

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



REPORT

TO: Mayor & Members of Council
FROM: Kelly Stronks, Planning Technician
DATE: April 18th, 2009
RE: CONSENT [51(26)] AGREEMENT APPLICATION
C 01/09 LOB (Pinckard)
Applicant: Tom Pinckard
Agent: John P. Gallagher
Pt Lot 11, Con. 9, Franklin Ward, on Lake of Bays
Roll No. 010-011-03000
Civic Address: Lake of Bays Lane – vacant – no address assigned

RECOMMENDATION:

That application C 01/09 LOB (Pinckard), for a consent agreement to fulfill a condition of consent application B 09/08 LOB, be **APPROVED**, and that Council give three readings to By-law 09-54 to authorize the Mayor and Clerk to execute the site plan agreement between the Corporation of the Township of Lake of Bays and Tom Pinckard upon advice from the Planner and/or Township solicitor that the agreement is satisfactory to the Township of Lake of Bays.

ORIGIN:

Consent application B 09/08 LOB was provisionally approved by the Committee of Adjustment on May 27th, 2008. One of the conditions of the Provisional Decision was that the applicant enter into a consent agreement under Section 51(26) of the Planning Act with the Township of Lake of Bays to ensure a turnaround area to facilitate the maintenance of the township road (Lake of Bays Lane) to the satisfaction of the Director of Public Works. Accordingly, the purpose of this application is to create the agreement, which must be signed by the Mayor and Clerk prior to registration at the Bracebridge Registry Office.

It should be noted that the legal description has yet to be finalized, and that once this information has been received from the applicant, staff will insert that information into the agreement.

ANALYSIS:

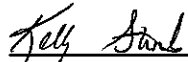
The condition noted above was required as municipal works vehicles performing regular maintenance on this road currently use a private driveway in order to turn the vehicles around. This situation is not desirable and the Director of Public Works therefore requested that a turnaround area be established to facilitate a safer and more appropriate area to address this concern. Staff and the applicants met to discuss a location for the turnaround, and determined that the current driveway into the storage shed present on the property would be sufficient for the turnaround.

Staff note that a blanket right-of-way to the retained lands has been provisionally approved over the severed lands, and this was done in the event that the applicant may wish to alter driveway locations in the future and the locations are not known at this time. A blanket right-of-way would provide the flexibility to achieve this reconfiguration. Given this, staff have included all of the severed lands in the legal description of the agreement in the event that the driveway is relocated.

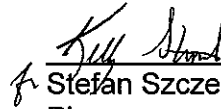
Staff have no concerns with the approval of this by-law, as the agreement will fulfill a condition of consent application **B 09/08 LOB**.

Respectfully submitted:

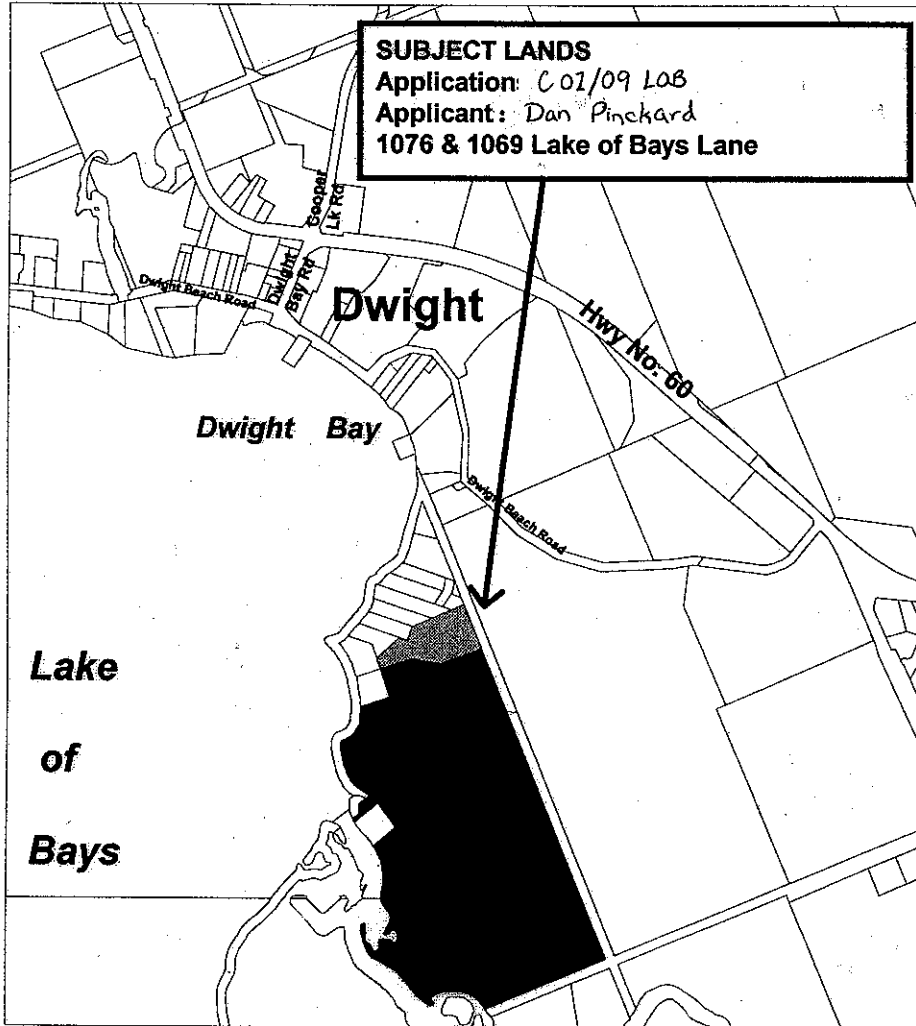
With the concurrence of:



Kelly Stronks, CPT
Planning Technician



Stefan Szczerbak, M.Sc., RPP, MCIP
Planner



**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW 09-54**

BEING A BY-LAW TO AUTHORIZE THE MAYOR AND CLERK TO SIGN DOCUMENTS WITH RESPECT TO A SECTION 51(26) AGREEMENT BETWEEN DANIEL STEVENSON PINCKARD AND THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS.

WHEREAS pursuant to Section 51(26) of the Planning Act, R.S.O. 1990, c.P.13, the Council of the Corporation of the Township of Lake of Bays deems it necessary to enter into an agreement with Diane Franklin Hicks related to consent application file **B 09/08 LOB**. The property subject to this Agreement is described as follows:

Part of Lot 11, Concession 9, Geographic Township of Franklin, now in the Township of Lake of Bays, District Municipality of Muskoka, designated as Parts 2, 3, 4, 5, 6, 7, 8 & 9 on Plan 35R-22507.

NOW THEREFORE the Council of the Corporation of the Township of Lake of Bays hereby authorizes the Mayor and Clerk to sign such documents, relative to the above noted Agreement.

READ a FIRST and SECOND time this 28th day of April, 2009.

Mayor

Deputy Clerk

READ a THIRD time and finally passed 28th day of April, 2009.

Mayor

Deputy Clerk

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS

SECTION 51(26) AGREEMENT

THIS AGREEMENT made in triplicate this ____ day of _____, 2009.

BETWEEN: DANIEL STEVENSON PINCKARD

hereinafter called the "Owner" of the First Part

AND

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS

hereinafter called the "Township" of the Second Part

WHEREAS the Owner's predecessor in title applied to the Committee of Adjustment for the Township of Lake of Bays for consent to sever certain lands under file no. **B 09/08 LOB**, and approval is conditional upon the registration of this agreement;

AND WHEREAS the Committee of Adjustment of the Township of Lake of Bays acting in its capacity as a consent giving body under Section 50(1) of the Planning Act, R.S.O. 1990, Chapter P.13 as amended, as a condition of granting its consent, requires the Owner to enter into this Agreement with the Township;

NOW THEREFORE this agreement witnesseth that the Owner covenants and agrees with the Township on behalf of her heirs, executors, administrators and assigns, as follows:

1. That the Owner covenants and agrees to ensure that the purchasers of that Part of Lot 11, Concession 9, Geographic Township of Franklin, now in the Township of Lake of Bays, in the District Municipality of Muskoka, as described in Schedule "A" attached hereto, being the severed lot for file no. **B 09/08 LOB**, are advised that the Corporation of the Township of Lake of Bays is entitled to an appropriately sized turnaround area for maintenance vehicles in, over, along and upon the lands described in Schedule "A" to facilitate the maintenance of the trespass road to the satisfaction of the Director of Public Works or equivalent;
2. That the terms of this Agreement may be enforced by the Township against the Owner, and subject to the provisions of the Land Titles Act, any and all subsequent owners of the land with all the rights of action given the Township by the Municipal Act, R.S.O. 1990, Chapter M.45, Section 199;
3. That in addition to the rights of the Township, as set out in the previous paragraph, the Township shall not be required to issue any municipal permit or provide any municipal services for the use or benefit of the severed or retained parcels during any breach of this Agreement by the Owner or any subsequent owners.
4. That the Owner shall not make any application to remove this Agreement from the title to the lands described in Schedule "A" hereto, without the consent in writing of the Township first being obtained.

IN WITNESS WHEREOF the Owner has hereunto set his hand and seal, and the Township has hereunto affixed its corporate seal attested to by the hands of its duly authorized officers in that behalf.

DANIEL STEVENSON PINCKARD

**THE CORPORATION OF THE
TOWNSHIP OF LAKE OF BAYS**

JANET PEAKE, MAYOR

MICHELLE PERCIVAL, CLERK

We have the authority to bind the Corporation.

SCHEDULE "A"

Legal Description

Part of Lot 11, Concession 9, Geographic Township of Franklin, now in the Township of Lake of Bays, District Municipality of Muskoka, designated as Parts 2, 3, 4, 5, 6, 7, 8 and 9 on Plan 35R-22507.



**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
COMMITTEE OF ADJUSTMENT**

1012 Dwight Beach Road, Dwight, Ontario POA 1H0
Phone: 705-635-2272 or 1-877-566-0005 Fax: 705-635-2132
Website: www.lakeofbays.on.ca

PROVISIONAL DECISION

[The Planning Act, R.S.O. 1990, Chapter 13, Section 53(17)]

File: **B 09/08 LOB (Pinckard)**
Applicant: **Thomas Pinckard**
Application for Consent for: **Conveyance of a Lot Addition**
Location: **Part Lot 11, Con. 9, Franklin Ward**
Parent Roll No.: **010-011-03000**
Date of Decision: **May 27th, 2008**

Upon application for consent for the lands described in the above noted file, the decision of the Committee of Adjustment for the Corporation of the Township of Lake of Bays is as follows:

THAT Consent will be GRANTED provided:

*Plan 35R-22507
Deposited June 8/09
KBS*

*Col/09
Apr. 9/09
JD*

- (1) That a registrable description of the severed lands, be submitted to the Secretary-Treasurer together with the applicable rights-of-way, along with two registered copies of the reference plan.
- (2) That a 51(26) Agreement be entered into with the municipality to ensure a turnaround area to facilitate the maintenance of the township road to the satisfaction of the Director of Public Works.
- (3) That there be a written undertaking from the acting solicitor that the severed lot be joined in title to the abutting property to the south, under property roll no. 010-011-02400 (Diane Hicks). Subsection 50(3) of the Planning Act applies to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent.
- (4) That the Applicant submit a by-law amendment application under the applicable Township by-law, should the draft reference plan reveal any zoning deficiencies for the subject lands, if applicable. In addition, the location of all existing structures on the severed and benefiting lands are to be verified on a sketch by an Ontario Land Surveyor.
- (5) That final approval be subject to confirmation by the Township of Lake of Bays that the retained lands are satisfactory for on-site sewage disposal.

REASONS:

- 1. The Committee is satisfied that the consent application conforms to the intent of the Township Official Plan and will serve to provide a lot addition to the southerly abutting parcel (Roll No. 010-011-02400).

Signature of Member
of Committee

Signature of Member
of Committee

Signature of Member
of Committee

Signature of Member
of Committee

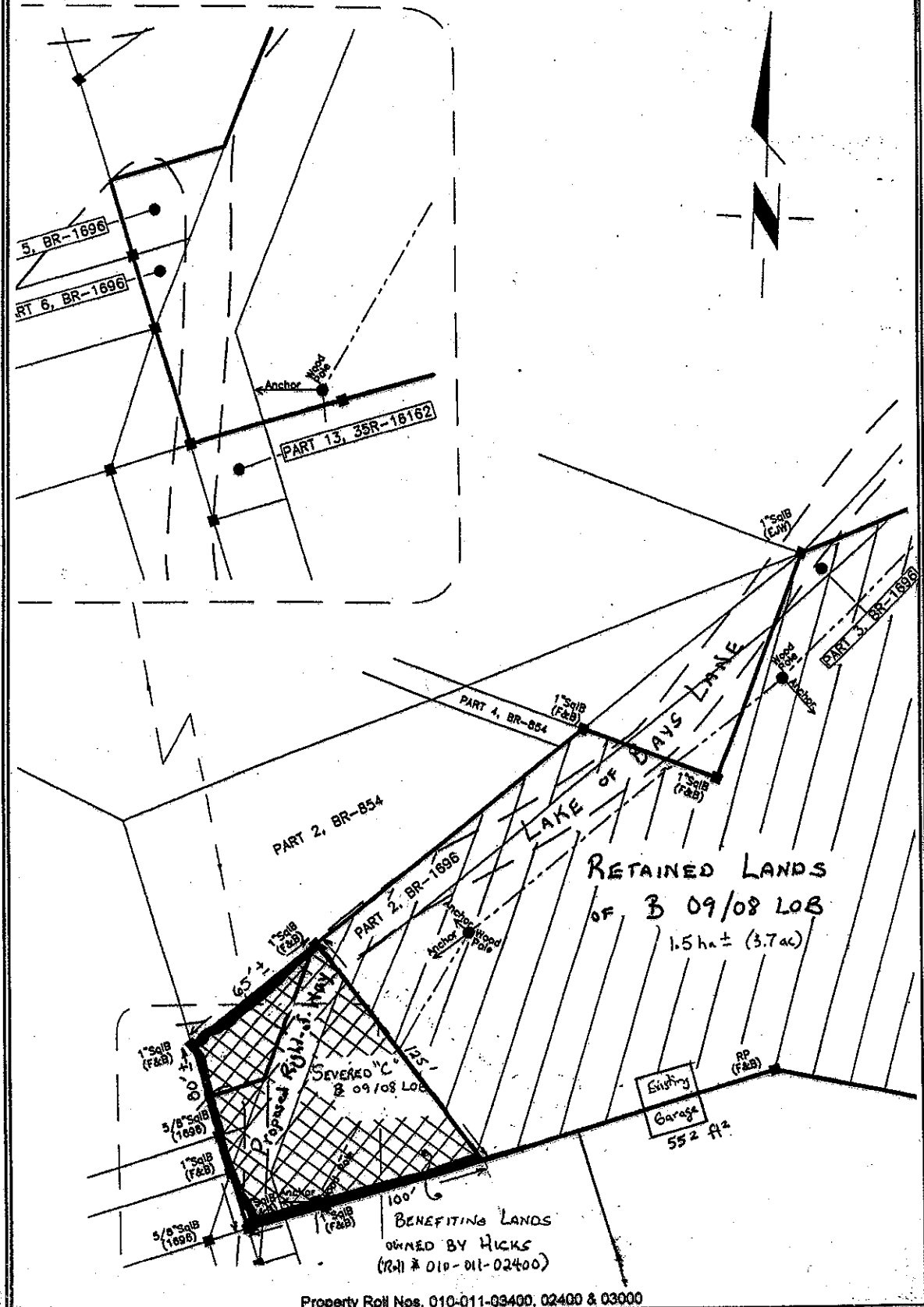
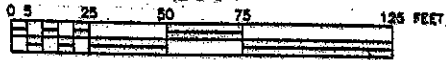
Signature of Member
of Committee

Signature of Member
of Committee

Signature of Chairperson

KEY MAP
CONSENT APPLICATIONS B 07/08/09/08 LOB
Applicants: Diane Hicks and Thomas Pinckard
Part Lot 11, Concession 9, Franklin Ward

SCALE 1" = 50'
 2001



KEY MAP
CONSENT APPLICATIONS B 07/08/09/08 LOB
Applicants: Diane Hicks and Thomas Pinckard
Part Lot 11, Concession 9, Franklin Ward

