a deferral of Decision was appropriate. She was asked to forward the documentation to the Planning Board to review.

Ms. Trainer advised that she did not have any concerns with a deferral of her application.

In consideration of the information presented, a motion was made and duly seconded that the application be deferred until the next Planning Board Meeting to allow the Planning Board to consider the new information from Ms. Trainor and consult with Hydro One.

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

PRESENTATION OF APPLICATION FOR CONSENT TO SEVER

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

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

The Chair then asked if any Board Members have or wish to declare a "Conflict of Interest", at this meeting or previous meeting.

Board Member, R. Stephens, declared a conflict of interest for Consent to Sever, File No. B13-22 .

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


	<u>Moved By</u>	<u>Seconded By</u>
1. B11-22	R. Stephens	I. Anderson
2. B12-22	R. Stephens	R. Brown
	* That this application be deferred, - Carried	
3. B13-22	I. Anderson	R. Brown
4. B14-22	R. Stephens	I. Anderson
	* That this application be deferred, - Carried	

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

The above motion applies to all applications excepting B12-22 and B14-22.

The time now being 8:22 P.M. and all business before the Board having been dealt with, the Meeting was adjourned on a motion moved by R. Brown.

L. HAYDEN, CHAIR



T.A. CARLISLE,
SECRETARY-TREASURER

From: Township of Burpee Mills [burpeemills@vianet.ca] (5 pages)
Sent: May 24, 2022 3:32 PM
To: Theresa Carlisle
Subject: FW: Setback Recommendation from the Multi-Municipal Wind Turbine Working Group
Attachments: MMWTWG Setbacks Recommendation.pdf
Importance: High

Hi Theresa,
Patsy asked me to forward this to you.
Have a great day.

Lynn

Lynn Jackes
Deputy Clerk-Treasurer
Township of Burpee & Mills
burpeemills@vianet.ca
www.burpeemills.com
705-282-0624

From: Julie Reid <deputyclerk@arran-elderslie.ca>
Sent: April-22-22 2:56 PM

Good Afternoon,

Please see the attached letter from the Multi-Municipal Wind Turbine Working Group regarding Setbacks for Wind Turbines.

Warm Regards,

Julie Hamilton
Deputy Clerk
Municipality of Arran-Elderslie
1925 Bruce Road 10,
PO Box 70
Chesley, on NOG 1L0
Office 519-363-3039 ext 105
Fax 519-363-2203
Cell 226-668-8323

MULTI-MUNICIPAL WIND TURBINE WORKING GROUP
TOM ALLWOOD, COUNCILLOR, GREY HIGHLANDS, CHAIR
STEVE ADAMS, COUNCILLOR, BROCKTON, VICE-CHAIR
1925 BRUCE ROAD 10, BOX 70, CHESLEY, ON NOG 1L0
519-363-3039 Fax: 519-363-2203
deputyclerk@arran-elderslie.ca

April 22, 2022

Dear Mayor and Members of Council,

The mandate of the Multi Municipal Working Group (MMWTWG) is to share, discuss and advocate best practices and other means to address mutual concerns regarding proposals to locate and install industrial/commercial wind generation facilities to all the relevant Government Ministries and Agencies.

At the April 14, 2022 meeting of the Multi-Municipal Wind Turbine Working Group passed the following resolution:

Agenda Number: 7.2.4

Resolution No. MMWTWG-2022-17

Title: Setback Recommendation

Date: Thursday, April 14, 2022

Moved by: Bill Palmer - Citizen - Municipality of Arran-Elderslie

Seconded by: Bob Purcell - Mayor - Municipality of Dutton Dunwich

To address concerns related to noise and the public safety of citizens, the Multi Municipal Wind Turbine Working Group recommends that the following setbacks from wind turbines should be adopted in each municipality:

1. 2000 metres from any wind turbine and any noise receptor, including homes, schools, places of worship, and locations where citizens go for relaxation, such as parks and community centres.
2. 1200 metres from any wind turbine and the lot line of any non-participating citizen, or a place where a citizen can access, such as public roadways, or waterways.

Further, that the Recording Secretary is empowered to prepare a letter to all municipalities in Ontario and the responsible Ministries, (Ministry of the Environment Conservation and Parks, and Ministry of Municipal Affairs) to be signed by the chair of the MMWTWG for immediate release.

CARRIED

Through changes made to the Planning Act in 2019, the province returned powers to municipalities to ensure that they have the final say on energy projects in their community. Proponents of new projects need to confirm that their project is permitted by the municipalities' zoning bylaws. Now that there are reports that sites are being sought for new wind turbines, it is timely that municipalities review the provisions in their zoning bylaws and update them as appropriate.

Key elements in zoning bylaws are setbacks between activities. While experience with the existing wind turbine projects in Ontario and changes in other jurisdictions indicate that the current provincial setbacks are inadequate to protect health of nearby residents. Municipalities are free to establish their own setbacks used in local bylaws. It is in this context that the MMWTWG is providing these recommendations to your municipality.

Attached is a summary of information related to setbacks. It includes a review of different setbacks based on a review by the Polish Public Institute of Health as well as information on setbacks used in other jurisdictions. The 2000 m setback from noise receptors is designed to provide protection from audible noise as well as low frequency noise and infrasound which travels greater distances that could occur from multiple turbines permitted by the current setback of 550 metres. Similarly, although 1200 metres may be a larger distance than we have observed significant pieces of blades travel from the towers, it provides a buffer to give protection from fire, or shadow flicker, that can cause problems further than blade pieces fall.

The Multi-Municipal Wind Turbine Working Group invites the participation of all municipalities across Ontario. To obtain details regarding the group's mandates, Terms of Reference and how to become a Member, please reach out to our Recording Secretary, Julie Hamilton at deputyclerk@arran-elderslie.ca. Size in numbers provides a louder voice to be heard!

Warmest Regards,
On behalf of the Chair, Tom Allwood



Julie Hamilton, Recording Secretary
Deputy Clerk
Municipality of Arran-Elderslie,
1925 Bruce Road 10, PO Box 70
Chesley, ON N0G 1L0
519-363-3039 ext. 105
deputyclerk@arran-elderslie.ca

c. Honourable David Piccini, Minister of Environment, Conservation and Parks, minister.mecp@ontario.ca, Honourable Steve Clark, Minister of Municipal Affairs and Housing, minister.mah@ontario.ca

Encl.

Setback Information

Current Ontario Rules – Regulation 359/09

Receptors	550 metres	Audible noise only based on 40 dBA
Property Lines	Blade length plus 10 metres	Typically 60 metres

Polish Public Health Institute Review

Audible Noise	.5 to .7 km	No adjustments for pulsing/tonal quality
Total Noise	1.0 to 3 km	Includes low frequency noise & pulsing/tonal adjustments
Shadow Flicker	1.2 to 2.1 km	Depends on height of turbine
Ice Throw	.5 to .8 km	Fragments of ice thrown from blades
Turbine Failure	.5 to 1.4 km	Potential distance for blade fragments

Examples of Setbacks

Jurisdiction	Set-back	Comments
Dutton-Dunwich, ON	2,000 M	To receptors
Mason County, Kentucky	1,600 M	To property line
Caratunk County, Maine	2,414 M	To property line
Wyoming	1,110 M	5.5 X height to property line
Bavaria, Germany	2,073 M	10 X hub height plus blade length
Sachsen, Germany	1,380 M	10 X hub height
Northern Ireland	1,386 M	10 X rotor diameter
Poland	2,073 M	10 X hub height plus blade length