

STAFF REPORT: Town of The Blue Mountains Planning Department



REPORT TO: Mayor and Members of Council

MEETING DATE: Monday, November 24, 2008

REPORT NO.: PL.08.110

SUBJECT: Application for Consent and
Zoning By-law Amendment
File No. B22-2005
Barbara Macleod
Lot 38, Concession 12
Town of The Blue Mountains

PREPARED BY: Shawn Postma,
Planner II
Robert Armstrong,
Manager of Development Planning & IS

A. Recommendations

THAT Council does receive Planning Staff Report PL.08.110, "Application for Consent, File No. B22-2005, Lot 38, Concession 12, Town of The Blue Mountains";

AND THAT Planning Staff support Application for Consent File No. B22-2005 subject to the following conditions:

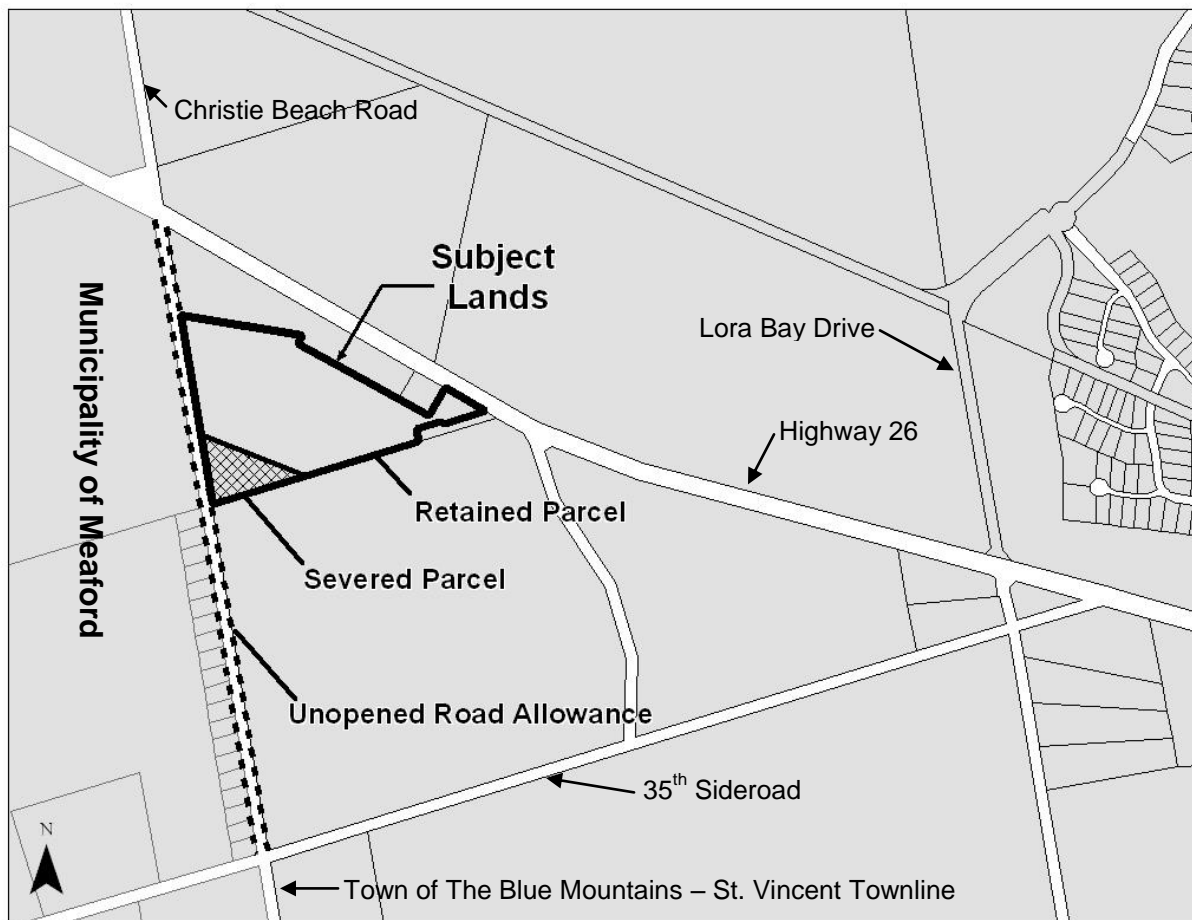
- 1. A Zoning By-law Amendment to:**
 - a. Recognize a new minimum lot area for both the severed and retained parcels.**
 - b. Recognize the severed parcel as not having frontage onto an open and maintained municipal street.**
 - c. Apply the holding '-h' symbol to ensure development on the severed parcel is subject to Site Plan Approval**
- 2. A Development Agreement to be registered on title for:**
 - a. The construction of a private driveway over the unopened road allowance to the severed parcel, and**
 - b. The existing use of the unopened road allowance for a private driveway for the existing dwelling on the retained parcel.**
- 3. A 6.0 metre trail easement along the top of the ridge.**
- 4. Confirmation of a lot addition from an existing vacant residential parcel to the retained parcel.**
- 5. The payment of Development Charges.**
- 6. The payment of Parkland Dedication.**

AND THAT Planning Staff support the Application for Zoning By-law Amendment to rezone the lands from the General Rural (A1) Zone and Hazard (H) Zone to the Rural Estate Residential (RERb-h) Zone and Hazard (H) Zone; and to deem a

private driveway over a municipal road allowance to meet the requirements for adequate frontage and access to a municipal street.

B. Background

Location



The purpose of these applications is to consider a request to sever a new 2 hectare vacant residential lot located on top of the hill and retain a 6.5 hectare parcel containing a residence and shed that is accessed via the Town road allowance to Highway 26. The severed parcel is proposed to be accessed via an unopened road allowance between the Municipality of Meaford and the Town of The Blue Mountains.

The purpose and effect of the Zoning By-law Amendment is to permit a new minimum lot area for both the proposed severed and retained parcels. The Zoning By-law also requires that development must front and access an open and maintained municipal street. Therefore, access to the proposed lot along the unopened right of way will be reviewed in this report.

The subject lands are serviced by a private water supply and septic system. Below the hill the lands front on to Highway 26, with driveway access being located over the unopened portion of the Townline opposite the entrance to Christie Beach Road. Above the hill, the lands are landlocked, with an unopened road allowance connecting the lands to the 35th Sideroad, an open and maintained municipal street.

The surrounding land uses predominantly include rural lands with some agricultural activities occurring above the hill. The Lora Bay Golf Course is located further north, along with some residential uses.

A new residential building lot in this location has been contemplated by the Town since 1993. At that time, Council concurred that residential development would be supported conditional upon the construction of the St. Vincent/Collingwood Townline to municipal standards. The owner looked into the costs of constructing the road, and deemed the development unfeasible.

In 1997 the proposal was brought back to Council again. The Town did another review, and again supported the proposal. It was concluded that a new lot in this location was appropriate noting that the lands are intended for residential development under the Estate Residential designation of the then Township of Collingwood Official Plan. (The Plan was adopted by Council in 1995, but was never approved). It was also noted that any new lots would be required to front on an opened and maintained municipal road, and that approximately 1500 feet of unopened road allowance would have to be constructed.

The next few years saw a lot of change to Planning policy, including the amalgamation of the Township with the Town of Thornbury in 1998. Soon after, work began on a new Official Plan for the new Municipality. The first adopted version of the Plan was completed in 2002 and the area surrounding the subject property was identified as a future service area for new estate residential uses known as *Grandview*. The intent of this area was to recognize new low density, large lot, residential development that would not be required to connect to town water or town sewer. A number of subsequent drafts of the Plan were prepared, until the final version was approved in 2004. At this time, Grandview and the Estate Residential designation in the area had been removed from the Plan. In its place the lands were designated Rural which still permits some limited new lot creation, but under more strict control. The Plan in its present form includes the consolidation of Official Plan Amendments 1, 2, 4, and 8 in March 2007.

In September 2005, the Town re-considered the current application for consent, under the current Official Plan policies. As part of the application, the owner was prepared to upgrade the 1500 feet of road allowance to municipal standards so that the new lot would have access to an open and maintained public street. The application was circulated, and Town Staff reviewed the proposal through the Development Review Committee. The Committee agreed that a new section of road to service one residential lot would not be considered appropriate. Future road maintenance including snow plowing, grading, etc. would become the full responsibility of the Municipality, all for the benefit of one new property, with little to no opportunities for additional lots along the

same road. In addition, the application was also circulated to outside agencies who identified the following concerns:

- From the County: an additional lot would exceed the maximum permitted lot density in the Rural area.
- From the Municipality of Meaford: the construction of a municipal street would provide frontage to a number of substandard lots on their side of the townline.
- From the Grey Sauble Conservation Authority: a Hazard Zone and Special Policy Area have been identified where new buildings should not be permitted. In addition, a drainage plan should be prepared for the opening of the road.
- From the adjacent property owner: would like to see the road upgraded. This particular owner has land interests on both sides of the unopened road allowance.

Town Staff notified the owner that the new lot would not be supported, and the owner requested additional time to consider alternative options, and the opportunity to address the above concerns.

The owner returned with a series of proposals and alternatives attempting to address those concerns.

First, if the Town was not interested in the construction of a new road, would the Town consider stopping up and closing the road allowance, and have it merged with the severed parcel and thereby providing direct access on to the 35th Sideroad.

Second, the Town would keep the road allowance under municipal ownership and control, with an agreement placed on the lands permitting the owner to create a driveway over the road allowance.

Notwithstanding all the history with this property, the application before the Town today, still proposes a new lot at the same location, with access to be granted over a private driveway located over the Town road allowance.

Official Plan

The Town of The Blue Mountains Official Plan designates the subject lands as Rural (R) and Hazard (H). Also identified in the Official Plan is a trail linkage that loops from the Lora Bay Golf Course development up the top of the hill along the brow, and back down the Townline towards Christie Beach.

The purpose of the Rural designation is to provide for the continuation of agricultural practices in areas of generally lower capability soils while permitting other uses considered compatible with the rural environment. The Rural designation recognizes those areas in the Municipality where agricultural capability is prejudiced from lower class soils, fragmented parcel sizes, incompatible land uses or where a continuous arable culture is not exhibited. The predominant use of land shall be for the continuation of agricultural practices. Other uses of land which are non-supportive activities of agriculture may be permitted on a limited scale provided that the use does

not conflict with surrounding farm operations, will not alter the rural character of the area and the use will not adversely impact costs of providing municipal services.

Generally, new lots for non-farm residential purposes should be 10 hectares in size with 150 metres of frontage. In some cases, where a more suitable division can be considered (ie. along a watercourse, ridge, fence line, tree line, etc.) smaller lots with a minimum of 0.8 hectares and 100 metres of lot frontage could be supported.

The subject lands are naturally divided by a former shore cliff, resulting in a small flat area near the bottom (containing the existing residence) and a larger flat area near the top (vacant). The flat areas would not appear to be capable of being used for agricultural purposes, but would appear to comprise of two suitable building lots.

Section 7 to the Official Plan establishes the Roads Policies for the municipality. New development shall only be permitted where there is direct frontage and access onto a year round appropriately maintained public road.

The proposed new lot has frontage and access on to an unopened road allowance that the applicant has offered to upgrade to a public street consistent with previous approvals. However, at this time Town Staff do not want to see the road upgraded for the benefit of one property owner. Instead, Town Staff are willing to support a development agreement that would permit a driveway over the Town road allowance. The agreement will contain provisions requiring engineered drawings detailing the location of the driveway and all other associated works including, but not limited to a grading plan, drainage improvements, trail access, Ontario Hydro requirements, and any other underground utility locates all prepared to the satisfaction of the Town. Prior to starting any of the works noted above, a municipal works permit will be required. Additional requirements for securities, insurance, construction schedules, save harmless claims, signage, acceptance of works, and any other requirements will also be incorporated into the agreement. Provisions to open the road in the future to municipal standards will be up to the municipality, and that until such time as the Town deems it appropriate to open the road in the future, no claims for responsibility, maintenance, or any other claims may be made in the future with this Council, future Council or any successor body. Cash contributions to the expense of constructing a new municipal road will be required if the Town, or another developer decides to construct a new road in the future.

Through discussions with the Municipality of Meaford, they generally have no objections to the proposed new lot, or private driveway along the unopened road allowance. In addition to the provisions of the Development Agreement above, there is an opportunity that the development agreement can establish provisions for the existing driveway over the unopened road allowance that accesses Highway 26. The existing situation can be recognized, and an agreement can be put in place for future maintenance and responsibility requirements.

Land for a public trail should be dedicated to the Town as a condition of consent. It would appear that a trail could be established along the unopened road allowance across the top of the former shore cliff. In the future, permission will be required from the adjacent property owner to continue the trail back down municipal road allowances completing a loop trail off of the Georgian Trail.

Zoning By-law

The subject lands are zoned General Rural (A1) within the Township of Collingwood Zoning By-law 83-40. Permitted uses include agricultural uses, a single detached dwelling on one lot, forestry and conservation, as well as uses, buildings and structures accessory to those uses. Minimum lot frontage and area requirements of the General Rural (A1) Zone are 150 metres and 20 hectares respectively.

The proposed lot configuration does not appear to comply with the General Rural (A1) regulations, and therefore a Zoning By-law Amendment is required, and has been submitted along with the consent application. An amendment is required to recognize the deficient lot area and lack of frontage onto an open and maintained municipal street.

An amendment to rezone the property out of the General Rural A1 zone and into the Rural Estate Residential RERb zone would appear to be appropriate for the lands. The General Rural A1 zone recognizes and regulates the traditionally larger parcels located in the agricultural and rural areas, whereas the Rural Estate Residential limits the permitted uses, and lot sizes more consistent with the new lot being proposed. Updated mapping has also been provided by the Conservation Authority identifying the hazard zone and special policy area boundaries. The boundaries should be implemented through the By-law Amendment.

Examining the visual impact, and the maintenance of the rural landscape, the proposed lot located on top of a visually prominent shore cliff. Careful consideration should be given when locating any new buildings or structures in order to reduce the visual impact they may create. To ensure that any new development will not adversely impact the visual rural landscape, the Holding '-h' symbol should be placed on the property. The Holding '-h' symbol will require the new parcel to receive Site Plan Approval prior to a building permit being issued for any new development. The Site Plan Approval will ensure that an appropriate building site is found, with provisions for additional landscaping where required.

Additional Comments

Considering the history of the property, Town Staff can support a new lot in this location, conditional upon the construction of a new driveway over the town line road allowance to the 35th Sideroad. The driveway would also be subject to an agreement (to be registered on title) that would include the following provisions, amongst other matters:

- The Owner will be permitted to travel along the east half of the unopened road allowance.
- The Owner will be required to submit a set of drawings detailing the location of the driveway, and all other associated works such as drainage, trail uses, utilities, etc.
- The works will be subject to a municipal works permit, also details on the construction, timing, and provision of securities and insurance.
- The Owner will further agree to accept all liability related to the performance of the works and to save the town harmless from any and all liability arising from or relating to any period of construction and any work or action completed.
- The Town will also retain the right to open all or a portion of the road allowance into a public street at any time, and will also collect the proportionate share of costs from the property owner to upgrade the street.

In order to address the rural lot density concern from the County of Grey, the Owner has proposed to purchase an existing lot adjacent to the retained parcel, and then merge the two lots through a lot addition. The net result would not see an increase in the existing lot density, and would also remove an existing vacant lot and driveway off of Highway 26. It is our opinion that this would address the lot density concerns of the County.

The revised proposal was also discussed with the Municipality of Meaford who have generally agreed to the new lot and the proposed driveway location, provided that the driveway is located on the Town of The Blue Mountains half of the road allowance.

An adjacent property owner identified similar concerns over road access, utility services, and other matters which have been addressed in this report. The intent of the application for consent has not changed from the original submission.

It is the opinion of Planning Staff that based on current Official Plan direction estate residential lots are no longer considered appropriate for development in this area, however, new lots can still be considered under the more restrictive Rural designation. In this case, it has been shown that the proposed lot will meet the requirements of the Rural policies, save for direct access to the lot. Since estate residential lots are no longer being considered, a new municipal road to service one lot would be inappropriate. In addition, it has always been the owners intent (since 1993) to create a new lot in this location, and that has not changed. That lot was consistently supported by Town Staff and Council (1993 and 1997), and no other objections have been identified on this application. Based on the forgoing, the proposed consent conforms to the intent and direction of the Town of The Blue Mountains Official Plan, and therefore, Planning Staff would support this application for consent subject to the conditions as noted in this report.

C. The Blue Mountains' Strategic Plan

The recommendation contained within this report is consistent and supports the following Strategic Plans Goals:

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

D. Budget Impact

NIL

E. Environmental Impact

The proposed Consent does not appear to generate any significant environmental impacts that can be regulated by the Town.

F. Attached

1- Zoning By-law Amendment

Respectfully submitted,

Shawn Postma, BES
Planner II

Robert Armstrong, MCIP, RPP, CPT
Manager of Development Planning & IS

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW NO. _____

Being a By-law to amend Zoning By-law No. 83-40
which may be cited as "The Township of Collingwood
Zoning By-law".

WHEREAS the Council of the Corporation of the Town of The Blue Mountains deems it necessary in the public interest to pass a by-law to amend By-law No. 83-40;

AND WHEREAS pursuant to the provisions of Section 34 and 36 of the Planning Act, the By-law may be amended by Council of the Municipality;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS ENACTS AS FOLLOWS:

1. Map 1 to Schedule 'A', of the Township of Collingwood Zoning By-law, being By-law 83-40 is hereby amended by rezoning the subject lands from the General Rural (A1) Zone and Hazard (H) Zone to the Rural Estate Residential (RERb-h) Zone and Hazard (H) Zone for those lands lying and being in the Town of The Blue Mountains, comprised of Lot 38, Concession 12; as indicated on the attached key map Schedule "A-1".
2. In accordance with the provisions of Section 36 of the Planning Act, R.S.O. 1990, c.P. 13, as amended, the holding symbol "-h" shall not be removed from the whole or part of the lands until such time as the following has been completed:
 - (i) Granting of Site Plan Approval under Section 41 of the Planning Act, R.S.O. 1990, c.P. 13, as amended that includes a Viewshed Analysis to the satisfaction of the Town of The Blue Mountains, to address the visual impact on the rural landscape in accordance with the Rural policies of the Official Plan.
3. Notwithstanding the Lot Development Requirements of Section 5.8 a private driveway over an unopened road allowance shall be deemed to meet the requirements for frontage and access to an improved public street for those lands identified in Section 1 to this By-law.
4. Schedule "A-1" is hereby declared to form part of this By-law.

AND FURTHER that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this _____ day of _____, 2008.

Ellen Anderson, Mayor

Stephen Keast, Clerk

I hereby certify that the foregoing is a true copy of By-law No. _____ as enacted by the Council of the Corporation of the Town of The Blue Mountains on the _____ day of _____, 2008.

DATED at _____

this _____ day of _____, 2008.

Signed: _____
Stephen Keast, Clerk

NOTICE OF THE PASSING OF A ZONING BY-LAW

TOWN OF THE BLUE MOUNTAINS

TAKE NOTICE THAT the Council of the Town of the Blue Mountains passed By-law No. _____ on the _____ day of _____, 2008 under Section 34 of the Planning Act.

AND TAKE NOTICE that any person or agency may appeal to the Ontario Municipal Board in respect of the by-law by first obtaining a prescribed Appellant Form and filing same with the Clerk of the Town of the Blue Mountains not later than the _____ day of _____, 2008 and completing said Form setting out the objection of the By-law and the reasons in support of the objection, together with the required \$125 fee made payable to the Minister of Finance.

AND TAKE NOTICE that only individuals, corporations and public bodies may appeal a zoning by-law 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 the group on its behalf.

An explanation of the purpose and effect of the by-law, describing the lands to which the by-law applies, and a key map showing the location of the lands to which the by-law applies (or, alternatively, an explanation as to why a key map is not provided) are attached. The complete by-law is enclosed for inspection.

DATED at the Town of The Blue Mountains, this _____ day of _____, 2008.

Stephen Keast
Clerk
Town of The Blue Mountains
P.O. Box 310
26 Bridge Street
THORNBURY, Ontario
NOH 2P0 (519) 599-3131

PURPOSE AND EFFECT OF THIS BY-LAW

The purpose of this By-law is to address a condition of consent on application B22-2005, which proposes to create a new two hectare estate residential lot while retaining a 6.5 hectare parcel containing an existing dwelling.

The effect of this By-law is to rezone the subject lands from the General Rural A1 zone to the Rural Estate Residential RERb-h zone and Hazard H zone. The holding '-h' symbol will not be removed until a viewshed analysis has been prepared to the satisfaction of the Town of The Blue Mountains in order to address the visual impact of new development on the rural landscape in accordance with the Rural policies of the Official Plan. The By-law also recognizes a driveway over an unopened municipal road allowance to meet the requirements for frontage and access on to an open and maintained public street.