

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



TO: Members of the Committee of Adjustment
FROM: Stefan Szczerbak, Planner
DATE: January 27th, 2009
RE: Consent
Application: B 29/08 LOB
Applicants: Joan Klomparens, Virginia Burt & Timothy Callahan
Agent: Nick Roche of Lee, Roche & Kelly
Part Lot 12, Conc. 11, McLean Ward, on Lake of Bays
Roll No. 040-016-02101
1140 North Burnt Island Road

RECOMMENDATION:

That application B 29/08 LOB (Klomparens, Burt & Callahan) be **DEFERRED** to the meeting of February 24th, 2009 in order to allow sufficient time for additional applications to be submitted for rights-of-way across the two properties (property roll nos. 040-016-02300 & 02400) that exist between the subject lands and the benefiting lands, in order to provide for a continuous right-of-way to the benefiting lands.

Should however, Committee wish to give further consideration to this proposal, approval should be subject to the following condition:


- (1) That a registrable description of the severed lands be submitted to the Secretary-Treasurer, along with two copies of the registered reference plan.

ORIGIN:

At the November 25th, 2008 meeting, the Committee of Adjustment decided to defer making a decision on this application in order to provide sufficient time for additional applications to be submitted for rights-of-way across the two properties (property roll nos. 040-016-02300 & 02400) that exist between the subject lands and the benefiting lands, in order to provide for a continuous right-of-way to the benefiting lands that are owned by Mr. Jeff Wilson.


As the Township is not yet in receipt of the additional applications, staff recommend that the application be further deferred to allow sufficient time for them to be submitted. Accordingly, staff therefore maintain the same recommendation as the report of November 25th, 2008 (attached). Should however, Committee wish to give further consideration to this proposal, an alternative resolution has been prepared.

Respectfully submitted by:



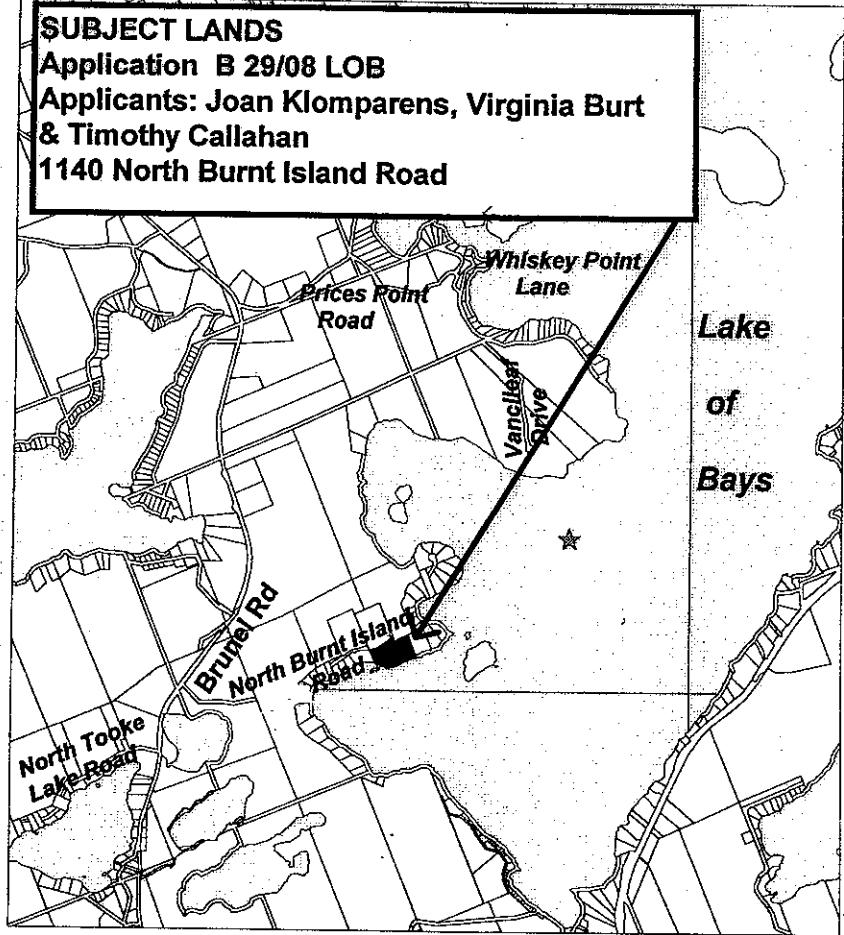
Kelly Stronks, CPT
Planning Technician

With the concurrence of:

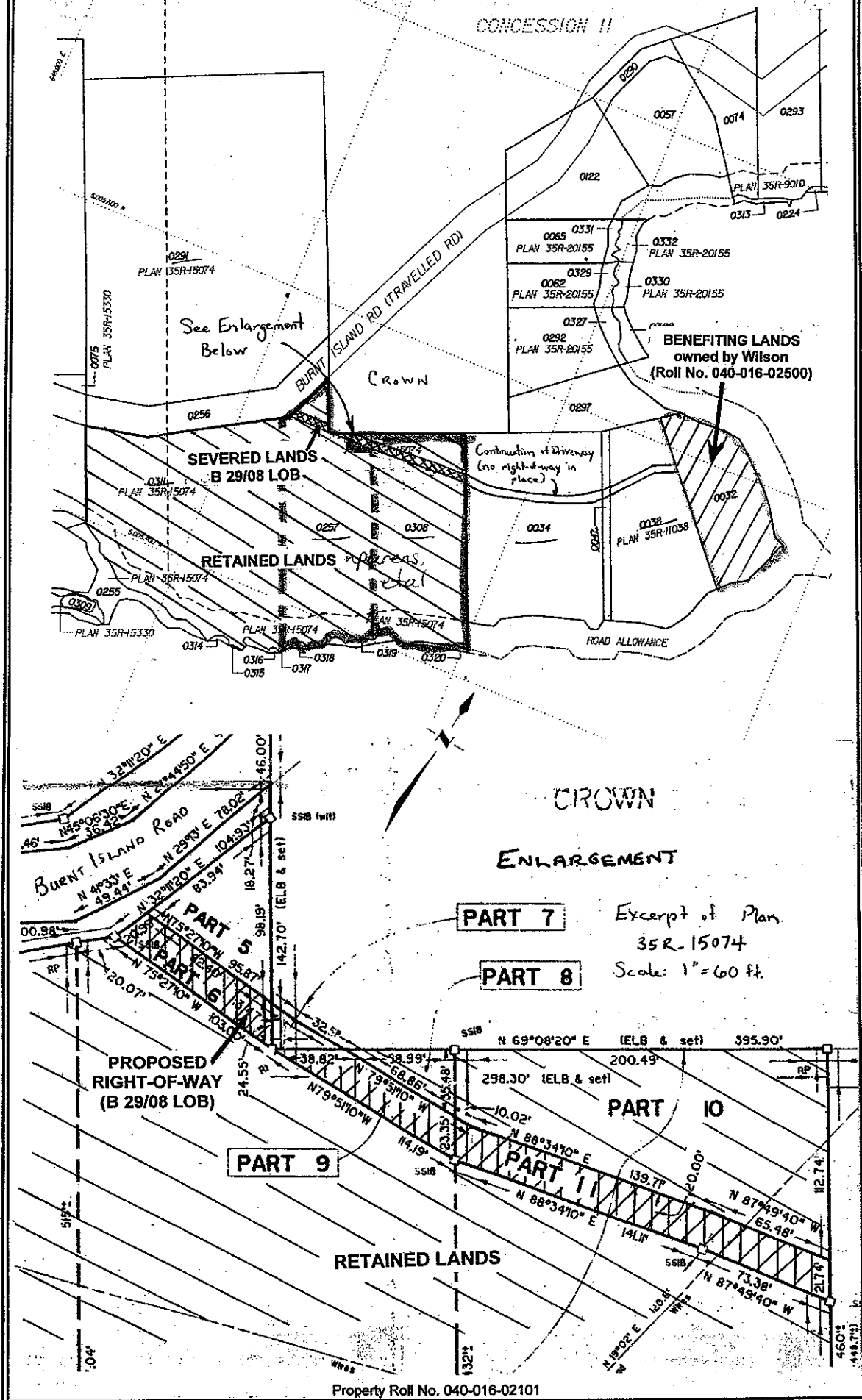


Stefan Szczerbak, M.Sc., RPP, MCIP
Planner

SUBJECT LANDS
Application B 29/08 LOB
Applicants: Joan Klomparens, Virginia Burt
& Timothy Callahan
1140 North Burnt Island Road



CONSENT APPLICATION B 29/08 LOE
Applicants: Joan Klomprens, Virginia Burt & Timothy Callahan
Part Lot 12, Concession 11, McLean Ward



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



TO: Members of the Committee of Adjustment
FROM: Stefan Szczerbak, Planner
DATE: November 25th, 2008
RE: Consent
Application: B 29/08 LOB
Applicants: Joan Klomparens, Virginia Burt & Timothy Callahan
Agent: Nick Roche of Lee, Roche & Kelly
Part Lot 12, Conc. 11, McLean Ward, on Lake of Bays
Roll No. 040-016-02101
1140 North Burnt Island Road

RECOMMENDATION:

That application B 29/08 LOB (Klomparens, Burt & Callahan) be DEFERRED to the meeting of January 27, 2009 in order to allow sufficient time for the applicants to submit additional applications for rights-of-way across the two properties (property roll nos. 040-016-02300 & 02400) that exist between the subject lands and the benefiting lands, in order to provide for a continuous right-of-way to the benefiting lands.

Should however, Committee wish to give further consideration to this proposal, approval should be subject to the following condition:

- (1) That a registrable description of the severed lands be submitted to the Secretary-Treasurer, along with two copies of the registered reference plan.

ORIGIN:

Consent application B 29/08 LOB has been submitted by Joan Klomparens, Virginia Burt & Timothy Callahan, as Trustees, to sever a right-of-way over lands located in Part Lot 12, Concession 11, McLean Ward, on Lake of Bays, 1140 North Burnt Island Road (Roll No. 040-016-02101).

The purpose of this application is to sever a right-of-way over the subject lands in order to provide legal access over an existing driveway to an easterly property owned by Jeff Wilson at 1142 North Burnt Island Road (Roll No. 040-016-02500). The driveway originates at North Burnt Island Road and traverses a small portion of Crown land before continuing through two other properties and ultimately to the Wilson property. The proposed right-of-way will permit continued legal access across the subject lands (Parts 6, 9 & 11 on Plan 35R-15074) for the benefit of the Wilson property. The driveway has been in existence and used for a number of years.

BACKGROUND:

Previous Files:	<ul style="list-style-type: none">• Minor Variance Application A 30/89 LOB• Consent Application B 38/93 LOB• Consent Application B 39/93 LOB (lapsed)• Z 08/99 LOB (By-law 91-41)
Natural Constraints:	• "Type 2" Fish Habitat

	<ul style="list-style-type: none">• Slopes ranging from 20 to 30% and from 30 to 40%
Lake Phosphorous Sensitivity	Moderate sensitivity to phosphorus.
LOB Official Plan:	Waterfront.
District Official Plan:	Waterfront.
LOB By-law 04-180:	<ul style="list-style-type: none">• Waterfront Residential "(WR)" Development Permit Area
OSRA:	Closed by By-law 92-134.

Site Characteristics:

The westerly portion of the subject property is developed with a single family dwelling, three sleeping cabins, one storage cabin, a dock complex and a boathouse/dock complex. The driveway/right-of-way currently exists at the northeasterly portion of the property, and continues to provide access to the adjacent lands to the east, including the Wilson property. The property in the vicinity of the driveway is well vegetated with mature natural vegetation, and the remainder of the property slopes moderately down to Lake of Bays.

Surrounding Uses:

The surrounding lands contain low density residential uses and vacant lands.

ANALYSIS:

Planning Comments:

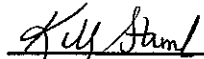
This severance does not propose the creation of a new lot, it serves to legally provide the conveyance of a right-of-way over the applicants' property to the benefiting lands to the west (Roll no. 040-016-02500) owned by Jeff Wilson. The effect of this application will be to formalize the right-of-way across the subject lands.

Upon review of the attached sketch, Committee will note that this proposal only addresses the recognition of the first portion of the existing right-of-way. It does not deal with the portion of the right-of-way on the abutting properties (Roll nos. 040-016-02300 & 02400).

When creating a right-of-way over a series of existing lots for the benefit of another existing lot, rather than taking a piecemeal approach, the submission should be comprehensive in nature, (i.e. include all the parcels which are required to convey the right-of-way to the benefiting lands). The issue with the piecemeal approach is that the approval of isolated portions of a right-of-way may cause the potential for the benefactor to trespass over other parcels whose owners did not convey such a grant. The approval of such a proposal also provides the impression that the Township condones such trespass situations. This certainly would not be the case from the Township's perspective.

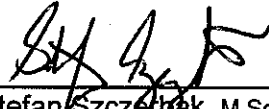
In view of this, staff recommend that the application be deferred to allow time for the applicants to submit additional applications for rights-of-way across the two properties (property roll nos. 040-016-02300 & 02400) that exist between the subject lands and the benefiting lands, in order to provide for a continuous right-of-way to the benefiting lands. Should however, Committee wish to give further consideration to this proposal, an alternative resolution has been prepared.

Respectfully submitted by:



Kelly Stronks, CPT
Planning Technician

With the concurrence of:



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