

MINUTES OF THE MEETING OF THE COMMITTEE OF ADJUSTMENT HELD IN THE ADMINISTRATION OFFICE, 1024 HURLWOOD LANE, TUESDAY, AUGUST 20, 2013 AT 7:00 P.M.

Present: Chair Ron Peters

 Members John Ferguson
 Emily Silk
 Mark Vandergeest

Staff: Secretary/Treasurer, Planner Katie Mandeville
 Director of Planning Andrew Fyfe

A. CALL TO ORDER

The Chair called the meeting to order at 7:00 p.m. and explained the meeting process and the time frame for appeals to those persons present.

B. DISCLOSURE OF PECUNIARY INTEREST
NONE

C. ADOPTION OF MINUTES

The following motion was adopted:

Motion # 13-15

MOVED by John Ferguson and SECONDED by Mark Vandergeest

THAT the Minutes of the Committee of Adjustment meeting held in the Council Chambers on July 16, 2013 be adopted as printed and distributed.

CARRIED

D. NEW APPLICATIONS

1. **Minor Variance Application No.:** **A-18-13**
Applicant: **Wendy Archer**
Agent: **Crew Docks & Barging**
Roll Number: **4351 050 005 31302 0000**
Municipal Address: **3731 Severn River**

The Secretary/Treasurer of the Committee of Adjustment outlined the application(s) and outlined the correspondence received, as follows:

Proposal:

- É The 1.4 acre property is currently vacant
- É The owner wishes to construct a new accessory structure (dock) to replace an existing non-complying dock. The owner has applied for a new larger dock than what currently exists on the water access property.
- É The owners have requested the following variance in order to permit the construction of the new dock:
 - 1. A variance to permit a dock on a vacant water access property whereas Zoning By-law 2010-65, Section 3.2.4 states that no accessory building or structure shall be erected on any lot until the principal building has been erected or in the case of a water access property that a building permit for a structure has been issued.

Agency Comments:

None

Public Correspondence:

None

Staff Report P13-069:

The Secretary/Treasurer provided a brief summary of the following staff report:

Background:

County Official Plan: Rural
Township Official Plan: Shoreline Residential
Township Zoning: Shoreline Residential Three (SR3)

The subject water access property is located at 3731 Severn River in the geographic Township of Matchedash (**Appendix 1**). The 1.4 acre property is currently vacant with the exception of a floating dock as seen in **Appendix 2**.

The owner wishes to construct a new accessory structure (dock) to replace an existing non-complying dock. The owner has applied for a new larger dock than what currently exists on the water access property.

The following variance is requested in order to permit the construction of the new dock:

- 1. A variance to permit a dock on a vacant water access property whereas Zoning By-law 2010-65, Section 3.2.4 states that no accessory building or structure shall be erected on any lot until the principal building has been erected or in the case of a water access property that a building permit for a structure has been issued.

The property was not site inspected by planning & development staff prior to the writing of this report.

Discussion:

A discussion of the four tests for a Minor Variance as set out in Section 45(1) of the *Planning Act* follows.

Is the general intent and purpose of the Official Plan maintained?

The subject property is designated Shoreline Residential under the Township of Severn Official Plan. The objectives of the Shoreline Residential Area as stated in Section C7.1 of the Township's Official Plan are as follows:

7.1 OBJECTIVES

- a) To maintain the existing character of this predominantly low density residential area.
- b) To protect the natural features and ecological functions of the shoreline area and the immediate shoreline.
- c) To ensure that existing development is appropriately serviced with water and sanitary services."

The construction of a new pole dock to replace the existing floating dock will not alter the ecological functions or natural features of the shoreline area. As the property is water access only the existing character of the area is that of low density residential (in this case a vacant property) with docks along the shoreline to provide for access.

Is the general intent and purpose of the Zoning By-law maintained?

The proposal appears to comply with all Zoning By-law requirements with the exception of the Section 3.2.4. The following table illustrates the requirements of the Zoning By-law relating to this proposal (Section 3.2.12.6) and how the proposal compares with the requirements:

| By-law Provision | By-law | This Proposal |
|---|---|--|
| a) Number of docks | Maximum Number: 1, 2 if water access | 1 |
| b) Setback from side lot line | 4.5 m | > 4.5 m both sides |
| c) Dock width & length | Must fit within an 8m by 10m rectangular envelope | Fits within a 8 m by 10 m rectangular envelope |
| d) Maximum dock width | 2.4 m | 2.4 m / 8ft. |
| e) Maximum surface area | 45 m ² | 32.8 m ² |
| f) Width of access ramp | 2 m | n/a |
| g) Open span at shore | First 3 m | Entire dock |
| h) Maximum total footprint of supporting structures | 15 m ² | < 15 m ² (pole dock) |
| i) Open span | Minimum 50% of total dock length | Entire dock |

The intent of the shoreline structures provisions in Zoning By-law 2010-65 is to match the provisions of the Trent Severn Waterway (TSW). Many municipalities do not govern in water or shoreline structures, particularly if they are on the Trent as approval is needed from the TSW regardless of the municipality's provisions. The property owners have applied and been granted approval from the TSW.

The restriction the applicants are seeking relief from is to prevent the development of property with accessory structures prior to a principle structure. Water access properties make this provision difficult to adhere to as a dock, an accessory structure, is the only form of access to the property. This property already has an existing non-complying dock as the dock was built prior to Zoning By-law 2010-65 when the municipality did not govern docks. The existing dock has allowed the applicants to use and maintain their water access property which will continue to be the purpose of the new dock. The property owners have been advised of the uses which are permitted on a vacant, Shoreline Residential Three (SR3) Zone property and will be expected to adhere to those permitted uses.

Is it minor?

The proposed dock is a replacement dock, although larger. As an existing non-complying dock already exists on the property this has allowed for the property owners to visit and maintain the property and as such they are permitted to continue this use of the property. With a non-complying structure the only permissible alterations to the structure are those that allow for a restoration to a safe condition, this is difficult with a dock, especially an aged floating dock and the property owners and their contractor have opted to try for a new dock rather than fix what currently exists.

Is it desirable for the appropriate development or use of the land?

The proposed development is appropriate and desirable development of the land as the proposed dock is a pole dock which is less impactful to the natural and ecological functions of the lakebed than a structure on cribs since it allows for better light penetration and water flow, similar to a floating dock. The existing floating dock is in disrepair and will be removed from the shoreline. Therefore, this proposal would appear to be desirable and appropriate development of the land.

Recommendation:

The Planning Department has no objections to the approval of this application, subject to the recommended conditions set out in **Appendix 3**, because the variances are minor in nature, are keeping with the general intent of the Official Plan and Zoning By-law and are desirable for the appropriate development and use of the land.

Respectfully submitted,

Katie Mandeville, BA, BURPI
Planner

With the concurrence of,

Andrew Fyfe, M.A.
Director of Planning & Development

The Chair asked if the applicant or agent were present and had anything to add to what was presented - The applicants were present to answer questions.

The Chair asked if anyone in the audience had any comments on this application. Public comments were as follows: None.

The Chair asked if there were any other public comments. As none were forthcoming, the Chair declared the public portion of the meeting closed.

The Chair asked if the Committee had any comments on this application. Committee comments were as follows: None.

As there was no further discussion, the Chair asked the Secretary/Treasurer to review the proposed conditions of the decision. The applicant was asked if they were aware of the proposed conditions and were in agreement with them. The applicant confirmed this. The Chair then called for a vote on the application.

**DECISION – APPROVE
Variance Application A-18-13 (Archer)**

THE PURPOSE and EFFECT of the variance application is:

To request the following variance to the provisions of Zoning By-law 2010-65:

1. A variance to permit a dock on a vacant water access property whereas Zoning By-law 2010-65, Section 3.2.4 states that no accessory building or structure shall be erected on any lot until the principal building has been erected or in the case of a water access property that a building permit for a structure has been issued.

In order to permit the construction of a new replacement dock.

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 20th day of August, 2013:

DECISION: APPROVED

SUBJECT TO THE FOLLOWING CONDITIONS:

1. Municipal Taxes to be paid to date.
2. That the existing vegetation is preserved and enhanced as much as possible.
3. That the construction is in substantial compliance with the plans and drawings submitted with the Application.

THE REASONS for the Committee's Decision are that the request is minor in nature, conforms to the general intent and purpose of the Zoning By-law and Official Plan and is desirable for the appropriate development or use of the land.

The Secretary/Treasurer is hereby authorized to sign documents on behalf of the Committee giving effect to this Decision.

CARRIED

| | |
|------------------------------------|--------------------------------|
| 2. Consent Application No.: | B-12-13 |
| Applicant: | Rodney Billet |
| Roll Number: | 4351 010 004 00500 0000 |
| Municipal Address: | 3879 Town Line |

The Secretary/Treasurer of the Committee of Adjustment outlined the application(s) and outlined the correspondence received, as follows:

Proposal:

- É The property is located at 3879 Town Line
- É Legally described as: being Part of Lot 1, Concession 1, designated 51R-16559 Parts 2,3,4, geographic Township of North Orillia.
- É The property is currently vacant.
- É Requesting consent to sever a portion of the property without frontage on a municipal road to be added as a lot addition to the rear of 3899 Town Line. The proposed parcel would have no frontage on a municipal road and an area of approximately 0.78 ha (1.93 acres).
- É The retained lands would have a frontage of approximately 89.14 metres (292.46 ft.) on Town Line and area of approximately 10.86 ha (26.83 acres).

Agency Comments:

None.

Public Correspondence:

None.

Staff Report P13-70:

The Secretary/Treasurer provided a brief summary of the following staff report:

Background:

| | |
|-------------------------|--|
| County Official Plan: | Settlement, Rural & Agricultural, Greenlands |
| Township Official Plan: | Settlement Living (Marchmont) |
| Township Zoning: | Rural (RU) |

The subject property is located at 3879 Town Line being Part of Lot 1, Concession 1, designated 51R-16559 Parts 2,3,4 (N. Orillia) (**Appendix 1**). The property is approximately 11.64 ha (28.76

acres) in size with 89.14 metres (292.46 ft.) frontage on Town Line and is currently vacant.

The applicant is requesting consent to sever a portion of the property without frontage on a municipal road to be added as a lot addition to the rear of 3899 Town Line. The proposed parcel would have no frontage on a municipal road and an area of approximately 0.78 ha (1.93 acres). The retained lands would have a frontage of approximately 89.14 metres (292.46 ft.) on Town Line and area of approximately 10.86 ha (26.83 acres).

A sketch of the proposed lot addition is attached as **Appendix 2**.

Discussion:

A discussion of the various planning documents that have bearing on this application follows.

Provincial Policy Statement, 2005

The subject property is classified as having Class 1,2 or 3 soil under the Canada Land Inventory mapping. As such, it constitutes a *prime agricultural area* as defined in the Provincial Policy Statement (PPS) 2005, being *areas where prime agricultural lands predominate* (Section 2.3.1, PPS).

The definition of *prime agricultural lands* in the PPS is as follows:

Prime agricultural land: means land that includes specialty crop areas and/or Canada Land Inventory Classes 1,2 and 3 soils, in this order of priority for protection.

Section 2.3.4 of the PPS deals with lot creation and lot adjustments. Section 2.3.4.2 states that *lot adjustments in prime agricultural areas may be permitted for legal or technical reasons*. The PPS defines *legal or technical reasons* as follows:

Legal or technical reasons: for the purposes of policy 2.3.4.2, means severances for purposes such as easements, corrections of deeds, quit claims and minor boundary adjustments which do not result in the creation of a new lot.

The proposed lot addition may be considered as a minor boundary adjustment for the purposes of the PPS as a new lot will not be created.

Growth Plan for the Greater Golden Horseshoe, as amended

The Growth Plan is silent on the issue of boundary adjustments.

County of Simcoe 2006 Official Plan (in effect)

Section 3.3.3 of the County of Simcoe Official Plan states that *consents for the purpose of boundary adjustments and consolidation of land holdings are permitted but shall not be for the purpose of creating new lots except as otherwise permitted in this Plan*.

This proposal does not result in the creation of a new lot and therefore satisfies the intent of this policy.

Township of Severn Official Plan

Section B8.2.2 of the Township of Severn Official Plan states as follows:

B8.2.2 Boundary Adjustments

A consent may be permitted for the purpose of correcting conveyances, enlarging existing lots or through acquisition by a public body, provided no new building lot is created. In reviewing an application for such a boundary adjustment, the Committee of Adjustment shall be satisfied that the boundary adjustment will not affect the viability of the use of the properties affected as intended by this Plan.

The subject proposal is a lot addition to enlarge an existing lot, no new building lot will be created through this application. Furthermore, the property has not been used for agricultural purposes for many years. The surrounding properties are also not actively farmed, thus the viability of the use of the properties will not be affected.

Township of Severn Zoning By-law 2010-65

The subject property is in the Rural (RU) Zone which is described in Section 5.1 of Zoning By-law 2010-65 as a *Rural Area with varied Agricultural potential*.

The requirement for Minimum Lot Area for lots in the Rural Zone is 10 ha (24.7 acres) and the requirement for Minimum Lot Frontage is 60 m (200 feet). As such, the retained lands exceed the requirements for minimum lot area and minimum frontage.

The severed lands will be added as a lot addition to 3899 Town Line which currently has 87.28 m (286.34 ft.) of frontage and 0.55 ha (1.359 acres) and is zoned Rural Residential (RR). The property currently exceeds the requirements for the RR zone in terms of minimum lot area and minimum frontage.

Recommendation:

The Planning Department has no objection to the approval of this application, subject to the recommended conditions set out in **Appendix 3**.

Respectfully submitted,

Katie Mandeville, BA, BURPI
Planner

With the concurrence of,

Andrew R. Fyfe, M.A.
Director of Planning & Development

The Chair asked if the applicant or agent were present and had anything to add to what was presented - the applicant was present to answer questions and had nothing to add.

The Chair asked if anyone in the audience had any comments on this application. Public comments were as follows:

- *Sandra Forth, 2077 Millwood Road inquired as to the development plans for the retained parcel.*
- *The Secretary/Treasurer advised that there are no current applications, advised that the applicant may be better suited to answer.*
- *The applicant stated that he has no plans for the property at this time.*

The Chair asked if there were any other public comments. As none were forthcoming, the Chair declared the public portion of the meeting closed.

The Chair asked if the Committee had any comments on this application. Committee comments were as follows: None.

As there was no further discussion, the Chair asked the Secretary/Treasurer to review the proposed conditions of the decision. The applicant was asked if he was aware of the proposed conditions and was in agreement with them. The applicant confirmed this. The Chair then called for a vote on the application.

**DECISION – APPROVE
Consent Application B-12-13 (Billett)**

THE PURPOSE and EFFECT of the consent application is:

TO SEVER a portion of the property without frontage on a municipal road to be added as a lot addition to the rear of 3899 Town Line. The proposed parcel would have no frontage on a municipal road and an area of approximately 0.78 ha (1.93 acres).

The retained lands would have a frontage of approximately 89.14 metres (292.46 ft.) on Town Line and area of approximately 10.86 ha (26.83 acres).

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 20th day of August, 2013:

DECISION: PROVISIONALLY APPROVED

SUBJECT TO THE FOLLOWING CONDITIONS:

1. A reference plan of the severed parcel shall be prepared and duly registered by an Ontario Land Surveyor and one copy filed with the Secretary/Treasurer of the Committee. A draft copy of the reference plan shall be provided to the Secretary-Treasurer for review and approval prior to registration on title.
2. A copy of the electronic registration ~~to~~ preparation+draft deed for the severed lot shall be provided to the Secretary/Treasurer of the Committee together with a signed Acknowledgement and Direction so that the consent certificate may be issued.
3. Municipal taxes shall be paid in full up to the date of request of issuance of the

consent certificate.

4. That the severed lands shall merge with the property municipally known as municipally known as 3899 Town Line, legally described as Part 1 Plan 51R-16559. The owners/solicitor shall take all necessary steps to ensure that the parcels merge under the Planning Act.
5. That the owners/solicitor shall provide an undertaking to register an Application to Consolidate Parcels in order to merge the severed lands with the adjoining lands and to provide the Township with a copy of the registered Application within three months of the date of registration of the Transfer of the severed lot.

THE REASONS for the Committee's Decision are that the proposed consent is in keeping with the Township's Official Plan and Zoning By-law, is consistent with the 2005 Provincial Policy Statement, will provide for the orderly development of the Township and does not fall under the exclusive consideration of Section 51 of the Act.

The Secretary/Treasurer is hereby authorized to sign documents on behalf of the Committee giving effect to this Decision.

CARRIED

3. **Consent Application No.:** B-13-13
Applicant: Richard Vardy / Estate of Minnie Vardy
Agent: James Abernethy
Roll Number: 4351 010 008 04800 0000
Municipal Address: 3018 Third Street

The Secretary/Treasurer of the Committee of Adjustment outlined the application(s) and outlined the correspondence received, as follows:

Proposal:

- É The property is located at 3018 Third Street
- É Legally described as: Plan 1079, Lot 37, geographic Township of North Orillia.
- É The property currently supports a dwelling and shed.
- É Requesting consent to sever the property having frontage of approximately 15.25 m (50 ft.) on Third Street and area of approximately 0.07 ha (0.17 acres).
- É The retained lands would have frontage of approximately 15.25 m (50 ft.) on Third Street and area of approximately 0.07 ha (0.17 acres).

Agency Comments:

None

Public Correspondence:

None

Staff Report P12-071:

The Secretary-Treasurer provided a brief summary of the following Staff Report:

Background:

County Official Plan: Settlement
Township Official Plan: Settlement Living Area (Westshore)
Township Zoning: Residential One (R1)

The subject property is located at 3018 Third Street in the geographic Township of North Orillia (**Appendix 1**). The property is approximately 0.021 ha (0.052 acres) in size with 30.5 m (100 ft.) on Third Street and currently supports a dwelling and shed.

The owners are requesting consent to sever the property having frontage of approximately 15.25 m (50 ft.) on Third Street and area of approximately 0.14 ha (0.34 acres). The retained lands would have a frontage of approximately 15.25 m (50 ft.) on Third Street and area of approximately 0.07 ha (0.17 acres).

Should the proposal be approved the applicants will be demolishing the existing buildings and removing all articles stored on the property. The applicant's intent of this application is to have two properties which the applicant can build new homes on.

A sketch of the proposal is attached as **Appendix 2**.

Discussion:

A discussion of the various planning documents that have bearing on this application follows.

Provincial Policy Statement (PPS), 2005

The subject property is within a *settlement area* as defined in the Provincial Policy Statement (PPS), 2005:

Settlement area means urban areas and rural settlement areas within municipalities (such as cities, towns, villages and hamlets) that are:

- a. Built up areas where development is concentrated and which have a mix of land uses; and
- b. Lands which have been designated in an official plan for development over the long term planning horizon provided for in policy 1.1.2

(Section 2.3.1, PPS).

Furthermore, the PPS directs growth to these ~~%settlement areas+~~as stated in Section 1.1.3.1 of the PPS, ~~%settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted+~~

The proposed severance will be consistent with the PPS as the new lot creation will be within the Settlement Area of Westshore.

Growth Plan for the Greater Golden Horseshoe, as amended

The Growth Plan speaks to managing growth through *intensification* defined as:

The development of a property, site or area at a higher density than currently exists through:

1. Redevelopment, including the reuse of brownfield site;
2. The development of vacant and/or underutilized lots within previously developed areas;
3. Infill development; or
4. The expansion or conservation of existing buildings.

(Section 7, Growth Plan)

Intensification according to the Growth Plan shall be directed to *Settlement Areas* as defined by the PPS. Therefore, the proposed application would appear to conform to the Growth Plan as the proposed lot creation will be within the Settlement Area of Westshore and could be considered infill development.

County of Simcoe 2006 Official Plan (in effect)

Section 3.3.1 of the County of Simcoe Official Plan states that ~~%Subdivision of land by Plan or consent, or Plans of condominium are permitted only for the lands uses permitted in the Designation or that maintain the intent of the Plan~~ objectives and policies.+

The subject property is located within the Settlement area of Westshore. According to Section 3.5.12, ~~%In settlement designations, subdivisions may occur by plan or by consent. Expansion of Settlement Designations should normally be by plan of subdivision, while urban infill may take place through subdivision by consent.~~+

The proposal is for the creation of a new lot through infill within the Settlement Designation and therefore satisfies the intent of this policy.

Township of Severn Official Plan

The subject property is designated Settlement Living area under the Township's Official Plan. The objectives of the Settlement Living Area are to direct the focus of growth and development to these areas by creating opportunities for various forms of residential intensification and encouraging a variety of housing types to house persons with diverse social and economic backgrounds, needs and desires.

Furthermore, in accordance with the Township's Official Plan the proposed new lot will be serviced in accordance with Section F2. As the proposed lot is within a Settlement Area that has full municipal services the proposed lot will be serviced by municipal water sewage services.

This proposal is an infill development lot that will maintain the existing character and identity of Westshore as a predominately residential community with mixed intensification and is therefore consistent with the policies of the Township's Official Plan.

Township of Severn Zoning By-law 2010-65

The subject property is in the Residential One (R1) Zone.

Section 6.4 of the Zoning By-law requires a minimum lot frontage of 14 m (45.9 ft.) and minimum lot area of 600 sq. m. (0.148 acres) for lots with full municipal services in the R1 Zone. The proposed

severed and retained parcels will each have frontage of 15.25 m (50 ft.) on Third Street and area of approximately 0.07 ha (0.17 acres).

The proposed severed and retained lands would exceed the minimum lot area and frontage for a property with full municipal services in the R1 Zone.

Other Considerations

The Township's Building department has no objection to the application.

Recommendation:

The Planning Department has no major objection to the approval of this application, subject to the recommended conditions set out in **Appendix 3**.

Respectfully submitted,

Katie Mandeville, BA, BURPI
Planner

With the concurrence of,

Andrew Fyfe, M.A.
Director of Planning & Development

The Chair asked if the applicant or agent were present and had anything to add - the agent was present and has nothing to add.

The Chair asked if anyone in the audience had any comments on this application. Public Comments were as follows:

- *David Brown, 3929 Bramshott Avenue (next door to the proposal) asked if the sheds on the property would be coming down.*
- *The agent advised that they would be, yes.*
- *David Brown further inquired about the trees located on the property near his property line and expressed concern that his trees would be negatively impacted due to the root system, especially due to the proposed setbacks from the side lot line.*
- *The agent advised that he was not sure which trees would need to be removed but stated he was willing to work with the neighbouring property owner to protect the trees as best as he could.*

The Chair asked if there were any other public comments. As none were forthcoming, the Chair declared the public portion of the meeting closed.

The Chair asked if the Committee had any comments on this application. Committee comments were as follows:

- *Member Vandergeest inquired if Public Works had commented on the application.*
- *The Secretary/Treasurer advised that they had stated no comments.*
- *Member Vandergeest asked if the property was on a private well or if a service connection agreement would be needed, as had been done in the past in these type of situations.*
- *The Director of Planning & Development stated that he was not sure on the number of laterals but that a servicing arrangement would be needed.*
- *Member Ferguson inquired as to if a condition should be added for an arborist to ensure protection of the trees.*
- *The Director of Planning & Development stated he recommended an arborist to minimize the impact on the trees as well as altering the setbacks.*
- *Member Ferguson commented on the drainage in the area and noted that the building inspectors should pay particular attention to drainage.*
- *The Director of Planning & Development stated that a lot grading plan would be needed prior to a building permit being issued.*
- *Member Ferguson inquired as to the servicing capacity in the Westshore area.*
- *The Director of Planning & Development confirmed that there is sufficient room and the process is beginning to study capacity in the area.*
- *The Chair advised that a condition regarding a servicing agreement and an arborist would be added to the decision from the discussions.*

As there was no further discussion, the Chair asked the Secretary/Treasurer to review

the proposed conditions of the decision. The agent was asked if the property owner was aware of the proposed conditions and was in agreement with them. The agent confirmed this. The Chair then called for a vote on the application.

**DECISION – APPROVE
Consent Application B-13-13 (Vardy)**

THE PURPOSE and EFFECT of the consent application is:

TO SEVER a portion of the property having frontage of approximately 15.25 m (50 ft.) on Third Street and area of approximately 0.07 ha (0.17 acres).

The retained lands would have a frontage of approximately 15.25 m (50 ft.) on Third Street and area of approximately 0.07 ha (0.17 acres).

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 20th day of August, 2013:

DECISION: PROVISIONALLY APPROVED

SUBJECT TO THE FOLLOWING CONDITIONS:

1. A reference plan of the severed parcel shall be prepared and duly registered by an Ontario Land Surveyor and one copy filed with the Secretary/Treasurer of the Committee. A draft copy of the reference plan shall be provided to the Secretary-Treasurer for review and approval prior to registration on title.
2. A copy of the electronic registration ~~to~~ preparation+draft deed for the severed lot shall be provided to the Secretary/Treasurer of the Committee together with a signed Acknowledgement and Direction so that the consent certificate may be issued.
3. Municipal taxes shall be paid in full up to the date of request of issuance of the consent certificate.
4. A payment of 5% in lieu of parkland dedication shall be paid in accordance with Section 51.1 of the *Planning Act*, acceptable to the Township of Sever, in cash or cheque. The Township shall retain an appraiser, at the applicant's expense, to prepare the appraisal in accordance with the provisions of the *Planning Act* if the value of the land cannot otherwise be agreed on.
5. That the existing dwelling be brought into conformity with Zoning By-law 2010-65 or be demolished.
6. That servicing arrangements to the satisfaction of the Township be made to ensure full municipal services on both the retained and severed lands.
7. That the applicant undertakes to obtain an arborist to assist with the location of building envelopes to minimize the impact on the neighbours trees as well as trees on the property.

THE REASONS for the Committee's Decision are that the proposed consent is in keeping with the Township's Official Plan and Zoning By-law, is consistent with the 2005 Provincial Policy Statement, will provide for the orderly development of the Township and does not fall under the exclusive consideration of Section 51 of the Act.

The Secretary/Treasurer is hereby authorized to sign documents on behalf of the Committee giving effect to this Decision.

CARRIED

4. Certificate of Validation

Applicant:

Address:

Adjacent Property Owner:

Agent:

Roll Numbers:

Estate of Harry Tibbett

1949 Upper Big Chute Road

Stuart Tinney, 1330 Taylor Line

Lisa Madden Law Firm

4351 050 001 00400 0000

& 4351 050 001 1600 0000

The Secretary/Treasurer of the Committee of Adjustment outlined the application(s) and outlined the correspondence received, as follows:

Proposal:

- É 1330 Taylor Line was property conveyed to Harry Tibbett in December 2007 from Dorothy Tibbett, subsequently conveyed to Stuart Tinney in 2008.
- É 1949 Upper Big Cute Road - property conveyed to Harry Tibbett in 1991.
- É Due to a common boundary the properties have merged on title, this application is to correct the error.

Agency Comments:

None

Public Correspondence:

None

Staff Report P12-072:

The Secretary-Treasurer provided a brief summary of the following Staff Report:

Background:

The subject lands are as follows (**Appendix 1**):

Part of Lot 2, Concession 1 and Part of Lot 2, Concession 2, RD 837 Part 1, in the geographic Township of Matchedash, municipally known as 1949 Upper Big Chute Road (Estate of H. Tibbett).

Part of Lots 2 and 3, Concession 2, in the geographic Township of Matchedash, municipally known as 1330 Taylor Line (S. Tinney).

The property municipally known as 1949 Upper Big Chute Road contains a dwelling and numerous accessory structures related to a farming use. The entire property owned by the Estate of H. Tibbett is split into 3 parcels due to a natural severance created by the North River and a landlocked parcel between the natural severance parcel and the property at 1330 Taylor Line (Appendix 1). The three parcels total approximately 65 ha (160 acres) according to MPAC data.

The property municipally known as 1330 Taylor Line contains a dwelling unit and accessory structures. According to MPAC data this property is approximately 27.5 ha (68 acres).

The applicants are requesting a Certificate of Validation. A Certificate of Validation is required where there has been or there is a conveyance which does not satisfy the provisions of the *Planning Act*, which affects the title of the land resulting in the intended owner not receiving clear title. This is usually the result of an error or other inadvertent action by one of the parties.

As discussed in a letter submitted by the solicitor for the effected parties (**Appendix 2**) an error in conveyance has occurred which has resulted in the Estate of H. Tibbett not receiving clear title. Due to the location of the properties, as they touch at a narrow point, the properties were merged and then one of the parcels was subsequently sold and conveyed as a separate parcel. In order to correct this error the applicants are requesting a Certificate of Validation.

Discussion:

The *Planning Act* states that no certificate under section 57 shall be issued by a council (delegated to Committee of Adjustment) unless the certificate conforms with the official plan and zoning by-law of the municipality, a discussion of these two planning documents follows.

Township of Severn Official Plan

Section B8.2.3 Technical Severances states:

Technical severances refer to rural/agricultural properties that were considered separate prior to 1975, but merged with changes to The Planning Act. In considering such a severance the Committee of Adjustment must be satisfied that the properties were purchased separately and subsequently merged. Should a severance be granted for the technical reasons identified, neither parcel shall be further subdivided.

In planning staff's opinion this is the operative policy direction in the Official Plan regarding the proposed correction in title. Therefore, the proposal would comply with the Township's Official Plan.

Township of Severn Zoning By-law 2010-65

The subject properties are zoned Agricultural (AG), with the exception of the land locked parcel which is zoned Greenlands (GL). Section 5 of the Zoning By-law requires a minimum lot frontage of 60 m (197 ft.) and minimum lot area of 40 ha (98.8 acres) for an agricultural parcel.

Section 3.19.1 Existing Undersized Lots states:

- a) where a lot, having lesser lot area or frontage than that required herein:
 - i. is held under distinct and separate ownership from abutting lots or was legally created prior to the passing of this By-law
 - ii. is created as a result of an expropriation; or
 - iii. is created as a result of a natural severance such as the presence of a public road, a navigable waterway or a railway;

then the said lot shall be deemed to conform to the requirements of this By-law with respect to the lot area or lot frontage

(Zoning By-law 2010-65)

The property municipally known as 1330 Taylor Line was created legally prior to the passing of this by-law; as such, the request for a Certificate of Validation with regards to 1949 Upper Big Chute Road and 1330 Taylor Line would appear to conform to the Township of Severn Zoning By-law 2010-65.

Recommendation:

The Planning Department has no objection to the approval of this application, subject to the recommended conditions set out in **Appendix 3**.

Respectfully submitted,

Katie Mandeville, BA, BURPI
Planner

Andrew Fyfe, M.A.
Director of Planning & Development

The Chair asked if the applicant or agent were present and had anything to add - the agent was present and had nothing to add.

The Chair asked if anyone in the audience had any comments on this application. Public Comments were as follows: None.

The Chair asked if there were any other public comments. As none were forthcoming, the Chair declared the public portion of the meeting closed.

The Chair asked if the Committee had any comments on this application. Committee comments were as follows: None.

As there was no further discussion, the Chair asked the Secretary/Treasurer to review the proposed conditions of the decision. The agent was asked if the property owner was aware of the proposed conditions and was in agreement with them. The agent confirmed this. The Chair then called for a vote on the application.

**DECISION – APPROVE
Certificate of Validation**

THE PURPOSE and EFFECT of the consent application is:

Is to obtain a Certificate of Validation for 1949 Upper Big Chute Road and 1330 Taylor Line.

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 20th day of August, 2013:

DECISION: PROVISIONALLY APPROVED

SUBJECT TO THE FOLLOWING CONDITIONS:

1. A copy of the electronic registration ~~no~~ preparation+draft deed for the subject parcels shall be provided to the Secretary/Treasurer of the Committee together with a signed Acknowledgement and Direction so that the certificate may be issued.
2. Arrangements to the satisfaction of the Township for the payment of any municipal taxes that have not been paid in full up to the date of request of issuance of the certificate.

THE REASONS for the Committee's Decision are that the application conforms with the Official Plan and Zoning By-law of the Township of Severn.

The Secretary/Treasurer is hereby authorized to sign documents on behalf of the Committee giving effect to this Decision.

CARRIED

F. **CORRESPONDENCE**
NONE

G. **OTHER BUSINESS**
1. Training Opportunity, OACA Seminar, September 20th 2013.

H. **ADJOURNMENT**

The following motion was adopted:

Motion # 13-16

MOVED by Mark Vandergeest and SECONDED by Emily Silk

THAT the Committee of Adjustment meeting be adjourned at 7:45 p.m. on August 20, 2013. The Committee will reconvene at 7:00 p.m. on September 17, 2013 unless the Secretary/Treasurer has not received a complete application for the Committee's consideration.

CARRIED

Katie Mandeville, Secretary/Treasurer