

The Corporation of the Town of Huntsville
COMMITTEE OF ADJUSTMENT
Meeting held on **Wednesday, January 9, 2008** at 9:00 a.m.
In the Council Chambers, Town Hall

ATTENDANCE:

Chair: W.A. Beatty (left at 9:10)
Members: John Davis
Claude Doughty (arrived at 9:10)
Mary Jane Fletcher
Staff: Chris Madej, Manager of Planning
Kirstin Maxwell, Planning Technician
Katie Newman, Planner
Jacquie Tschekalin, Senior Planner
Absent: Brian Thompson
George Young

1. CONVENE

Moved by John Davis and seconded by Mary Jane Fletcher

THAT: We hereby convene as a meeting of the Committee of Adjustment.

Carried.

2. DISCLOSURE OF CONFLICTS OF INTEREST

none.

3. MINUTES

a) Committee of Adjustment Meeting Minutes – December 12, 2007

Moved by Mary Jane Fletcher and seconded by John Davis

THAT: We hereby adopt the minutes of the Committee of Adjustment of December 12, 2007.

Carried.

4. CONSENTS

Chair Beatty provided a brief overview of the purpose and procedure of the Hearings and declared the Hearings to be public meetings of Committee.

(a) B/59/2007/HTE (Holinshead)

Katie Newman, Planner, described the purpose of the application.

Comments received to date:

No objections were noted by the Fire Dept., the Building Dept., MTO, or Public Works.

The Cottager's Association commented that the septic system must meet the requirements of the approval authority.

The District of Muskoka commented that they have no objections, subject to the severed parcel merging in title with the lot to which it is being added and Subsection 3 of Section 50 of the Planning Act being applied to any subsequent conveyance or transaction of or in relation to the parcel of land subject to the consent.

There was an inquiry from a neighbour regarding the future status of the road, more information was provided and no objections were noted.

Another neighbour expressed support for the application, as stated in the letter dated December 4, 2007.

A letter was received from the Huntsville Lakes Council indicating concerns about the proposed location for the new dwelling located at 518 Springfield Road (not on the footprint of the existing dwelling), the increase in lot coverage regarding the proposed dwelling (still less than 10 %), the type and location of the septic system, and the need for the re-vegetation of the shoreline.

Planning supported granting of the provisional Consent.

Chair Beatty called upon the applicant or their representative to provide additional comments.

Chair Beatty asked if anyone present wished to provide comment or ask questions regarding the proposed severance.

Chair Beatty asked if there were any questions from Committee Members.

Member Davis noted that a minor variance for this property had been approved at the December 12, 2007, Committee meeting.

Moved by John Davis and seconded by Mary Jane Fletcher

THAT: HAVING HAD REGARD TO THE MATTERS PRESCRIBED UNDER SUBSECTION 53(12) OF THE PLANNING ACT, R.S.O. 1990, AS AMENDED, THAT A PROVISIONAL CONSENT BE GRANTED FOR APPLICATION NO.

**B/59/2007/HTE – HOLLINSHEAD
PART OF LOT 23, CONCESSION 14
GEOGRAPHIC TOWNSHIP OF BRUNEL
TOWN OF HUNTSVILLE**

CONDITIONAL ON:

- 1) A registerable description of the severed lot being submitted to the Secretary-Treasurer, (including all rights-of-ways and easements), along with a registered copy of the reference plan;
- 2) The Owners' taxes being in good standing;
- 3) A consent finalization fee in the amount of \$100.00 being paid to the Town of Huntsville.

The severed lands are to join in title to the lands to which they are being added.

Subsection 3 of Section 50 of the Planning Act, R.S.O. 1990, as amended, applies to any subsequent conveyance of or in relation to the land subject to this consent.

REASONS: The application will then meet the requirements of all commenting agencies.

Carried.

(b) B/64/2007/HTE (Rosbottom)

Katie Newman, Planner, described the purpose of the application.

Comments received to date:

The District of Muskoka commented that they have no objections, subject to the severed parcel merging in title with the lot to which it is being added and Subsection 3 of Section 50 of the Planning Act being applied to any subsequent conveyance or transaction of or in relation to the parcel of land subject to the consent.

No objections were noted by Public Works, the Fire Dept., MTO, or the building Dept.

Planning supported granting of the Provisional Consent on the basis that the proposal conforms to zoning requirements.

Chair Beatty called upon the applicant or their representative to provide additional comments.

Chair Beatty asked if anyone present wished to provide comment or ask questions regarding the proposed severance.

Chair Beatty asked if there were any questions from Committee Members.

Moved by Mary Jane Fletcher and seconded by John Davis

THAT: HAVING HAD REGARD TO THE MATTERS PRESCRIBED UNDER SUBSECTION 53(12) OF THE PLANNING ACT, R.S.O. 1990, AS AMENDED, THAT A PROVISIONAL CONSENT BE GRANTED FOR APPLICATION NO.

**B/64/2007/HTE – ROSBOTTOM
PART OF LOT 30, CONCESSION 8
GEOGRAPHIC TOWNSHIP OF STISTED
TOWN OF HUNTSVILLE**

CONDITIONAL ON:

- 1) A registerable description of the severed lot being submitted to the Secretary-Treasurer, (including all rights-of-ways and easements), along with a registered copy of the reference plan;
- 2) The Owners' taxes being in good standing;
- 3) A consent finalization fee in the amount of \$100.00 being paid to the Town of Huntsville.

The severed lands are to join in title to the lands to which they are being added.

Subsection 3 of Section 50 of the Planning Act, R.S.O. 1990, as amended, applies to any subsequent conveyance of or in relation to the land subject to this consent.

REASONS: The application will then meet the requirements of all commenting agencies.

Carried.

5. CONCURRENT SEVERANCE/REZONINGS

Chair Beatty left the meeting and Member Davis assumed the chair.
Member Doughty arrived.

Chair Davis provided a brief overview of the purpose and procedure of the Hearings and declared the Hearings to be public meetings of Committee and Council to deal with severance and concurrent consent and rezoning applications.

Chris Madej, Manager of Planning, reported that proper notice was given pursuant to the requirements and timelines of the Planning Act and the Huntsville Official Plan.

(a) B/52/53/2007/HTE & Z/32/2007/HTE (Bush)

Jacquie Tschekalin, Senior Planner, described the purpose of the applications.

Comments received to date:

No objections were noted by MTO, Fire, Public Works or Building.

The District noted concern about appropriate entrance locations (which resulted in the reconfiguration of the lots), the potential for secondary aggregate deposits on the site, and proximity of the landfill site. They also noted that should the applications be approved, the District would require a 3-metre road widening across the frontage of the severed and retained lands, and that the applicant enter into an agreement with the district respecting well locations.

Mr. Bush submitted information to indicate that the proposal met District and Huntsville OP policies including the compatibility of the proposal with the existing character of the area - other dwellings were located nearby, and the size of his property would permit any new aggregate operation to be located the required distance from any dwelling. The zoning restriction would also meet setback requirements from landfills.

No other comments were received.

Planning supported approval of these applications.

Chair Davis called upon the applicant or their representative to provide additional comments.

Graham Bush, Applicant, stated that he wanted the balance of the lands to remain as a nature conservancy and that no further development was planned.

Chair Davis asked if anyone present wished to provide comment or ask questions regarding the proposed severance.

Chair Davis asked if there were any questions from Committee Members.

Member Fletcher asked for clarification on the no-build section of the lots and Mrs. Tschekalin explained that the District Official Plan restricts development within 500m of the landfill site.

Moved by Claude Doughty and seconded by Mary Jane Fletcher

THAT: HAVING HAD REGARD TO THE MATTERS PRESCRIBED UNDER SUBSECTION 53(12) OF THE PLANNING ACT, R.S.O. 1990, AS AMENDED, THAT A PROVISIONAL CONSENT BE GRANTED FOR APPLICATION NO.

**B/52/2007/HTE – BUSH
PART OF LOTS 11 & 12, CONCESSION 6
GEOGRAPHIC TOWNSHIP OF STISTED
TOWN OF HUNTSVILLE, DISTRICT OF MUSKOKA**

CONDITIONAL ON:

- 1) A registerable description of the severed lot being submitted to the Secretary-Treasurer, (including all rights-of-ways and easements), along with a registered copy of the reference plan.
- 2) The severed and retained lands being rezoned for their intended use.
- 3) The Owner entering into an agreement with the District Municipality of Muskoka pursuant to Section 51(26) of the Planning Act respecting road widening and the location of wells on the property in relation to the District Road.
- 4) A satisfactory Lot Suitability Report being completed for the severed lot.
- 5) 5% cash-in-lieu of Parkland being paid to the Town of Huntsville for the severed lands.
- 6) The Owners' taxes being in good standing.
- 7) A consent finalization fee in the amount of \$100.00 being paid to the Town of Huntsville.

REASONS: The application will then meet the requirements of all commenting agencies.

Carried.

Moved by Mary Jane Fletcher and seconded by Claude Doughty

THAT: HAVING HAD REGARD TO THE MATTERS PRESCRIBED UNDER SUBSECTION 53(12) OF THE PLANNING ACT, R.S.O. 1990, AS AMENDED, THAT A PROVISIONAL CONSENT BE GRANTED FOR APPLICATION NO.

**B/53/2007/HTE – BUSH
PART OF LOTS 11 & 12, CONCESSION 6
GEOGRAPHIC TOWNSHIP OF STISED
TOWN OF HUNTSVILLE, DISTRICT OF MUSKOKA**

CONDITIONAL ON:

- 1) A registerable description of the severed lot being submitted to the Secretary-Treasurer, (including all rights-of-ways and easements), along with a registered copy of the reference plan.
- 2) The severed and retained lands being rezoned for their intended use.
- 3) The Owner entering into an agreement with the District Municipality of Muskoka pursuant to Section 51(26) of the Planning Act respecting road widening and the location of wells on the property in relation to the District Road.
- 4) A satisfactory Lot Suitability Report being completed for the severed lot.
- 5) 5% cash-in-lieu of Parkland being paid to the Town of Huntsville for the severed lands.
- 6) The Owners' taxes being in good standing.
- 7) A consent finalization fee in the amount of \$100.00 being paid to the Town of Huntsville.

REASONS: The application will then meet the requirements of all commenting agencies.

Carried.

- (b) B/66/67/2007/HTE & Z/40/2007/HTE (Estate of Rand)
Jacquie Tschekalin, Senior Planner, described the purpose of the applications.

Comments received to date:

No objections were noted by MTO, Fire, Public Works or Building.

The District noted the tributary on the property is a Cold Water Stream, however, since these lands are to remain in a protective zone Muskoka staff would not object to the approval of these applications.

No other comments were received.

Planning would support the approval of these applications.

Chair Davis called upon the applicant or their representative to provide additional comments.

Lanny Dennis, Wayne Simpson and Associates, Agent for the Applicant, stated that the applicant had no objections to the site plan on the vacant severed lot and maintaining the integrity of the Cold Water Stream.

Chair Davis asked if anyone present wished to provide comment or ask questions regarding the proposed severance.

Chair Davis asked if there were any questions from Committee Members.

Moved by Claude Doughty and seconded by Mary Jane Fletcher

THAT: HAVING HAD REGARD TO THE MATTERS PRESCRIBED UNDER SUBSECTION 53(12) OF THE PLANNING ACT, R.S.O. 1990, AS AMENDED, THAT A PROVISIONAL CONSENT BE GRANTED FOR APPLICATION NO.

**B/66/2007/HTE – RAND
PART OF LOT 15, CONCESSION 14
GEOGRAPHIC TOWNSHIP OF CHAFFEY
TOWN OF HUNTSVILLE, DISTRICT OF MUSKOKA**

CONDITIONAL ON:

- 1) A registerable description of the severed lot being submitted to the Secretary-Treasurer, (including all rights-of-ways and easements), along with a registered copy of the reference plan.
- 2) The severed lands being rezoned for their intended use.
- 3) A satisfactory Lot Suitability Report being completed for the severed and retained lots.
- 4) 5% cash-in-lieu of Parkland being paid to the Town of Huntsville for the severed lands.
- 5) The Owners' taxes being in good standing.

- 6) A consent finalization fee in the amount of \$100.00 being paid to the Town of Huntsville.

REASONS: The application will then meet the requirements of all commenting agencies.

Carried.

Moved by Mary Jane Fletcher and seconded by Claude Doughty

THAT: HAVING HAD REGARD TO THE MATTERS PRESCRIBED UNDER SUBSECTION 53(12) OF THE PLANNING ACT, R.S.O. 1990, AS AMENDED, THAT A PROVISIONAL CONSENT BE GRANTED FOR APPLICATION NO.

**B/67/2007/HTE – RAND
PART OF LOT 15, CONCESSION 14
GEOGRAPHIC TOWNSHIP OF CHAFFEY
TOWN OF HUNTSVILLE, DISTRICT OF MUSKOKA**

CONDITIONAL ON:

- 1) A registerable description of the severed lot being submitted to the Secretary-Treasurer, (including all rights-of-ways and easements), along with a registered copy of the reference plan.
- 2) The severed lands being rezoned for their intended use.
- 3) The Owners' taxes being in good standing.
- 4) A consent finalization fee in the amount of \$100.00 being paid to the Town of Huntsville.

REASONS: The application will then meet the requirements of all commenting agencies.

Carried.

- (c) B/68/69/2007/HTE & Z/41/2007/HTE (Hofmann)
Jacquie Tschekalin, Senior Planner, described the purpose of the applications.

Comments received to date:

No objections were noted by MTO, District, Fire, Public Works or Building.

The owner of the property to the rear of the subject lands has a registered ROW and requested confirmation that his right to use that property to access his lands would not change. Although the Town does not keep records regarding ROW's, a change in ownership of land does not affect any interest in those

lands that have been registered on title, so the creation of a new lot does not affect his legal right to use that portion of the property.

Planning supported the approval of these applications.

Chair Davis called upon the applicant or their representative to provide additional comments.

John P. Gallagher, Agent for the Applicant, stated that he was available to answer any questions.

Chair Davis asked if anyone present wished to provide comment or ask questions regarding the proposed severance.

Chair Davis asked if there were any questions from Committee Members.

Member Fletcher asked about the status of an abutting lot and Mrs. Tschekalin confirmed that it contained a dwelling .

Member Doughty asked for confirmation on the frontage and the zoning requirements, and Mrs. Tschekalin noted that it met the minimums.

Moved by Claude Doughty and seconded by Mary Jane Fletcher

THAT: HAVING HAD REGARD TO THE MATTERS PRESCRIBED UNDER SUBSECTION 53(12) OF THE PLANNING ACT, R.S.O. 1990, AS AMENDED, THAT A PROVISIONAL CONSENT BE GRANTED FOR APPLICATION NO.

**B/68/2007/HTE – HOFMANN
PART OF LOT 1, CONCESSION 12
GEOGRAPHIC TOWNSHIP OF BRUNEL
TOWN OF HUNTSVILLE, DISTRICT OF MUSKOKA**

CONDITIONAL ON:

- 1) A registerable description of the severed lot being submitted to the Secretary-Treasurer, (including all rights-of-ways and easements), along with a registered copy of the reference plan.
- 2) The severed and retained lands being rezoned for their intended use.
- 3) A satisfactory Lot Suitability Report being completed for the severed and retained lots.

- 4) 5% cash-in-lieu of Parkland being paid to the Town of Huntsville for the severed lands.
- 5) The Owners' taxes being in good standing.
- 6) A consent finalization fee in the amount of \$100.00 being paid to the Town of Huntsville.

REASONS: The application will then meet the requirements of all commenting agencies.

Carried.

Moved by Mary Jane Fletcher and seconded by Claude Doughty

THAT: HAVING HAD REGARD TO THE MATTERS PRESCRIBED UNDER SUBSECTION 53(12) OF THE PLANNING ACT, R.S.O. 1990, AS AMENDED, THAT A PROVISIONAL CONSENT BE GRANTED FOR APPLICATION NO.

**B/69/2007/HTE – HOFMANN
PART OF LOT 1, CONCESSION 12
GEOGRAPHIC TOWNSHIP OF BRUNEL
TOWN OF HUNTSVILLE, DISTRICT OF MUSKOKA**

CONDITIONAL ON:

- 1) A registerable description of the severed lot being submitted to the Secretary-Treasurer, (including all rights-of-ways and easements), along with a registered copy of the reference plan.
- 2) The severed and retained lands being rezoned for their intended use.
- 3) A satisfactory Lot Suitability Report being completed for the severed and retained lots.
- 4) 5% cash-in-lieu of Parkland being paid to the Town of Huntsville for the severed lands.
- 5) The Owners' taxes being in good standing.
- 6) A consent finalization fee in the amount of \$100.00 being paid to the Town of Huntsville.

REASONS: The application will then meet the requirements of all commenting agencies.

Carried.

6. MINOR VARIANCES

(a) A/20/2007/HTE (Cerny)

Jacque Tschekalin, Senior Planner, described the purpose of the application.

Comments received to date:

No objections were noted by Fire or Public Works.

The CBO noted the building permit for the “boathouse” indicated a 16ft side yard setback, and that there have been complaints that the building has been used for human habitation.

The Lake Vernon Association objected to the application, and noted that the roof of the structure appears to hang over the property line, that the building does not have the appearance of a boathouse, and that the LVA supports the Town position requiring new vegetation being planted in the shoreline area.

Other neighbours in the area (the Marshalls and Mr. Cowan) submitted letters objecting to the proposed variance noting that this variance deals with only one of several issues on this property, that it will lead to applications for other variances in the future, that the abutting landowners are the ones who are suffering as a result of the actions of the Cernys, that the development of this property violates the Official Plan, that the property has not been developed in a responsible manner, and concerns that if this application is approved others may be encouraged to “flaunt by-laws and proceed with alterations to their property knowing it is simply a matter of application to change with minor penalties applied”.

It should also be noted that the abutting landowners have discussed the development of this property with the Planning and Building staff, noting, among other things, concerns about encroachments onto the abutting lots. The lawyer representing the abutting landowners was unable to attend, and requested a deferral.

Planning noted that the property had recently been re-developed and that original buildings constructed some time ago had been replaced within the last 2 years. Planning also noted that this application provides an opportunity to require significant re-vegetation of the shoreline, to reduce the impact of the development of this lot on Lake Vernon.

Chair Davis called upon the applicant or their representative to provide additional comments.

John P. Gallagher, Agent for the Applicant, provided background information on the re-development of the lot and noted that the encroachment was not deliberate. He indicated that there is a pending court

case with the neighbours but he urged Committee to evaluate the merits of this application on its own, based on the 4 tests for a minor variance.

Chair Davis asked if anyone present wished to provide comment or ask questions regarding the proposed severance.

Donna Biderman, 241 South Drive, spoke to the situation with the Cernys and asked Committee to deny the application or at least to defer a decision until the court case concerning landscaping encroachments had been settled. She provided Committee with a survey of her lot. She provided a background on the dispute between the neighbours.

Don McKercher, 253 South Drive, reiterated Mrs. Bidermans' comments and requested that Committee defer their decision.

Mr. Madej read the resolution and clarified the conditions proposed for the approval of the minor variance. Mr. Gallagher requested that the clause concerning the removal of all rock landscaping within 1 metre of the lot line be deleted as it is not possible for the Cernys to fulfill that condition with the pending court case.

Michael Cerny, Applicant, spoke to the application and reiterated that the building was constructed too close to the lot line inadvertently. He asked that Committee make a decision today.

Ingrid McKercher asked that Committee defer a decision until the civil suit has been settled.

Chair Davis asked if there were any questions from Committee Members.

Member Doughty stated that as we have the chance to re-vegetate the lot, he supported approval of the minor variance.

Member Fletcher stated that she concurred.

Moved by Claude Doughty and seconded by Mary Jane Fletcher

THAT: a minor variance be granted to:

Reduce the side yard setback to 0.74 metres for an existing accessory storage structure without habitable space, as shown on Schedule "A", conditional on

the Owner providing written confirmation from a qualified professional, to the satisfaction of the Town of Huntsville Planning Department, that:

- the recommendations contained in the Michalski Nielsen report dated December 11, 2007 have been implemented; and,
- no portion of the roof overhang/eave of the accessory structure is located within 0.24 m of the side lot line.

REASONS:

1. The variance will recognize the existing development on the property as being in compliance with zoning requirements and bring the shoreline area of the lot into compliance with Official Plan requirements.
2. The general intent of the by-law is being maintained.
3. The variance is minor in nature.
4. The general intent of the Official Plan is being maintained.

Carried.

(b) A/27/2007/HTE (Suddaby)

Katie Newman, Planner, described the purpose of the application.

Comments received to date:

No objections were noted by Public Works, the Fire Dept., or the Building Dept., and no other comments were received.

Planning had no objection to the granting of the minor variance.

Chair Davis called upon the applicant or their representative to provide additional comments.

Mark Firman, Agent for the Applicant, stated that he was available to answer questions.

Chair Davis asked if anyone present wished to provide comment or ask questions regarding the proposed severance.

Chair Davis asked if there were any questions from Committee Members.

Moved by Mary Jane Fletcher and seconded by Claude Doughty

THAT: a minor variance be granted to:

- **Reduce the front yard setback for the existing garage from 12 m to 11.07m;**

- Reduce the exterior side yard setback for the existing garage from 10 m to 6.7 m; and
- Reduce the minimum exterior side yard for the existing deck from 9.5 m to 8.45 m.

As shown on schedule "A".

REASONS:

1. The variance will recognize the existing setbacks of the garage and deck.
2. The general intent of the by-law is being maintained.
3. The variance is minor in nature.
4. The general intent of the Official Plan is being maintained.

Carried.

7. ADJOURNMENT

Moved by Mary Jane Fletcher and seconded by Claude Doughty

THAT: We hereby adjourn as a meeting of the Committee of Adjustment to meet again at 9:00 a.m., Wednesday, February 13th, 2008, at the Council Chambers, Town Hall.

Carried.

Chair