

**STAFF REPORT:      Planning & Building Services Department**



**REPORT TO:            Planning & Building Committee**  
**MEETING DATE:      August 3, 2011**  
**REPORT NO.:          PL.11.82 - Revised**  
**SUBJECT:              Deeming By-law Application,**  
**Tina Passero, Lots 46 and 47,**  
**Plan 1127**  
  
**PREPARED BY:        David      Finbow,          Director,**  
**Planning & Building Services**

**A.    Recommendations**

**THAT Council receive Staff Report PL.11.82 - Revised, Deeming By-law Application Tina Passero, Lots 46 and 47, Plan 1127 and that Council enact a deeming by-law so as to deem Lots 46 and 47, Plan 1127 as not being separate Lots within a Registered Plan of Subdivision.**

**B.    Background**

The Committee of Adjustment in its decision A08-2011 of May 19, 2011 granted a minor variance related to the construction of an in-ground swimming pool and related cabana building on Lot 46, Plan 1127 with it being noted that same was to occur prior to a principal building being constructed upon the Lot. It is noted that the proponent is also the owner of Lot 47, Plan 1127.

The Corporation of the Town of The Blue Mountains appealed the decision of the Committee to the Ontario Municipal Board (OMB).

The proponent has now made application pursuant to Section 50(4) of the *Planning Act* to "merge" Lots 46 and 47, Plan 1127.

The purpose of a Deeming By-law is to ensure that the lands cannot be separately conveyed without an approved consent from the Town of The Blue Mountains.

Section 50(4) of the *Planning Act* indicates the following:

**Designation of plans of subdivision not deemed registered**

(4) The council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection (3). R.S.O. 1990, c. P.13, s. 50 (4).

Plan 1127 was registered on November 8, 2002.

The subject application was reviewed in terms of context within Plan 1127. Comments:

1. Combined Lots 46 and 47 will have a frontage of approximately 63.0 metres and an area of approximately 3,055 square metres.
2. The majority of the Lots within the immediate area have frontages 25.0 – 30.0 metres but it is noted that there are 2 Lots, Lots 26 and 27, within this area with frontages of approximately 42.0 and 50.0 metres. It is also noted that there is significant open space in this Plan located adjacent to Lots that front on Alta Road. With respect to the frontages of Lots 26 and 27, when combined with the open space Block, it provides the visual appearance of Lots having frontages of approximately 60.0 and 70.0 metres respectively.
3. As to Lot areas in the immediate area, same range from approximately 1,330 square metres (Lot 47) to 3,250 (Lot 27). It is noted that the combined lot area of Lots 46 and 47 would be approximately 3,055 square metres.
4. Although the merged Lots 46 and 47 would exceed the average frontages and lot areas, it would not be visually inconsistent with some of the Lots within the immediate area and would be less than Lot 27.

Although Planning Services did not support an application for minor variance as the proposal did not meet the four tests under the *Planning Act* for same, Planning Services find the proposed merging of Lots 46 and 47, Plan 1127 palatable from a Planning perspective.

As stated previously, Minor Variance No. A08-2011 was appealed to the OMB by the Town. In this regard, the proponent's professional planner, acting on behalf of the applicant, submitted a letter to the OMB on August 2, 2011 advising the Board that:

The purpose of this letter is to indicate that my client Tina Passero will withdraw her Minor Variance application A08/2011, subject to the enactment of a Deeming Bylaw by the Council of the Town of Blue Mountains.

Summary:

Planning Services recommends that Council enact a Deeming By-law so that Lots 46 and 47, Plan 1127 are deeded not to be separate Lots within a Registered Plan of Subdivision.

**C. The Blue Mountains' Strategic Plan**

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

*"Preserving and enhancing natural and environmental features, and cultural heritage of the community."*

**D. Financial Impact**

N/A

**E. Addendums**

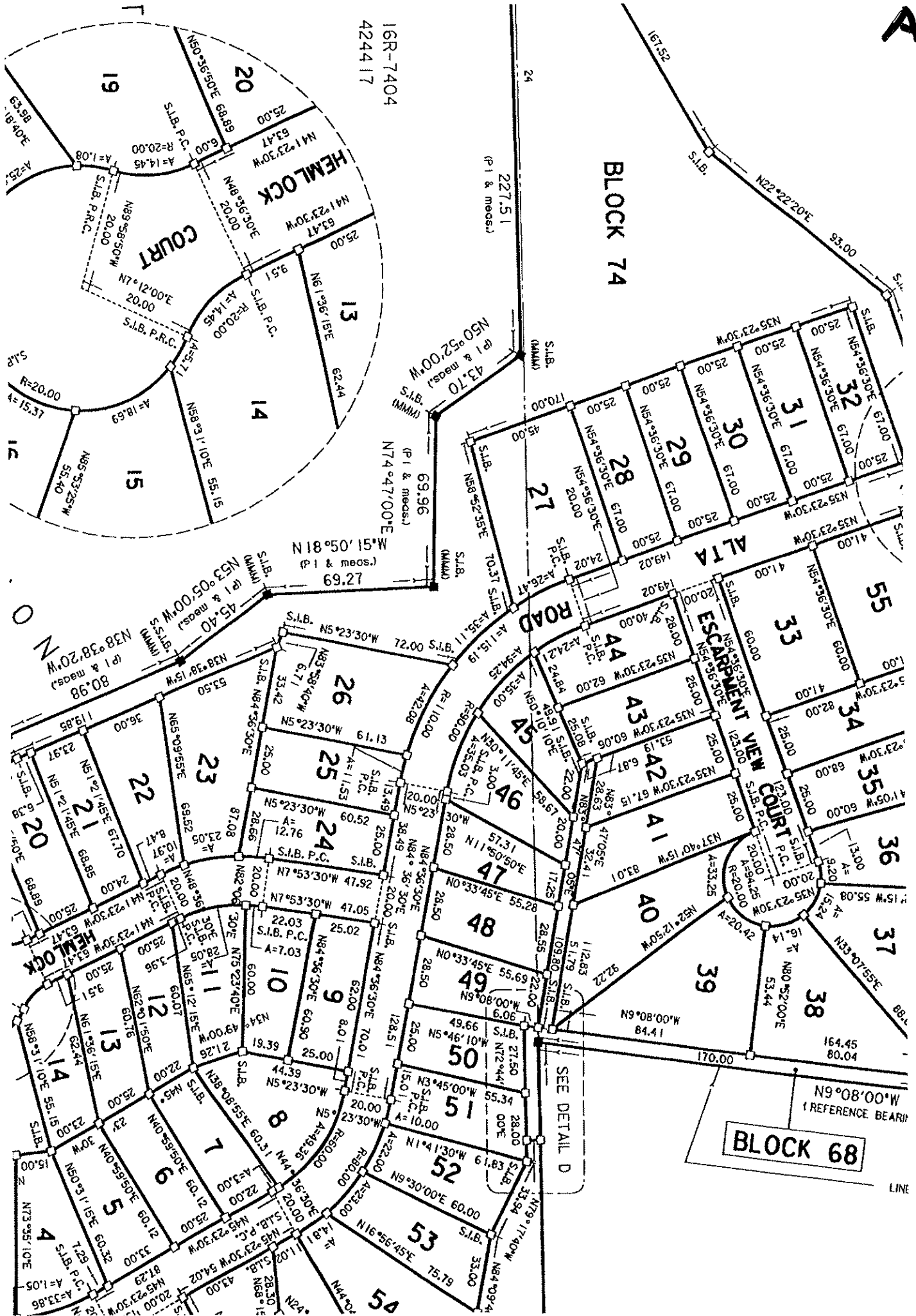
- A. Extract from Plan 1127
- B. Letter dated August 2, 2011 from D.C. Slade Consultants Inc. To the Ontario Municipal Board
- C. Deeming By-law

Respectfully submitted by:



David Finbow  
Director, Planning & Building Services

A.

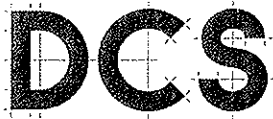


16R-7404  
422417

BLOCK 74

BLOCK 68

LINE



D.C. Slade Consultants INC.  
Planning & Development



SENT VIA EMAIL

August 2, 2011

Tamara Zwarycz  
Planning Assistant  
Ontario Municipal Board  
Environment and Land Tribunals Ontario  
655 Bay Street, Suite 1500  
Toronto, ON  
M5G 1E5

**RE: OMB Case No. PL110591 (177 Alta Road), The Town of The Blue Mountains**

---

Dear Ms. Zwarycz:

On April 11, 2011 D.C. Slade Consultants Inc. Planning and Development submitted a Minor Variance application (A08/2011) to the Town of Blue Mountains on behalf of Tina Passero (177 Alta Road). That application was approved by the Town of Blue Mountains Committee of Adjustment on May 19, 2011, but was appealed by The Town of The Blue Mountains to the Ontario Municipal Board.

Subsequently, we submitted a Deeming Bylaw application to the Town of Blue Mountains. A staff report with recommendations for approval of the Deeming Bylaw is to be heard by the Planning and Building Committee of the Town of The Blue Mountains on August 3, 2011.

The purpose of this letter is to indicate that my client Tina Passero will withdraw her Minor Variance application A08/2011, subject to the enactment of a Deeming Bylaw by the Council of the Town of Blue Mountains.

I understand that a Town of Blue Mountains Council meeting is scheduled for August 8, 2011. I believe Council could approve the Deeming Bylaw at the August 8 meeting.

Sincerely,

**D.C. Slade Consultants Inc. Planning & Development**

Cc: David Finbow, Director of Planning & Building  
Albert and Tina Passero



**THE CORPORATION OF THE TOWN OF  
THE BLUE MOUNTAINS**

**BY-LAW NO. 2011 -**

**Being a By-law to designate a Plan of Subdivision, or part thereof, not to be a Registered Plan of Subdivision for the purposes of Subsection 50(3) of *The Planning Act***

**WHEREAS** the Council of The Corporation of The Town of The Blue Mountains has authority pursuant to subsection 50(4) of *The Planning Act*, R.S.O. 1990, c. P. 13, as amended, to designate a Plan of Subdivision, or part thereof, that has been registered for eight years or more, to be deemed not to be a registered Plan of Subdivision for the purpose of subsection 50(3) of *The Planning Act*;

**AND WHEREAS** Lots 46 and 47 within Registered Plan 1127 are currently separate Lots within the Registered Plan;

**AND WHEREAS** Registered Plan No. 1127 has been registered in the Registry Office for the Registry Division of the County of Grey for eight years or more;

**NOW THEREFORE** Council of The Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. The lands described on Schedule "A" attached hereto and forming part of this By-law are hereby deemed not to be separate lots within a registered Plan of Subdivision for the purposes of Subsection 50(3) of *The Planning Act*.
2. This By-law shall come into full force and take effect on the date it is enacted by the Council of The Corporation of The Town of The Blue Mountains, subject to the provisions of subsection 50(27) of *The Planning Act*.
3. This By-law shall be registered in the Registry Office for the Registry Division (16) of the County of Grey.

Enacted and passed this \_\_\_\_ day of August, 2011

.....  
Mayor Ellen Anderson

.....  
Corrina Giles, Town Clerk

## Schedule "A"

Lands deemed not to be a registered Plan of Subdivision for the purposes of Section 50(3) of *The Planning Act*:

177 Alta Road, Town of The Blue Mountains, County of Grey  
Lot 46, Registered Plan 1127  
PIN 37309-0451

175 Alta Road, Town of The Blue Mountains, County of Grey  
Lot 47, Registered Plan 1127  
PIN 37309-0451