

REPORT: Planning & Building Services Department



REPORT TO: Planning & Building Committee
DATE: October 3, 2011
REPORT NO.: PL.11.112
SUBJECT: Application for Consent
File No. B21-2009 -
453294 Ontario Inc
c/o Paul Phelan, President
Part 3, RP 16R-1831; Parts 1, 2, 4, 7, 11,
15 to 20, RP 16R-6401;
Being Part Lot 10,
Concessions 1 and 2;
589880 and 589882 Grey Road 19;
Town of The Blue Mountains

PREPARED BY: Bryan Pearce,
Planner I

A. Recommendations

THAT Council receive Planning Staff Report PL.11.112, "Application for Consent File No. B21-2009 – 453294 Ontario Inc c/o Paul Phelan, President; Part 3, RP 16R-1831; Parts 1, 2, 4, 7, 11, 15 to 20, RP 16R-6401; Being Part Lot 10, Concessions 1 and 2; 589880 and 589882 Grey Road 19; Town of The Blue Mountains"; and

THAT Council authorize Consent No. B21-2009, subject to the following conditions:

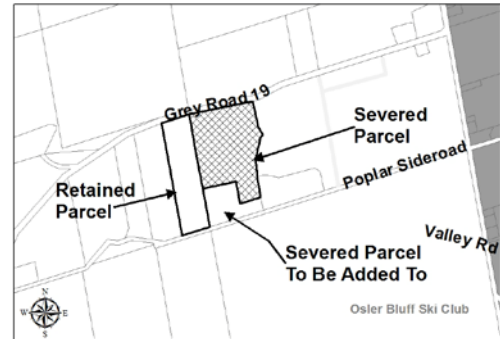
1. That the Applicant meet all the requirements, financial and otherwise of the Town, for the Certificate of Consent to be issued.
2. That the Applicant provide a description of the land which can be registered in the Land Registry Office.
3. That the severed parcel be deeded as a lot addition to the property abutting to the south in accordance with Section 50 (3) of the *Planning Act, R.S.O. 1990*.
4. That any existing mortgage commitment on the severed parcel be extended to cover the whole, newly created parcel.
5. That a Consent Agreement be executed with the land owner to the satisfaction of the Town. And further

THAT Council authorize the Mayor and Clerk to execute a Consent Agreement in a form approved by the Town's Director of Planning and Building Services and the Town's solicitor, and be registered in the applicable land registry office.

B. Background

The purpose of Application for Consent File No. B21-2009 is to sever a 21.2 hectare parcel on the property, containing an existing dwelling (to be converted to an accessory use building), and deed it as a lot addition to the existing 4 hectare parcel to the south, containing an existing dwelling. An 8.5 hectare vacant parcel would be retained, to permit the development of a single detached dwelling.

The intent of this application is to adjust the lot lines of 2 existing lots which would eliminate a land-locked parcel, resulting in 2 reconfigured lots.



It was determined that since the subject lands are contained within the Development Control Area of the *Niagara Escarpment Planning and Development Act, R.S.O. 1990, c. N.2*. Approval from the Niagara Escarpment Commission (NEC) with regards to the Development Permit Application (DPA) would be required prior to going forth with the lot addition proposal with the Town through the consent process, to ensure that a building envelope is available on the proposed retained parcel and to propose a conversion of the dwelling on the severed parcel to an accessory building since the severed parcel and the lands it is being conveyed both have an existing dwelling.

The proponent submitted a NEC DPA's on the October 19, 2009 to consider the proposal. Planning Staff provided comments on the NEC DPA File No. G/R/2009-2010/9083 for the proposed single detached dwelling building envelope on the retained parcel on December 18, 2009, as detailed in Planning Staff Report PL.09.139. The DPA was conditionally approved by the NEC on December 23, 2010 with the decision confirmed on January 7, 2011. Condition #18 of the NEC DPA requires the proponent to go through the consent process to re-configure the two existing lots prior to development a development permit being issued, amongst other matters.

Planning Staff provided comments on the NEC DPA File No. G/R/2009-2010/9096 for the proposed conversion of the existing dwelling on the severed parcel to an accessory building on January 11, 2010 through a report to Town Council, as detailed in Planning Staff Report PL.10.03. The DPA was conditionally approved by the NEC on December 23, 2010 with the decision confirmed on January 7, 2011. Condition #11 of the NEC DPA requires the proponent to go through the consent process to re-configure the two existing lots prior to a development permit being issued, amongst other matters.

This consent is related to the conditionally approved NEC DPA #G/R/2009-2010/9083 and #G/R/2009-2010/9096. The Agent has submitted a Planning Justification Report, Archaeological Assessment and Environmental Impact Study in conjunction with this planning application, as part of the NEC DPA process.

The subject lands are located on the south side of Grey Road 19, approximately 1 kilometre to the west of Grey Road 21, with a civic address of 589880 and 589882 Grey Road 19 on the severed parcel and the lands the severed parcel is to be added to on the matter. It should be noted that the subject lands have private on-site water well and septic system.

The subject property is located on Part Lot 10, Concessions 1 and 2; in the Town of The Blue Mountains and the proposal is to add the 21.2 hectare parcel with the 4 hectare parcel of land to the south, creating a newly enlarged 25.3 hectare (62.48 acre) lot.

The lands are owned by 453294 Ontario Inc, c/o Paul Phelan, President, who has authorized Kristine Loft of Loft Planning Inc to act on his behalf of this planning application. The Agent has submitted a planning justification report, a Stage 1 and 2 Archaeological Assessment by Archaeological Assessments Ltd, and an Environmental Impact Study (EIS) by Hensel Design Group, as supporting documentation with this planning application. The Assessment and Study concluded no impact from the development proposal associated with the NEC DPA process.

The surrounding uses include:

- North: Grey Road 19, followed by agricultural lands
- East: agricultural lands also owned by the proponent
- South: existing residential lot without road frontage that the proposed lot addition would be conveyed to, followed by the unopened road allowance of the 9th Sideroad (Poplar Sidroad to east and Grey Road 19 to west), followed by the ski trail lands associated with Osler Ski Club
- West: mature growth forested lands of the escarpment with rural lots with single detached dwellings on them

Planning Comments

Planning authorities must have regard to matters of Provincial interest, the criteria of the *Planning Act* and be consistent with the Provincial Policy Statement (PPS-2005). Within the Town of The Blue Mountains they must also make decisions that conform to the Niagara Escarpment Plan (where applicable), County of Grey Official Plan and Town of The Blue Mountains Official Plan; and make decisions that represent good land use planning.

Provincial Interest – Legislation, Policy, Guidelines

The PPS-2005 supports this lot addition proposal under Section 1.1.4, as rural areas promote limited residential development.

Planning Staff note that this lot addition proposal is not creating any additional residential development potential by adjusting the existing lot lines as the density would be the same.

Planning Staff are of the opinion that this lot addition proposal is consistent with the PPS-2005, raising no issues of Provincial significance.

Niagara Escarpment Plan

The subject lands are designated as Escarpment Protection within the Niagara Escarpment Plan (NEP). Policies within this NEP land use designation note that severance may be permitted for the enlargement of existing lots.

Again, Planning Staff note that this lot addition proposal is not creating any additional residential development potential by adjusting the existing lot lines as the density would be the same.

Planning Staff are of the opinion that this lot addition proposal does not conflict with the NEP.

County of Grey Official Plan

All development must conform to the purposes and policies of the County of Grey Official Plan.

The subject lands are designated as Niagara Escarpment Plan Area within the County of Grey Official Plan; and local land use policies shall apply, that are not in conflict with the NEP.

Section 5.2.2(6)(f) of the Official Plan states that any applications for development shall be referred to the appropriate approval authority as the lands are abutting a County Road. Planning Staff note that comments have been received from County of Grey Transportation and Public Safety Department, as they have road authority for Grey Road 19.

Planning Staff note that there is a cold water stream (Black Ash Creek) that transverses west to east through the property with two branches thereto. Section 2.8.5(5) of the Official Plan states that no development shall be permitted within 30 metres of the banks of a cold water stream. Planning Staff note that comments have been received from the Nottawasaga Valley Conservation Authority, as the subject lands are within their watershed.

Therefore it is Planning Staff's opinion that the proposal conforms with the County Official Plan for this lot addition proposal.

Town of The Blue Mountains Official Plan

The subject lands are designated as Escarpment (E) in the Town of The Blue Mountains Official Plan. The purpose of the Escarpment designation is to identify certain lands composing unique natural features, Escarpment slopes and environmentally sensitive lands associated with the Niagara Escarpment. Single

detached dwellings are a permitted use since the subject lands are designated Escarpment Protection in the NEP. Consents are permissive within this land use designation, provided there is not any further lot creation. Planning Staff note that this is a lot addition proposal to re-configure two existing lots.

Section 7.3.2(4) of the Official Plan notes that access to the County Road shall generally be restricted to one access per lot, or six access points per side per kilometre Planning Staff note that the intent is to utilize the existing entrances; and that comments have also been received from County of Grey Transportation and Public Safety Department, as they have road authority for Grey Road 19.

The property has been identified as an Archaeological Area under Appendix "D" of the Official Plan. Section 8.11 of the Plan ensures that cultural heritage features are protected, preserved and enhanced as further indicated by the province. The proponent had a qualified individual conduct a cultural heritage assessment to determine if there is significant cultural heritage features in the development area of the proposed single detached dwelling on the retained parcel as part of the NEC DPA requirements and Town's Official Plan. Planning Staff note that the Ministry of Tourism and Culture has reviewed and accepted the Assessment as of July 29, 2011, as the Stage 1 and 2 Assessment concluded there were no impacts to the development envelope proposed on the retained parcel.

There are consent policies under Section 9.3 of the Official Plan. It is noted that Section 9.3(7) of the Official Plan notes consents may be granted for boundary adjustments and easements which do not create separate lots and evaluated on their own merits. Merit has been provided by the owner/applicant mentioned above. It further notes that lot additions may affect existing mortgages, thus Planning Staff recommend as a condition of consent, that any existing mortgage commitment on the severed parcel be extended to cover the whole, newly created parcel.

Therefore, it would appear that the proposed consent conforms to the policies of the Official Plan, subject to the conditions noted above.

Zoning By-law

The subject lands are within the Development Control Area of the *Niagara Escarpment Planning and Development Act, R.S.O. 1990, c. N.2*. Planning Staff note that no zoning is in effect on these lands to regulate the use of the land.

Additional Comments

Agency Comments

Comments were received from the County of Grey - Planning and Development Department; County of Grey – Transportation and Public Safety Department (TAPS);

NEC; Nottawasaga Valley Conservation Authority (NVCA); and Historic Saugeen Metis. These comments are summarized below.

The County of Grey - Planning and Development Department have no issues of concern, provided positive comments are received from County of Grey – TAPS Department and NVCA.

The County of Grey – TAPS Department have no issues of concern with the proposal, provided that the existing entrances are to be utilized.

THE NEC have no issues of concern with the proposal, provided that the conditions of the NEC Development Permits are met and the proposed lot configuration conforms to those proposed under the DPA.

The NVCA has no issues of concern. They note that the retained parcel will require a permit which is noted through the NEC DPA process.

The Historic Saugeen Metis have no issues of concern with this planning application.

Interdepartmental Comments

Comments were received from Engineering and Public Works Department (EPW), having no issues of concern with the proposal.

Planning Staff notes that no other interdepartmental comments have been received on these applications; and therefore no further issues of concern has been raised for this proposal.

Public Meeting Comments

Based on the site visit conducted on August 2, 2011, the placard for consent were posted on-site near the existing driveway entrance on Grey Road 19 on the proposed severed parcel, along with a mail out circulation of the Notices to area assessed property owners and applicable agencies on July 13, 2011.

The public meeting was held on August 3, 2011, as per Council's policy. Additional comments were received through the Planning and Building Committee of Council Meeting with the public in attendance at the public meeting. Below are the issues of concern raised at the public meeting with the proposal:

Conversion of existing dwelling to accessory building process

It was noted how the northerly existing dwelling is to be converted to an accessory building. Again it is noted that NEC DPA File No. G/R/2009-2010/9096 has been conditionally approved for the proposed conversion of the existing dwelling on the severed parcel to an accessory building.

To appease the comments from the public meeting, it is noted that the Town can confirm the conversion of the dwelling to an accessory building through the building permit process for the new dwelling and ensure that continued awareness of this requirement by way of a Consent Agreement, executed between the Town and the land owner, to be registered on title to the lands. This will ensure that the conversion occurs and conforms to the NEC Development Permit and is registered on title for subsequent purchasers. Planning Staff recommend as a condition of consent that a Consent Agreement be executed with the land owner to the satisfaction of the Town.

Written Correspondence Received From the Public

One comment was received from the public on the proposal, noting no issues of concern raised in the written correspondence:

Additional Comments

Planning Staff recommend that as a condition of approval to consent that the Applicant meet all the requirements, financial and otherwise of the Town for the Certificate of Consent to be issued.

Further, Planning Staff recommend that as a condition of approval to consent that the applicant provides a description of the land to be severed which can be registered in the Land Registry Office.

Further, Planning Staff recommend that as a condition of approval of consent that the severed parcel be deeded as a lot addition to the property abutting to the south in accordance with Section 50 (3) of the *Planning Act, R.S.O. 1990*.

Further, Planning Staff recommend that as a condition of approval of consent that any existing mortgage commitment on the severed parcel be extended to cover the whole, newly created parcel, as proposed earlier in this report.

Furthermore, Planning Staff recommend that as a condition of approval to consent that a Consent Agreement be executed with the land owner to the satisfaction of the Town, as proposed earlier in this report.

To expedite the agreement process since under the time constraints of the NEC Development Permits, Planning Staff recommend that Council authorize the Mayor and Clerk to execute a Consent Agreement in a form approved by the Town's Director of Planning and Building Services and the Town's Solicitor, and be registered in the applicable land registry office.

Summary

Based on the foregoing, it is the opinion of Planning Staff that the proposed consent conforms to the intent and direction of the Town of The Blue Mountains Official Plan and represents good planning. Therefore, Planning Staff would support this application for consent subject to the conditions noted in this report; and the authorization of the execution of the associated Consent Agreement.

C. The Blue Mountains' Strategic Plan

The recommendation in this Planning Staff Report PL.11.112 is consistent and supports the following Strategic Plans Goals:

"1. Managing growth to ensure the ongoing health and prosperity of the community".

D. Environmental Impact

The proposal does not appear to generate any special or significant environmental impacts.

E. Budget Impact

N/A

F. Attached

1. Draft Decision of Consent Application No. B21-2009

Respectfully submitted,

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**THE CORPORATION OF THE
TOWN OF THE BLUE MOUNTAINS
DECISION ON CONSENT APPLICATION FILE NO. B21-2009**

OWNER/APPLICANT: 453294 Ontario Inc, c/o Paul Phelan, President
AGENT: Kristine Loft, Loft Planning Inc.

PURPOSE AND EFFECT: The purpose of this consent is to consider a request to sever a 21.2 hectare parcel on the property, containing an existing dwelling (to be converted to an accessory use building), and deed it as a lot addition to the existing 4 hectare parcel to the south, containing an existing dwelling. An 8.5 hectare vacant parcel would be retained, to permit the development of a single detached dwelling.

This consent is related to the conditionally approved Niagara Escarpment Commission Development Permit Applications #G/R/2009-2010/9083 and #G/R/2009-2010/9096. The Agent has submitted a Planning Justification Report, Archaeological Assessment and Environmental Impact Study in conjunction with the planning application.

LEGAL DESCRIPTION: Part 3, RP 16R-1831; Parts 1, 2, 3, 7, 11, 15 to 20, RP 16R-6401
Being Part Lot 10, Concessions 1 and 2

SEVERED PARCEL: **FRONTAGE:** 319.0 m. **DEPTH:** Irregular **AREA:** 21.2 hectares
RETAINED PARCEL: **FRONTAGE:** 146.4 m. **DEPTH:** 582.7 m. **AREA:** 8.5 hectares

HAVING ACCESS ON: Open and Maintained County Road (Grey Road 19)
MUNICIPAL WATER: No **MUNICIPAL SEWER:** No

DECISION: GRANTED PROVISIONAL CONSENT
(IF GRANTED, CONSENT EXPIRES TWO YEARS FROM CERTIFICATE OF CONSENT DATE)

DATE OF DECISION: October _____, 2011

In making the decision upon this application for consent, the Council of the Town of The Blue Mountains is satisfied that:

- The proposed lot addition would appear to conform with the direction of the Town of The Blue Mountains Official Plan and represents good planning.

NOTICE - The last date for appealing this decision or any of the conditions is:

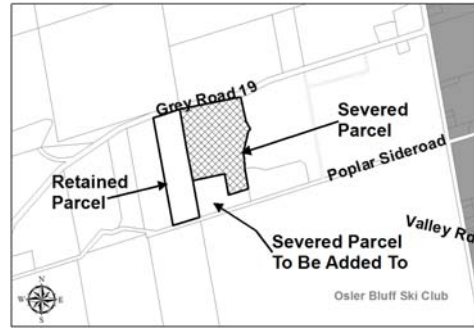
_____, 2011

IF PROVISIONAL CONSENT IS GIVEN, THEN THE FOLLOWING CONDITIONS MUST BE MET BY:
_____, 2012

1. That the Applicant meet all the requirements, financial and otherwise of the Town, for the Certificate of Consent to be issued.
2. That the Applicant provide a description of the land which can be registered in the Land Registry Office.
3. That the severed parcel be deeded as a lot addition to the property abutting to the south in accordance with Section 50 (3) of the *Planning Act, R.S.O. 1990*.
4. That any existing mortgage commitment on the severed parcel be extended to cover the whole, newly created parcel.
5. That a Consent Agreement be executed with the land owner to the satisfaction of the Town.

Signature of Corrina Giles, Clerk,
Town of The Blue Mountains
32 Mill Street, Thornbury, Ont., N0H 2P0
Email: cgiles@thebluemountains.ca

Dated: _____, 2011



Only individuals, corporations and public bodies may appeal decisions in respect of applications for consent to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

You will be entitled to receive notice of any changes to the conditions of the provisional consent if you have made a written request to be notified of changes to the conditions of the provisional consent.

Additional information regarding this consent may be obtained by attending the Office of the Town Clerk, 32 Mill Street, Thornbury, Ontario N0H 2P0 between the hours of 8:30 a.m. and 4:30 p.m. Monday to Friday, or by calling 888-258-6867 or 519-599-3131.

CERTIFICATION

Planning Act, R.S.O 1990, c. P.13, Sec 53(17) and 53(24), as amended

I, Corrina Giles, Clerk of The Corporation of the Town of The Blue Mountains, certify that the above is a true copy of the decision of the Council of the Town of The Blue Mountains with respect to the application recorded therein.

Signature of Corrina Giles, Clerk
Town of The Blue Mountains
32 Mill Street, Thornbury, Ont., N0H 2P0
Email: cgiles@thebluemountains.ca

Dated: _____, 2011