

MINUTES OF THE MEETING OF THE COMMITTEE OF ADJUSTMENT HELD IN THE ADMINISTRATION OFFICE, 1024 HURLWOOD LANE, TUESDAY, FEBRUARY 19, 2013 AT 7:00 P.M.

Present: *Chair* *Emily Silk*

Members *Duane Goerke*
 John Ferguson
 Ron Peters
 Mark Vandergeest

Staff: *Deputy Secretary/Treasurer* *Nancy Tuckett*
 Secretary/Treasurer *Katie Mandeville*

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. APPOINTMENT OF SECRETARY-TREASURER

The following motion was adopted:

Motion #13-01

MOVED by Duane Goerke and SECONDED by Ron Peters

THAT the Committee of Adjustment for the Corporation of the Township of Severn appoints with immediate effect Katie Mandeville, Planner for the Township of Severn, as Secretary-Treasurer to the Committee of Adjustment.

CARRIED

C. DISCLOSURE OF PECUNIARY INTEREST
NONE

D. ADOPTION OF MINUTES

The following motion was adopted:

Motion # 13-02

MOVED by John Ferguson and SECONDED by Mark Vandergeest

THAT the Minutes of the Committee of Adjustment meeting held in the Council Chambers on December 18, 2012 be adopted as printed and distributed.

CARRIED

E. ADJOURNED APPLICATIONS

1. *Consent Applications No.:* *B-06/07-12*
 Applicant: *David & Amy Darker*
 Roll Number: *4351 010 008 89410*
 Municipal Address: *1300 Torpitt Road*

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

Proposal:

- In 2009, the owners of property at 1300 Torpitt Road approached the Township with a proposal for the creation of three waterfront lots with the retained lands to

be transferred to the Couchiching Conservancy.

- By resolution dated October 21, 2009, the proposal was approved for consideration by the Committee of Adjustment subject to a satisfactory Environmental Impact Study and under the condition that the retained lands be transferred to the Couchiching Conservancy.
- The Environmental Impact Study supported the creation of two out of the three lots and the Committee of Adjustment approved the creation of two lots by Decision dated June 19, 2012
- Prior to the hearing of the matter by the Committee of Adjustment, it had been determined that there existed an old dump site on the proposed retained lands
- Council passed a resolution on January 10, 2013 that the owners enter into a Conservation Easement Agreement with the Muskoka Conservancy.
- The owners are requesting at this time that the Committee of Adjustment agree to amend the original Condition 1 to reflect entering into a Conservation Easement Agreement with the Muskoka Conservancy rather than transferring land to the Couchiching Conservancy.

Public Correspondence:

None

Staff Report P13-019:

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

Background:

In 2009, the owners of property at 1300 Torpitt Road approached the Township with a proposal for the creation of three waterfront lots with the retained lands to be transferred to the Couchiching Conservancy (**Appendix 1**). Official Plan policy required that the proposal be approved by Council for consideration by the Committee of Adjustment since it resulted in the creation of more than one new lot. By resolution dated October 21, 2009, the proposal was approved for consideration by the Committee of Adjustment subject to a satisfactory Environmental Impact Study and under the condition that the retained lands be transferred to the Couchiching Conservancy.

The Environmental Impact Study supported the creation of two out of the three lots and the Committee of Adjustment approved the creation of two lots by Decision dated June 19, 2012 (**Appendix 2**). One condition of the Decision, in accordance with the resolution of Council, was that the retained lands be transferred to the Couchiching Conservancy, as noted below:

1. That the Couchiching Conservancy shall provide written confirmation to the Township that it is satisfied with accepting title to the retained lands (being a parcel of land having frontage of approximately 545 m (1788 feet) on Torpitt Road and area of approximately 15 ha (37 acres)) and that the retained lands shall be transferred to the Couchiching Conservancy to be held by it, or a similar successor organization, in perpetuity, as a conservation reserve.

Prior to the hearing of the matter by the Committee of Adjustment, it had been determined that there existed an old dump site on the proposed retained lands. The Couchiching Conservancy had retained a consulting firm to conduct a scoped investigation on the dump site but as of the date of the Committee of Adjustment Decision, the results of that investigation were not available. The proponents wished to move the matter forward for a Decision, and the result was that the Decision of the Committee was also conditional upon the Couchiching Conservancy agreeing to take title to the retained lands subject to the dump site. It was determined that the Conservancy would not agree to take title to the property, despite the fact that the investigation of the dumpsite revealed no contamination.

Rather than abandon the applications, the owners and their planner, Barry Peyton sought an alternative for the disposition of the retained lands to satisfy all parties. The options considered in a report to Planning Committee on November 29, 2012 included considering rezoning the retained lands to an Environmental Protection (EP) Zone and registering a Conservation Easement in favour of the Township, or, secondly, transferring the retained lands to another conservation land trust organization. In the opinion of staff, either of the proposed alternatives was acceptable.

Transferring the retained lands into an EP Zone would ensure that no development occurred on the lands and registration of a Conservation Easement would further protect the natural features and ecological functions of the property by further restricting activity on the subject property. Similar Conservation Easements are being used by the Township to protect environmentally sensitive portions of the Rimkey Subdivision and the River Ridge Estates Subdivision. The easement would be prepared by the Township's solicitor and registered on title to the retained lands, with all costs of

preparation and registration to be borne by the applicants. The Conservation Easement would not create any financial or other liability for the Township.

The second alternative, transferring the retained lands to another conservation land trust organization, was also considered a reasonable alternative.

Discussion:

Since the original resolution of the Planning & Development Committee was subject specifically to the retained lands being transferred to the Couchiching Conservancy, Council's approval, in principle, was required prior to the owner submitting a request for change of condition to the Committee of Adjustment. Council adopted the following resolution:

Planning Report No. P12-134, 11/29/12, with respect to Applications for Consent B-06/07-12 (Darker) – Request for Change of Condition.

*MOTION C120612-07: Moved by Councillor Crichton and seconded by Councillor Taylor that Planning Report No. P12-134, dated November 29, 2012, with respect to a request for change of condition be received;
AND FURTHER THAT the applicant be requested to provide information on an alternative conservation land trust organization for further consideration of Council.
CARRIED*

As a result, Mr. Peyton suggested the Muskoka Conservancy might have an interest in obtaining the retained lands.

Mr. Peyton made a deputation to Planning Committee in December 2012 indicating that the Muskoka Conservancy are interested in receiving the lands. He was seeking direction from Planning Committee to proceed to the Committee of Adjustment to amend the condition of the severance accordingly.

The following resolution was passed by Council on January 10, 2013:

MOTION PD122012-03: Moved by Member Burkett and seconded by Member Taylor that a presentation of Barry Peyton, Provista Group Inc., with respect to Consent Approval for 1300 Torpitt Road be received;
AND FURTHER THAT the owners proceed to enter into a Conservation Easement Agreement with the Muskoka Conservancy.

CARRIED

Council are satisfied that entering into a Conservation Easement Agreement with the Muskoka Conservancy will seek to achieve the same net effect of protecting the lands which were originally considered to be dedicated to the Couchiching Conservancy.

As per the Planning Act, under Section 53 (23), The Council or the Minister, as the case may be, may change the conditions of a provisional consent at any time before a consent is given. The COA made the determination that the changed condition is not minor and asked that a notice of the changed condition be formally circulated which was completed. (**Appendix 3**) The owners are requesting at this time that the Committee of Adjustment agree to amend the original Condition 1 and replace it with the following:

1. That the Muskoka Conservancy shall enter into a Conservation Easement with the owners for the retained lands (being a parcel of land having a frontage of approximately 545m (1788 feet) on Torpitt Road and area of approximately 15 ha (37 acres).

The Muskoka conservancy is still interested in seeking the lands as a dedication however due to the fact that this might not happen between February and June (the expiry for the severance), they are willing to enter into a conservation easement in the meantime.

Recommendation:

Planning Staff support the requested change in condition as it would have the net effect of protecting the natural features and ecological functions of the retained portion of the property, while still permitting the severance of the property.

Respectfully submitted,

Nancy Tuckett, M.Sc. Pl., B.Ed., MCIP, RPP
Director of Planning & Development

The Chair asked if the applicant or agent were present - Barry Peyton, Provista Group

Inc., agent for the owner was present. Mr. Peyton addressed the Committee and provided background information on the following:

- The dump issue with regard to why the Couchiching Conservancy was not interested in the land anymore as stated in the Staff Report
- Stressed importance of protecting the land, that this could be done through a Conservation Easement with the Muskoka Conservancy

Member Vandergeest asked if there were any correspondence related to the application.

The Secretary-Treasurer advised that the Trent Severn Waterway had stated they had no concerns with the proposed application.

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:

- Member Peters asked staff to provide information on the term Conservation Easement. The Deputy Secretary-Treasurer provided background on a Conservation Easement and stated that the Township had done a Conservation Easement Agreement in the past.
- Member Goerke asked for further clarification on a Conservation Easement from staff. The Deputy Secretary-Treasurer further explained what it meant.
- Member Vandergeest asked staff for direction on how a Conservation Easement Agreement is finalized; the Deputy Secretary-Treasurer provided clarification on the process.
- Member Goerke asked for clarification regarding who retains ownership of the property if a Conservation Easement is applied. The Deputy Secretary-Treasurer confirmed that the current owners would/could retain ownership of the parcel and the Muskoka Conservancy would have the Conservation Easement.
- Member Ferguson asked for clarification on the timeframe of the application. The Deputy Secretary-Treasurer advised of the deadline of the one year to fulfill conditions from the original consent provisional granting date of June 2012.
- Member Ferguson asked for clarification from staff on if the original consent timeline could be lengthened. The Deputy Secretary-Treasurer advised that the one year time period could not be changed.
- Member Goerke asked for further clarification of what an easement entails. The Deputy Secretary-Treasurer explained a Conservation Easement and used the example of the Wassenaar subdivision that has a Conservation Easement Agreement registered.

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 he 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 – DENIED

Consent Application to Amend Conditions of B-06/07-12 (Darker.)

THE PURPOSE and EFFECT of the Change of Condition is:

TO AMEND Condition 1 and replace it with the following:

1. That the Muskoka Conservancy shall enter into a Conservation Easement with the owners for the retained lands (being a parcel of land having a frontage of approximately 545m (1788 feet) on Torpitt Road and area of approximately 15 ha (37 acres).

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 19th day of February, 2013:

DECISION: DENIED

THE REASONS for the Committee's Decision are that there is no written confirmation from the Muskoka Conservancy stating that they will accept title to the retained lands. Therefore, it is not certain that the retained land will be turned over to a Conservancy resulting in the Darkers having 3 parcels of land which was not the original intent of Committee approval.

AND the Secretary-Treasurer is hereby authorized to sign any documents required to give effect to this Decision.

CARRIED

F. NEW APPLICATIONS

The agent for 1300 Torpitt Road requested B-07-13 and B-08-13 to be heard first following the Adjourned Application on the same property. The Chair permitted the request.

5. Consent Application No.: B-07-13 (Right-of-Way)
Applicant: David & Amy Darker
Roll Number: 4351 010 008 89410
Municipal Address: 1300 Torpitt Road

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

Proposal:

- The property is located at 1300 Torpitt Road
- Legally described as: Concession 14, Part Lots 23 Registered Plan 51R-28080 Parts 1-3, geographic Township of Orillia, now in the Township of Severn
- The application is to request consent to grant a right-of-way having width of approximately 6 m (19.2 feet) for legal access to a property created through Consent Applications B-06-07-12.
- The approximate path of the proposed right-of-way is over Apter Lane.

Public Correspondence:

None

Agency Comments:

Trent Severn Waterway: No concerns with the application.

Severn Staff:

Building/Septic Inspector: No objection.

Staff Report P13-017:

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

Background:

County Official Plan: Greenlands
Township Official Plan: Greenlands
Township Zoning: Greenlands (GL)

The subject property is located at 1300 Torpitt Road on Sparrow Lake in the former Township of Orillia (**Appendix 1**).

The purpose of the application is to request consent to grant a right-of-way having width of approximately 6 m (19.2 feet) for legal access to a property created through Consent Applications B-06-07-12. The approximate path of the proposed right-of-way over Apter Lane is shown on the sketch attached as **Appendix 2** and is located on 1300 Torpitt Road owned by David and Amy Darker.

Discussion:

The Township's Official Plan states that the creation of a new lot on a private road must be approved by Council for consideration by the Committee of Adjustment. By a resolution dated October 21, 2009, the proposal for the creation of three new waterfront lots was approved for consideration by the Committee of Adjustment.

Consent applications B-05-06-07-12 were heard at the Committee of Adjustment last year. Committee approved the creation of two lots by Decision dated June 19, 2012 (**Appendix 3**). Condition #6 of applications B-06-07-12 was that the applicants must apply for a right-of-way for access to the proposed lots, the condition reads as follows:

"That applications for Consent for rights-of-way for access to the proposed lots over Apter Lane and Otto Roehl Lane shall be brought to the Committee of Adjustment at the applicant's expense."

Planning staff have no objection to the granting of the right-of-way as proposed subject to the recommended conditions. The width of the proposed right-of-way is acceptable.

Recommendation:

The Planning Department has no objection to the approval of this application, subject to the recommended conditions set out in **Appendix 4**, because it is consistent with the Provincial Policy Statement, 2005 and it is in keeping with the general intent of the County and Township Official Plans and the Township's Zoning By-law.

Respectfully submitted,

Nancy Tuckett, M.Sc. Pl., B.Ed., MCIP, RPP
Director of Planning & Development

The Chair asked if the applicant or agent were present - the agent, Barry Peyton, Provista Group Inc., was 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 agent was asked if he 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-07-13 (Darker)**

THE PURPOSE and EFFECT of the consent application is:

TO GRANT A RIGHT-OF-WAY (identified as Apter Lane) having width of approximately 6 m (19.2 feet) for legal access to a property created through Consent Applications B-06/07-12 on Concession 14, Part Lots 23, Registered Plan 51R-28080 Parts 1-3, geographic Township of Orillia, fronting on Torpitt Road.

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 19th day of February, 2013:

DECISION: PROVISIONALLY APPROVED

SUBJECT TO THE FOLLOWING CONDITIONS:

1. A reference plan of the right-of-way shall be prepared and duly registered by an Ontario Land Surveyor and one copy filed with the Secretary-Treasurer of the Committee. The draft reference plan shall be provided to the Secretary-Treasurer for approval prior to registration.

2. A copy of the electronic registration "in preparation" draft deed for the grant of right-of-way 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. That the owner's solicitor shall ensure that the right-of-way is legally added and appurtenant to the property created through B-06-07-12 adjacent to Apter Lane.
4. Section 50 of the *Planning Act*, R.S.O. 1990, shall apply to any subsequent conveyance of or transaction involving the parcel of land that is subject of this consent.
5. Municipal taxes shall be paid in full up to the date of request of issuance of the consent certificate.
6. That all fees and disbursements (legal, engineering, planning), if any, incurred by the Township with respect to this application shall be paid for by the owner.
7. The Conditions set out herein shall be completed within one year of the date of this Decision

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

6.	Consent Application No.:	B-08-13 (Right-of-Way)
	Applicant:	David & Amy Darker
	Roll Number:	4351 010 008 89410
	Municipal Address:	1300 Torpitt Road

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

Proposal:

- The property is located at 1300 Torpitt Road
- Legally described as: Concession 14, Part Lots 23 Registered Plan 51R-28080 Parts 1-3, geographic Township of Orillia, now in the Township of Severn
- The application is to request consent to grant a right-of-way having width of approximately 6 m (19.2 feet) for legal access to a property created through Consent Applications B-06-07-12.
- The approximate path of the proposed right-of-way is over Otto Roehl Lane.

Public Correspondence:

None

Agency Comments:

Trent Severn Waterway: No concerns with the application.

Severn Staff:

Building/Septic Inspector: No objection.

Staff Report P13-018:

Background:

County Official Plan:	Greenlands
Township Official Plan:	Greenlands
Township Zoning:	Greenlands (GL)

The subject property is located at 1300 Torpitt Road on Sparrow Lake in the former Township of Orillia (**Appendix 1**).

The purpose of the application is to request consent to grant a right-of-way having width of approximately 6 m (19.2 feet) for legal access to a property created through Consent Applications B-06-07-12. The approximate path of the proposed right-of-way over Otto Roehl Lane is shown on

the sketch attached as **Appendix 2** and is located on 1300 Torpitt Road owned by David and Amy Darker.

Discussion:

The Township's Official Plan states that the creation of a new lot on a private road must be approved by Council for consideration by the Committee of Adjustment. By a resolution dated October 21, 2009, the proposal for the creation of three new waterfront lots was approved for consideration by the Committee of Adjustment.

Consent applications B-05-06-07-12 were heard at the Committee of Adjustment last year. Committee approved the creation of two lots by Decision dated June 19, 2012 (**Appendix 3**). Condition #6 of applications B-06-07-12 was that the applicants must apply for a right-of-way for access to the proposed lots, the condition reads as follows:

"That applications for Consent for rights-of-way for access to the proposed lots over Apter Lane and Otto Roehl Lane shall be brought to the Committee of Adjustment at the applicant's expense."

Planning staff have no objection to the granting of the right-of-way as proposed subject to the recommended conditions. The width of the proposed right-of-way is acceptable.

Recommendation:

The Planning Department has no objection to the approval of this application, subject to the recommended conditions set out in **Appendix 4**, because it is consistent with the Provincial Policy Statement, 2005 and it is in keeping with the general intent of the County and Township Official Plans and the Township's Zoning By-law.

Respectfully submitted,

Nancy Tuckett, M.Sc. Pl., B.Ed., MCIP, RPP
Director of Planning & Development

The Chair asked if the applicant or agent were present - the agent, Barry Peyton, Provista Group Inc., was 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 agent was asked if he 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-08-13 (Darker)**

THE PURPOSE and EFFECT of the consent application is:

TO GRANT A RIGHT-OF-WAY (identified as Otto Roehl Lane) having width of approximately 6 m (19.2 feet) for legal access to a property created through Consent Applications B-06/07-12 on Concession 14, Part Lots 23, Registered Plan 51R-28080 Parts 1-3, geographic Township of Orillia, fronting on Torpitt Road.

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 19th day of February, 2013:

DECISION: PROVISIONALLY APPROVED

SUBJECT TO THE FOLLOWING CONDITIONS:

1. A reference plan of the right-of-way shall be prepared and duly registered by an Ontario Land Surveyor and one copy filed with the Secretary-Treasurer of the Committee. The draft reference plan shall be provided to the Secretary-Treasurer for approval prior to registration.
2. A copy of the electronic registration "in preparation" draft deed for the grant of right-of-way 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. That the owner's solicitor shall ensure that the right-of-way is legally added and appurtenant to the property created through B-06-07-12 adjacent to Otto Roehl Lane.
4. Section 50 of the *Planning Act*, R.S.O. 1990, shall apply to any subsequent conveyance of or transaction involving the parcel of land that is subject of this consent.
5. Municipal taxes shall be paid in full up to the date of request of issuance of the consent certificate.
6. That all fees and disbursements (legal, engineering, planning), if any, incurred by the Township with respect to this application shall be paid for by the owner.
7. The Conditions set out herein shall be completed within one year of the date of this Decision

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

1. Minor Variance Application No.:	A-01-13
Applicant:	Nancy Buchanan
Roll Number:	4351 050 003 98213
Municipal Address:	2003 Burrows Island

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

Proposal:

- The property currently supports a single family dwelling and two sleeping cabins.
- The owner wishes to construct an addition onto the front and side of the existing non-complying cottage on the property. The existing cottage is located approximately 13.6 m from the high water mark at its closest point and has a floor area of approximately 1,095 sq ft.
- The property is zoned Shoreline Residential Three under Zoning By-law 2010-65 and the cottage is a permitted use, however the location of the cottage is legal non-complying since it does not comply with the required 20 m setback from a watercourse.
- The proposed addition will be approximately 13.05m (42.8 ft) from the high water mark at the closest point, 0.55m closer and will increase the floor area by 72%.

Public Correspondence:

The Secretary-Treasurer provided a summary of the 4 letters as follows:

Gail Palermo of 1989 Burrows Island, "My husband and I are owners of a cottage on the other half of Florence Point on Burrows Island and we are in full support of the proposed renovation"

Chris & Don Atkinson of 1969 Burrows Island, "We, Chris and Don Atkinson do not have any objections to the proposed addition"

Neill and Pam Clemens of 1039 Burrows Island "In favour of the application for minor variance"

Gordon Poole of 2021 Burrows Island “I do not oppose the approval of a minor variance”

Agency Comment:

None.

Severn Staff Comment:

Building/Septic Inspector: No objection. The existing sewage system is suitable for the addition as proposed.

Staff Report P13-:

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 property is located at 2003 Burrows Island in the geographic Township of Matchedash (**Appendix 1**). The property currently contains a cottage dwelling with an attached deck, two sleeping cabins and docking facilities.

The owner wishes to construct an addition onto the front and side of the existing non-complying cottage on the property. The existing cottage is located approximately 13.6 m from the high water mark at its closest point and has a floor area of approximately 1,095 sq ft. The owners have requested the following variances in order to permit the construction of the addition:

1. A variance from Section 3.19.3 (a) i) to permit the Minimum Front Yard setback to be reduced from 13.6m (44.6 ft) to 13.05m (42.8 ft), whereas Zoning By-law 2010-65 states that “*the situation of non-compliance is not further increased*”; and
2. A variance from Section 3.19.3(b), Table 3.1, to permit a floor area increase of 72% for an existing legal non complying dwelling located between 10 metres and 15 metres from the shoreline, whereas Zoning By-law 2010-65 restricts the floor area increase to 40% of the existing floor area.

A proposed site plan of the property is attached as **Appendix 2** and the proposed elevation drawings are attached as **Appendix 3**.

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:

“C7.1 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 an addition to this modest cottage will not significantly impact the character or density of the area as the subject property is on a peninsula at the northern end of Burrows Island in Gloucester Pool. Due to the nature of the property and limited direct sightlines there is little opportunity for impact on the character of the area. The immediate shoreline has several mature trees in place which will act to shade and stabilize the shoreline and therefore the visual impacts of the proposed addition will not have a negative impact on the natural and ecological functions of the shoreline.

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 two non-complying sections stated above for the increase to the non-compliance and the floor area increase.

As the Committee is aware, the Township recently changed the provisions in the Zoning By-law with respect to the permitted expansion in a required yard for a non-complying structure such as this. Previously, the maximum permitted expansion was 10% whereas under the 2012 amended provision the permitted expansion is 40% for an existing dwelling at this setback. The requested

variance is now 32% as opposed to the 82% that would have been requested under the previous provisions.

There does not appear to be any significant negative impact on neighbouring sightlines, or on the massing as seen from the shoreline, beyond what is presented by the structures that already exist (see **Appendix 4**). There should be no significant negative effect on the natural features or ecological functions of the shoreline since the property has been developed for many years and no additional trees in front of the dwelling would need to be removed to accommodate the expansion.

Is it minor?

In the opinion of the Planning Department the requested variances are minor in nature because:

- a) The proposal will not significantly impact the sightlines from the neighbouring properties or boating traffic;
- b) The proposed addition would further encroach by 0.55 metres (1.79 feet) which is a small distance.

That Planning Department has some reservations on the size of the increase and would consider this portion not minor in nature because:

- a) The proposed addition is 72% meaning that the permitted 40% expansion would allow for an additional 438 square feet, therefore the 32% variance needed is to allow for an extra 525.6 square feet.

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

The existing cottage was built in 1984 with the family having owned the property since the 1920's and it was transferred to the current owners in 2008. As this is a peninsula type shaped property there is little room for an expansion to the rear of the dwelling due to an existing septic system and the Front Yard Setback from the other side of the property (evident in **Appendix 2**). The property is well treed and virtually out of sight of neighbouring cottages. As such, in the opinion of the Planning Department, this proposal is desirable for the appropriate development or use of the land.

Other Considerations:

The Township's Septic Inspector has reviewed this proposal and has no objections as the existing sewage system is suitable for the addition as proposed.

The policies outlined for an expansion of a non-complying structure in Zoning By-law 2010-65 are relatively new however, Planning Staff believe that some sort of provisions should have been made to consider a smaller sized cottage expanding. The existing cottage in this instance is currently at 1,095 square feet meaning a 40% increase would allow for an addition 438 square feet. However a cottage almost double this size, for example 2,000 square feet would be permitted without a variance to increase by 800 square feet. This policy therefore allows for larger cottages close to the shore to get even larger while smaller cottages are not permitted the same size increases in terms of square footage as the policy is based on percentages with no maximum size.

Recommendation:

The Planning Department has no major objection to the approval of this application, subject to the recommended conditions set out in **Appendix 5**, because part of the variance is minor in nature, and both variances are keeping with the general intent of the Official Plan and Zoning By-law and is desirable for the appropriate development and use of the land.

Respectfully submitted,

Katie Mandeville, BA, BURPI
Planner

The Secretary-Treasurer advised that there was a typo on the Decision document which had been corrected by hand.

The Chair asked if the applicant or agent were present - The agent, David Buchanan was 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:

- Member Peters expressed his support for the application due in part to the number of letters from neighbouring property owners.

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 he 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 A-01-13 (Buchanan)

THE PURPOSE and EFFECT of the consent application is:

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

1. A variance from Section 3.19.3 (a) i) to permit the Minimum Front Yard setback to be reduced from 13.6m (44.6 ft) to 13.05m (42.8 ft), whereas Zoning By-law 2010-65 states that “the situation of non-compliance is not further increased”; and
2. A variance from Section 3.19.3(b), Table 3.1, to permit a floor area increase of 72% for an existing legal non complying dwelling located between 10 metres and 15 metres from the shoreline, whereas Zoning By-law 2010-65 restricts the floor area increase to 40% of the existing floor area.

In order to permit the construction of an addition having area of approximately 73 sq. m.

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 19th day of February, 2013:

DECISION: APPROVED

SUBJECT TO THE FOLLOWING CONDITIONS:

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

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-01-13
Applicant:	Robert Wiggins
Roll Number:	4351 010 005 04600
Municipal Address:	3477 Uthhoff Line

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

Proposal:

- The subject property is located at 3477 Uthhoff Line in the geographic Township of North Orillia.
- The property is approximately 52.6 ha (130 acres) in size and currently supports a residence and farm outbuildings.
- The owner is requesting consent to sever a portion of the property having frontage of approximately 305m (1,000 ft) on Uthhoff Line and area of approximately 12 ha

(30 acres), with the proposed severed portion to be added as a lot addition to the abutting vacant property at 3543 Uthhoff Line

- The retained lands would have a frontage of approximately 605 m (1,984 ft) on Uthhoff Line and area of approximately 40.26 ha (99.5 acres).

Public Correspondence:

None

Agency Comments:

SCDSB: No objection as students can be accommodated at Marchmount Public School and Orillia District Collegiate & Vocational Institute.

Severn Staff Comments:

Building/Septic Inspector: No objection, there is adequate area on the retained lot to construct a replacement sewage system.

Director of Public Works: No objection provided that a 6m x 6m daylight triangle and a 3m strip along Uthhoff Line are transferred to the municipality for road widening purposes.

Staff Report P12-014:

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

Background:

County Official Plan: Rural and Agriculture
Township Official Plan: Rural and Agriculture Lands
Township Zoning: Rural (RU) Zone

The subject property is located at 3477 Uthhoff Line in the geographic Township of North Orillia (**Appendix 1**). The property is approximately 52.6 ha (130 acres) in size and currently supports a residence and farm outbuildings.

The owner is requesting consent to sever a portion of the property having frontage of approximately 305m (1,000 ft) on Uthhoff Line and area of approximately 12 ha (30 acres), with the proposed severed portion to be added as a lot addition to the abutting vacant property at 3543 Uthhoff Line, which is legally described as Part Lot 4 and 5, Plan 51R-36321 and which is also owned by the applicant. The retained lands would have a frontage of approximately 605 m (1,984 ft) on Uthhoff Line and area of approximately 40.26 ha (99.5 acres).

A sketch of the severance proposal 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, 2005 (PPS), 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 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 on prime agricultural land although the Plan attempts to protect agricultural land through its growth policies.

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.”

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

County of Simcoe 2008 Official Plan (under appeal)

The applicable policy in the 2008 County of Simcoe Official Plan is as follows:

“3.3.4 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. All lots created shall conform to this Plan, all applicable municipal policies and bylaws.”

The subject proposal is a boundary adjustment and 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's 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 and therefore no new building lot will be created through this application.

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 severed lands meet the requirements for Minimum Lot Area and Minimum Frontage. These severed lands will be joined to the adjacent property at 3543 Uthhoff Line which currently does not meet the Minimum Lot Frontage or Minimum Lot Area for the Rural Zone. Although this existing lot is undersized as it exists today, it is considered under “existing undersized lots” as defined in Section 3.19.1 of the Zoning By-law. However, if this lot addition was granted the adjacent property at 3543 Uthhoff Line would meet the Minimum Lot Area and Minimum Lot Frontage for the Rural Zone. The retained parcel at 3477 Uthhoff Line would also meet or exceed the Minimum Lot Area and Minimum Lot Frontage.

Other Considerations

The proposed lot addition is separated from the adjacent property at 3543 Uthhoff Line by the North River which creates a natural severance. However, the owner of the subject property and adjacent property has recommended a condition making use of Section 118 of the *Land Titles Act* which would impose a restriction, such that no transfer of either of the two parcels, nor a mortgage of either of the two parcels could be made separately without the consent of the Township of Severn. This condition would be registered on title with the property preventing using the proposed lot addition as a separate parcel from 3543 Uthhoff Line.

The Township's septic inspector has indicated that there is no objection to the application as there is adequate area to construct a replacement septic system on the retained lot.

The Director of Public Works has indicated that the Township requires a strip of land 3 metres (9.8 feet) wide at the front of the retained and severed parcels, along Uthhoff Line for road widening. Additionally, the Director of Public Works has also indicated the need for a 6 metre by 6 metre daylight triangle at the corner of Warminster Road and Uthhoff Line.

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,

Nancy Tuckett, M.Sc. Pl., B.Ed., MCIP, RPP
Director of Planning & Development

The Chair asked if the applicant or agent were present - The agent, Andrew Fyfe of Morgan Planning, was present to answer questions and provided the following comments drawn from the planning justification letter submitted with the application to the Township:

- *The proposal is basically a lot line adjustment to add 30 acres to the existing 20 acre parcel which is part of the Wiggins farm, but separated from it by the River*
- *The 2 parcels will be linked through a registration on title through the Land Titles Act*
- *Farm -related severance. Long-term intent is for Mr. Wiggins to retire here.*
- *The balance of the lands with the farm-house and barn + 100 acres are currently being leased and would be sold as an operating farm*
- *Similar to other farm operations in the area*
- *Topographic and drainage limitations diminish the ability of the existing farm to operate as a self-sustaining agricultural operation*
- *Even though intent is to operate it as a farm, have located at the required MDS calculations for separation to a non-farm residence from neighbouring barns. More than adequate separation between existing livestock barns and a potential residential building site*

Summary

- *The proposed severance relates to a reconfiguration of an existing agricultural use and will result in a parcel configuration which is consistent with the parcel fabric in the area and will accommodate agricultural activity like that which is found on neighbouring properties.*
- *The severance is not reliant on any expansion of public infrastructure.*
- *The proposed configuration of the revised parcel boundaries allows for a viable residential building envelope outside of the calculated MDS buffer zone, even if the neighbouring livestock operations are substantially expanded.*
- *The proposed development will be rural in nature and similar to neighbouring uses.*

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:

- *Member Vandergeest asked about a condition related to a Consent Agreement that was not in the agenda package. Staff confirmed that the Consent Agreement condition had been added after the creation of the agenda packages after speaking with County Planners and that the condition was included on the decision.*

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-01-13 (Wiggins)

THE PURPOSE and EFFECT of the consent application is:

TO SEVER a portion of the property having frontage of approximately 305 m (1,000 ft) on

Uhthoff Line and area of approximately 12 ha (30 acres) with the severed portion to be added as a lot addition to the adjacent parcel of land at 3543 Uhthoff Line, which is legally described as Part Lot 4 and 5, Plan 51R-36321.

The retained lands would have frontage of approximately 605 m (1,984 ft) on Uhthoff Line and area of approximately 40.26 ha (99.5 acres).

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 19th day of February, 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 "in 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 3543 Uhthoff Line, legally described as Part 4 and 5 on Plan 51R-36321. The owner's solicitor shall take all necessary steps to ensure that the parcels merge under the Planning Act.
5. That the owners' solicitor shall under Section 118 of the Land Titles Act make an entry on the Register imposing a restriction, such that no transfer of either of the two parcels, nor a mortgage of either of the two parcels could be made separately without the consent of the Township of Severn or similar entry preventing separate conveyancing or mortgaging without the consent of the municipality.
6. A strip of land 3 m (9.8 ft) in width along the entire frontage on Uhthoff Line of the severed and retained parcels shall be transferred to the Township of Severn as a road widening, at the applicant's expense, free and clear of all encumbrances.
7. That the owner shall enter into a Consent Agreement with the municipality which will contain provisions regarding locations of a building envelope and minimum opening elevations.
8. The Conditions set out herein shall be completed within one year of the date of this Decision.

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-05-13
Applicant:	Shane & Kirsty Spencer
Roll Number:	4351 010 009 17901
Municipal Address:	3152 Muskoka Street

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

Proposal:

- The subject property is located at 3152 Muskoka Street in the geographic Township

of North Orillia, now in the Township of Severn, designated as Parts 7 & 8 Plan 51R25053.

- The property is approximately 1.82 ha (4.5 acres) in size and is currently vacant.
- The owner is requesting consent to sever a portion of the property having frontage of approximately 76.2 m (250 ft) on Muskoka Street and area of approximately 0.84 ha (2.09 acres).
- The retained lands would have a frontage of approximately 121.58 m (398.88 ft) on Muskoka Street and area of approximately 0.97 ha (2.41 acres).

Public Correspondence:

The Secretary-Treasurer summarized a letter as follows:

Ronald Leduc and Bill Byrne of 3098 Muskoka Street, opposed to the request due to the location of a Spring Peeper Pond on the proposed lot line and that severing or building on the property could have a severe impact.

The Secretary-Treasurer clarified that Spring Peepers were a type of frog.

The Deputy Secretary-Treasurer read the following letter in full:

Nancy:

Please consider this my Written Submission regarding File B-5-13 to be heard by the Committee of Adjustments this Tuesday, February 19, 2013 at 7:00 pm.

We are the previous owners of the subject lot, 3152 Muskoka Street, purchased in July 1995, sold on January 7, 2013.

During the course of our ownership of this lot, I approached the Township of Severn numerous times in an attempt to sever it into 2 lots, Part 7 and Part 8 per the 1994 survey. All of our attempts were rejected by the staff at the Township of Severn, because there was not sewer service available.

In 2010, I met with staff, who rejected my proposal to sever due to no sewers. I then hired Parry Peyton of the Provista Group to make a presentation to staff on my behalf, but this was also rejected for the same reason.

In 2011, I contacted Dave Clark, Director of Planning, to renew my severance proposal, and to enquire about progress on the sewer extension. This was also rejected for the same reason.

In October 2012, I was approached by the current owners to sell the subject lot. Before selling, I wanted to determine once more if the lot could be severed, because if so, I did not want to sell and would sever the lot myself, to our considerable financial advantage. To this end, on October 15, 2012, I contacted Nancy Tuckett, who informed me that because my lot was within the area that required sewers, it could not be severed. Further, she stated that the sewer extension would not be occurring anytime soon, and it could take as long as 20 years. Based on this input, I sold the lot to the current owners.

Having received this notification, today I spoke with staffer Katie Mandenville, who informed me that she processed the application, that she was a new employee 1 month on-the-job, and that she had not referred to the File history. She also informed me that the subject lot was OUTSIDE the area which required sewer services, and therefore the planning department had no objection to this application being approved. This is a complete contradiction of what I was told on October 15, and all the times before.

Simply put, the staff at the Township of Severn has handled this matter in an inconsistent, unprofessional, and prejudicial manner, at our great expense. Although I followed due process at every step, we are about to suffer real damages, the value of the severed lot.

We look forward to your reply.

Sincerely, Michael and Diane Ruddock

Agency Comments:

SCDSB: No objection as students can be accommodated at Ardtrea-Cumberland Beach Public School and Orillia District Collegiate & Vocational Institute.

Severn Staff Comments:

Building/Septic Inspector: No objection, there is adequate area on both the severed and retained lots to construct a sewage system.

Staff Report P12-015:

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

Background:

County Official Plan: Settlement/Urban Area
Township Official Plan: Settlement Living Area, Washago
Township Zoning: Rural (RU) Zone

The subject property is Part of Lot 10, Concession 15, geographic Township of North Orillia, now in the Township of Severn, designated as Parts 7 and 8 Plan 51R25053, municipally known as 3152 Muskoka Street (**Appendix 1**). The property is approximately 1.82 ha (4.5 acres) in size and is currently vacant.

The owners are requesting consent to sever a portion of the property (identified as Part 8, **Appendix 3**) having frontage of approximately 76.2 m (250 ft) on Muskoka Street and area of approximately 0.84 ha (2.09 acres). The retained lands (identified as Part 7, **Appendix 3**) would have a frontage of approximately 121.58 m (398.88 ft) on Muskoka Street and area of approximately 0.97 ha (2.41 acres).

A sketch of the severance proposal 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 within a “settlement area” as defined in the Provincial Policy Statement, 2005 (PPS), “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 Washago.

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 sites;
2. the development of vacant and/or underutilized lots within previously developed areas;
3. infill development; or
4. the expansion or conversion 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 Washago 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 land uses permitted in the Designation or that maintain the intent of the Plan’s objectives and policies.*”

The subject property is located within the Settlement area of Washago. 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*”

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

County of Simcoe 2008 Official Plan (under appeal)

The applicable objective in the 2008 County of Simcoe Official Plan is as follows:

“3.5.1 To focus development within existing settlements, in accordance with the policies of this Plan, as the location for urban uses and most non-resource related growth and development.”

The subject proposal is the creation of a new lot within the existing settlement of Washago and therefore satisfies the intent of this policy.

Township of Severn Official Plan

The Settlement Living Area of the Township's Official Plan states as follows:

"C2.1 Objectives

It is the intent of this Plan to:

- a) have the defined Settlement Areas be the focus of new growth and development within the Township;*
- b) maintain and enhance the character and identity of existing residential areas within defined Settlement Areas"*

The subject proposal is an infill development lot that will maintain the existing character and identity of the Washago area.

Township of Severn Zoning By-law 2010-65

The subject property is in the Rural (RU) Zone.

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 severed and retained lands do not meet the requirements for Minimum Lot Area. The property as a whole currently does not meet the Minimum Lot Area for the Rural Zone. Although this existing lot is undersized as it exists today, it is considered under "existing undersized lots" as defined in Section 3.19.1 of the Zoning By-law.

As a condition of approval Committee could imposed a condition (as stated in **Appendix 4**) of a rezoning to a more suitable zone for the size of the proposed retained and severed lots.

Other Considerations

Although this new development is within the Settlement area of Washago, the municipal water and wastewater services do not extend to this part of Washago as they stop several lots south of this property as confirmed by the Director of Public Works.

According to the Township's Official Plan, *Sewage Treatment Servicing*, Section F2.2.1 states that development applications will be evaluated based on the following hierarchy of servicing:

- a) Extensions of Servicing from a central sewage treatment facility;*
- b) Extensions of Servicing from a communal sewage treatment system;*
- c) The development of a new communal sewage treatment system; or,*
- d) Private sewage treatment systems."*

As the municipal sewage services or a communal system do not extend to this property and a new communal system is not feasible for the development of one additional lot the only option for the proposed retained and severed lots would be a private system.

The Township's septic inspector has indicated that there is no objection to the application as there is adequate area to construct a septic system on both the retained and severed lots.

Recommendation:

The Planning Department has no major objection to the approval of this application, subject to the recommended conditions set out in **Appendix 4**.

Respectfully submitted,
Nancy Tuckett, M.Sc. Pl., B.Ed., MCIP, RPP
Director of Planning & Development

The Chair asked if the applicant or agent were present. The applicants, Shane and Kirsty Spencer were present to answer questions.

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

Ron Leduc of 3098 Muskoka Street, an adjacent property, addressed the Committee and indicated that he was against the proposal as submitted in his correspondence regarding the Spring Peppers. Mr. Leduc stated that he was in favour of environmental precautions for the property to protect the pond and bush area.

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 Peters spoke to the issue of the spring peppers pond asking if the location/ setback from the road allowance of the survey bar was an indication of the pond area location. This was confirmed by a member of the public, Mr. Leduc.*
- *Member Ferguson inquired if Committee could do an agreement or something to protect the area in question. Staff advised that Site Plan Control could be an option for this property as a condition of consent. Staff also advised that due to the recommended condition of a rezoning for the subject property appropriate steps such as a side and front yard setbacks for development could be put in place due to the proximity of the pond to the front and side lot lines.*

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

DECISION – APPROVE
Consent Application B-05-13 (Spencer)

THE PURPOSE and EFFECT of the consent application is:

TO CREATE ONE NEW RESIDENTIAL LOT having frontage of approximately 76.2 m (250 ft) on Muskoka Street and area of approximately 0.84 ha (2.09 acres).

The retained lands would have frontage of approximately 121.58 m (398.88 ft) on Muskoka Street and area of approximately 0.97 ha (2.41 acres).

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 19th day of February, 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 "in 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 lands shall be rezoned by way of a Zoning By-law Amendment, at the applicant's expense to recognize the Minimum Lot Area and Minimum Lot Frontage of the severed and retained lands.
5. The Conditions set out herein shall be completed within one year of the date of this Decision.

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. Consent Application No.: B-06-13
Applicant: Todd Grignon
Roll Number: 4351 010 008 16200
Municipal Address: 1551 Upper Big Chute Road

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

Proposal:

- The subject property is located at 1551 Upper Big Chute Road in the geographic Township of Medonte, now in the Township of Severn Part of Lots 23 and 24, Concession 14.
- The property has frontage of approximately 602 m (1,975 feet) on Upper Big Chute Road and an area of approximately 60.86 ha (150.4 acres).
- The applicant is requesting consent to sever a portion of the property having frontage of approximately 327 m (1,072.8 ft) on Upper Big Chute Road and area of approximately 58.12 ha (143.61 acres) to add to an adjacent property at 1449 Upper Big Chute Road.
- The retained lands would have a frontage of approximately 275 m (902.2 ft) on Upper Big Chute Road and area of approximately 2.75 ha (6.79 acres).

Public Correspondence:

One letters was received:

Carl and Linda Charron of 1423 Upper Big Chute Road stating they would like to be notified of the decision.

Agency Comments:

SCDSB: No objection as students can be accommodated at Coldwater Public School and Park Street Collegiate Institute.

Severn Staff Comments:

Building/Septic Inspector: No objection, there is adequate area on the retained lot to construct a replacement sewage system.

Staff Report P12-016:

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

Background:

County Official Plan: Rural and Agriculture
Township Official Plan: Rural and Agricultural Lands
Township Zoning: Agricultural (AG) Zone

The subject property is located at 1551 Upper Big Chute Road in the geographic Township of Medonte (**Appendix 1**). The property is approximately 60.86 ha (150.4 acres) in size and currently supports two residences and numerous outbuildings related to the existing business operation.

The owner is requesting consent to sever a portion of the property having frontage of approximately 327 m (1,072.8 ft) on Upper Big Chute Road and area of approximately 58.12 ha (143.61 acres) to be added as a lot addition to an adjacent vacant property at 1449 Upper Big Chute Road, which is also owned by the applicant. The retained lands would have a frontage of approximately 275 m (902.2 ft) on Upper Big Chute Road and area of approximately 2.75 ha (6.79 acres).

A sketch of the severance proposal 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, 2005 (PPS), 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 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 on prime agricultural land although the Plan attempts to protect agricultural land through its growth policies.

The proposed lot addition will continue to be farmed and protected for agricultural purposes.

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.”

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

County of Simcoe 2008 Official Plan (under appeal)

The applicable policy in the 2008 County of Simcoe Official Plan is as follows:

“3.3.4 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. All lots created shall conform to this Plan, all applicable municipal policies and bylaws.”

The subject proposal is a boundary adjustment and 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’s 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 which will enlarge an existing lot and the entire property will be used for agricultural purposes.

Despite the lands being classified as having Class 1, 2 or 3 soil under the Canada Land Inventory mapping the majority of the property is designated as Rural under the Township’s Official Plan. The Official Plan per Section C6.2 Location states “*The Rural designation as shown on Schedule A applies to those rural lands in the township which are not considered to be prime agricultural land*”. A copy of the relevant area from Schedule A ‘Land Use Designations’ of the Official Plan has been included as **Appendix 3**.

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 severed lands meet the requirements for Minimum Lot Area and Minimum Frontage. These severed lands will be joined to an adjacent property at 1449 Upper Big Chute Road which is currently zoned Rural Residential (RR). The retained parcel at 1551 Upper Big Chute Road exceeds the Minimum Frontage however it does not meet the Minimum Lot Area for the Rural (RU) zone.

A condition of severance would be rezoning for both the retained parcel at 1551 Upper Big Chute Road and the property at 1449 Upper Big Chute Road (outlined in **Appendix 4**). The retained parcel currently has an existing business and two residential dwellings and should be rezoned to a site specific zone to reflect the existing uses. The vacant land at 1449 Upper Big Chute (including the proposed lot addition) should be rezoned to a site specific zone to allow for the agricultural operation to continue and restrict future development.

Other Considerations

The owner is requesting the proposed lot addition as the vacant agricultural land has been leased to another farmer who would like to purchase the property. The current owners would like to retain the dwellings and business outbuildings that are currently located at 1551 Upper Big Chute Road. The anticipated buyer and current owners of this lot addition and 1449 Upper Big Chute Road have agreed to a staff recommendation that a condition of the consent be that no future development (including a dwelling unit) will be permitted on the property in order to ensure the agricultural integrity of the lands.

The Township's septic inspector has indicated that there is no objection to the application as there is adequate area to construct a replacement septic system on the retained lot.

Recommendation:

The Planning Department has no major objection to the approval of this application, subject to the recommended conditions set out in **Appendix 4**.

Respectfully submitted,

Nancy Tuckett, M.Sc. Pl., B.Ed., MCIP, RPP
Director of Planning & Development

The Chair asked if the applicant or agent were present. The applicant, Todd Grignon was present to answer questions.

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

Joyce Thomson of 1502 Upper Big Chute Road, addressed the Committee for clarification of no development on the property. Planning staff advised of the condition for rezoning to prohibit development of a dwelling.

Doug Elford of 1030 Dunns Line, addressed the Committee for clarification that the cash crop use of the property will continue. The applicant advised of the continued use of cash crop.

Ken Durnford of 1702 Upper Big Chute Road, addressed the Committee for clarification on why the Township has not permitted severances of farm land in the past and inquired as to how this application was different. Planning staff advised that this proposal was for a lot addition and there would not be a new lot as the severed lands were to be joined to the vacant property at the corner of Upper Big Chute Road and Dunns Line.

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 Ferguson commented that the location of Medonte drain #2 would affect the assessment value of the land.*

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-06-13 (Grignon)

THE PURPOSE and EFFECT of the consent application is:

TO SEVER a portion of the property having frontage of approximately 327 m (1,072.8 ft) on Upper Big Chute Road and area of approximately 58.12 ha (143.61 acres) with the severed portion to be added as a lot addition to the adjacent parcel of land at 1449 Upper Big Chute Road.

The retained lands would have frontage of approximately 275 m (902.2ft) on Upper Big Chute Road and area of approximately 2.75 ha (6.79 acres).

The Committee has considered the Application and, based upon the evidence provided, issues the following Decision on the 19th day of February, 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 "in 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 1449 Upper Big Chute Road, legally described as Concession 14, Part Lot 24 Registered Plan 51R18901 Part 1. The owner's 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.
6. That the lands shall be rezoned by way of a Zoning By-law Amendment, at the applicant's expense, as follows:
 - a. Rezone the retained parcel (1551 Upper Big Chute Road) to a site specific zone which permits the existing uses on the property.
 - b. Rezone 1449 Upper Big Chute Road and the lot addition parcel to a site specific zone which permits an agricultural use and prohibits future development, including but not limited to a dwelling unit.
7. The Conditions set out herein shall be completed within one year of the date of this Decision.

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

F. CORRESPONDENCE
NONE

G. OTHER BUSINESS
NONE

H. ADJOURNMENT

The following motion was adopted:

Motion # 13-03

MOVED by Mark Vandergeest and SECONDED by John Ferguson

THAT the Committee of Adjustment meeting be adjourned at 8:35 p.m. on February 19, 2013. The Committee will reconvene at 7:00 p.m. on March 19, 2013 unless the Secretary-Treasurer has not received a complete application for the Committee's consideration.

CARRIED


Katie Mandeville, Secretary/Treasurer