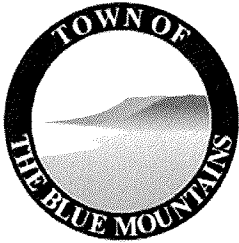


C.5

STAFF REPORT: Town of The Blue Mountains Planning Department



REPORT TO: Council

MEETING DATE: June 2, 2008

REPORT NO.: PL.08.55

SUBJECT: Application for Deeming By-law and Consent Agreement
Christina Ardill and Kevin Gust
Lots 17 and 18, Plan 501
Craigmore Crescent
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.08.55, "Application for Deeming By-law and Consent Agreement, Christina Ardill and Kevin Gust, Lots 17 and 18, Plan 501, Craigmore Crescent, Town of The Blue Mountains";

AND THAT Planning Staff support a Deeming By-law to designate Lot 17 and Lot 18, of Registered Plan 501 to be deemed not to be part of a Registered Plan of Subdivision in accordance with S. 50(4) of the Planning Act R.S.O. 1990, c.P.13.

AND THAT Planning Staff support a Consent Agreement to permit the continued use of the existing two-storey frame dwelling until no later than September 6, 2009, and further that Council authorize the Mayor and Clerk to execute the Consent Agreement.

B. Background

The purpose of the Deeming By-law application is to satisfy a condition of consent issued by the Ontario Municipal Board (OMB), for the above mentioned lands.

Applications for Consent B24-2006 and B25-2006 proposed to create three residential lots from two existing lots within a plan of subdivision (Plan 501) along Craigmore Crescent. Planning Staff did not support the creation of the new lots, and in April 2007 Council refused the applications. Subsequently, D.C. Slade Consultants on behalf of Kevin Gust and Christina Ardill, referred the consent applications to the OMB. A hearing was held and the OMB issued their decision on September 07, 2007 to allow the appeal and grant provisional consent subject to a number of conditions. All conditions must be fulfilled within a period of one year from the date of the Decision. If the conditions are not met within the required time frame, the provisional consents would be deemed to be refused.

Condition 1 requires that two retained portions of the consent applications be legally merged into one parcel. It has been determined through discussion with the Towns Solicitor, and the Solicitor for the applicant that a Deeming By-law is required to remove the two lots from the registered plan of subdivision, thereby allowing the two retained parcels to be legally merged.

Condition 6 of the OMB decision requires that the two-storey frame dwelling be removed from the lands. The Owners intend to make application to the OMB for an order extending the time for fulfilling this condition to a date no later than September 6, 2009. Town Staff have no objections to the extension of the time to fulfill the condition provided that the Owners enter into a Consent Agreement with the Town to ensure the dwelling is removed prior to the three lots being created or by no later than September 6, 2009. The Agreement states that the Town Clerk will not issue a Certificate in accordance with Subsection 53(42) of the Planning Act until he is satisfied that the dwelling has been removed from the lands.

Based on the foregoing, it is the opinion of Planning Staff that: 1) the proposed Deeming By-law to remove Lot 17 and Lot 18 from Registered Plan 501 is appropriate for the lands in order to satisfy the Condition outlined by the Board, and 2) that an extension to remove the dwelling is acceptable provided the Owners enter into a Consent Agreement with the Town based on the comments above.

Staff would therefore recommend that Council grant a Deeming By-law and enter into a Consent Agreement.

C. The Blue Mountains' Strategic Plan

Strategic Plan Goal #1:

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

D. Budget Impact

NIL

E. Environmental Impact

The proposed Deeming By-law and Consent Agreement does not appear to generate any significant environmental impacts that can be regulated by the Town.

F. Attached

1. Draft Deeming By-law
2. Consent Agreement

Respectfully submitted,



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THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW NO. _____ **DRAFT**

Being a By-law to designate part of a Plan of Subdivision deemed not to be registered.

WHEREAS Subsection 50 (4) of the Planning Act, Chapter P.13, RSO 1990 and amendments thereto enables the Council of a local Municipality by By-law to designate any Plan of Subdivision, or part thereof, that has been registered for eight years or more, as deemed not part of a Registered Plan of Subdivision for the purposes of Subsection 50 (3) of the Act;

AND WHEREAS it has been declared expedient to pass a By-law to designate Lot 17 and 18, Registered Plan 501, Town of The Blue Mountains, as deemed not to be part of a Registered Plan of Subdivision for the purposes of Subsection 50 (3) of the Act;

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

1. That Lot 17 and Lot 18 of Registered Plan 501, are hereby deemed not to be part of a Registered Plan of Subdivision for the purposes of Subsection 50 (3) of the Planning Act, Chapter P.13, RSO 1990 and amendments thereto.
2. That this By-law shall not come into full force and effect until said By-law is registered in the proper Land Registry Office.

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

Enacted and passed this _____ day of _____, 2007. **DRAFT**

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 _____, 2007.

DATED at _____

this _____ day of

_____, 2007.

Signed: _____
Stephen Keast, Clerk

TOWN THE BLUE MOUNTAINS

CONSENT AGREEMENT

THIS AGREEMENT made in quadruplicate on the day
of May, 2008.

B E T W E E N:

CHRISTINA ARDILL and KEVIN GUST

hereinafter called the OWNERS of the FIRST PART,

AND

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

hereinafter called the TOWN of the SECOND PART,

WHEREAS the Owners warrant that they are the registered owners of the lands in the Town of the Blue Mountains (formerly the Township of Collingwood), County of Grey described as Lots 17 and 18 Registered Plan 501 (the "Lands") and have made applications to the Town pursuant to section 53 of the Planning Act, R.S.O. 1990, c.P.13, as amended, (the "Act") for consents as defined in the Act to subdivide the Lands into three (3) residential lots (the "Lots");

AND WHEREAS the Ontario Municipal Board (the "OMB"), by Decision/Order No: 2465 dated September 7, 2007, a copy of which is attached as Schedule "A" to this Agreement (the "Decision") granted provisional consents to create the Lots subject to the conditions set out in the Decision;

AND WHEREAS one of the conditions requires that the two-storey frame building be removed from the Lands (the "Condition") within a period of one year from the date of the Decision failing which, in accordance with the provisions of subsection 53(41) of the Act, the provisional consents would be deemed to be refused;

AND WHEREAS the Owners have made an application to the OMB for an order extending the time for fulfilling the Condition to a date no later than September 6, 2009 and in an event prior to the Town Clerk giving a certificate in accordance with subsection 53(42) of the Act with respect to the provisional consents;

AND WHEREAS the Town has no objection to the extension of the time to fulfill the Condition.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of other good and valuable consideration and the sum of ONE DOLLAR (\$1.00) of lawful money of Canada, now paid by each of the parties hereto to each of the other parties hereto, (the receipt whereof is hereby acknowledged), the parties hereto covenant, promise and agree with each other as follows:

1. CLARIFICATION AND INTERPRETATION

At the time that this Agreement is entered into, the Owners have been granted provisional consents to create the Lots subject to the conditions set out in the Decision. The Parties agree that the recitals herein are true and accurate and form part of this Agreement.

2. SCHEDULE

Schedule "A" attached to this Agreement forms part of this Agreement.

3. TOWN'S COSTS

The Owners agree to pay to the Town its costs in the amount of Five Hundred (\$500.00) Dollars for the preparation of this Agreement.

4. REMOVAL OF THE BUILDING

The Owners agree that they will remove the two-storey frame building from the Lands as required by the Condition by no later than September 6, 2009 and in an event prior to the Town Clerk giving a certificate in accordance with subsection 53(42) of the Act with respect to the provisional consents. The Owners further acknowledge and agree that the Town Clerk will not issue the aforesaid certificate until he is satisfied that the building has been removed from the Lands.

5. TOWN CONSENT

The Town agrees that it will provide to the OMB a written consent, in a form acceptable to the OMB, consenting to the Owners' application to the OMB for an order extending the time for fulfilling the Condition to a date no later than September 6, 2009 and in an event prior to the Town Clerk giving a certificate in accordance with subsection 53(42) of the Act with respect to the provisional consents.

6. ENUREMENT

This Agreement shall be binding upon and enure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors and assigns.

7. JOINT AUTHORS

Each of the Parties is deemed to be a joint author of this Agreement.

IN WITNESS WHEREOF the Corporate Party hereto has affixed its respective Corporate Seal duly attested to by the hands of its authorized signing officers in that regard and the Natural Parties hereto have affixed their hand and seal the day and year first before written.

SIGNED, SEALED AND DELIVERED

CHRISTINA ARDILL

KEVIN GUST

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

PER: _____

Ellen Anderson, Mayor

PER: _____

Stephen Keast, Clerk

Schedule "A"

Note: It is understood and agreed that this Schedule forms part of the Town of The Blue Mountains Development Consent Agreement with Christina Ardill and Kevin Gust

Copy of OMB Decision to be attached.