

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 19th, 2010
RE: Consent
Applications: B 20 & 21/09 LOB (Weatherell)
Applicant: Lorraine Weatherell
Agent: Lanny Dennis of Wayne Simpson & Assoc.
Part Lot 7, Conc. 11, Ridout Ward, on Paint Lake
Roll No. 030-009-01600
1037 Nortons Lane

RECOMMENDATION:

That application **B 20/09 LOB (Weatherell)** be **APPROVED**, subject to the following conditions:

- (1) Two copies of the reference plan of survey be provided, bearing the Land Registry Office registration numbers and signatures as evidence of deposit therein, and generally illustrating the same area and dimensions of the parcel(s), together with any applicable rights-of-way to which this consent approval has been granted, pending approval from the Ministry of Natural Resources. Should said approval not be forthcoming, access shall be from the north across the retained lands.
- (2) The original Transfer / Deed of Land form, a duplicate original, and one photocopy for Township records be provided, for endorsement by the Secretary-Treasurer should all consent conditions be fulfilled within the one year time frame. In addition, said Transfer / Deed of Land form must include a Schedule, that includes the entire legal description of the parcel(s) in question.
- (3) That the severed lands be re-designated within Development Permit By-law No. 04-180 to ensure that the issuance of a development permit be required prior to any development, including the removal of vegetation, of the property and that development be in accordance with the site sketch provided by Wayne Simpson & Associates on November 17th, 2009, which identifies a building and septic envelope, and driveway.
- (4) That the Applicant enter into an Agreement with the Township of Lake of Bays under Section 51(26) of the Planning Act and that this Agreement be registered on the title of the severed lot. The Agreement shall state that the lands be developed in accordance with the sketch prepared by Wayne Simpson and Associates provided November 17th, 2009 which identifies a building and septic envelope, as well as an entrance/driveway location. In addition, the agreement will require the retention of natural vegetation to address Section D.109 (Deer Wintering Habitat) of the Township Official Plan. Finally, the issuance of a Development Permit would be required prior to any site alteration, vegetation removal, or issuance of a building permit on the subject lands.
- (5) That the applicant apply for an receive an entrance permit for an entrance onto Bellwood Acres Road for the severed lands from the Township's Public Works Department and a copy of the Permit or approval be provided to the Secretary-Treasurer.

- (6) Cash-in-lieu of parkland dedication be paid to the Township of Lake of Bays in the amount of \$12,850.95.

That application **B 21/09 LOB (Weatherell)** be **APPROVED**, subject to the following conditions:

- (1) Two copies of the reference plan of survey be provided, bearing the Land Registry Office registration numbers and signatures as evidence of deposit therein, and generally illustrating the same area and dimensions of the parcel(s), together with any applicable rights-of-way to which this consent approval has been granted, pending approval from the Ministry of Natural Resources. Should said approval not be forthcoming, access shall be from the north across the retained lands.
- (2) The original Transfer / Deed of Land form, a duplicate original, and one photocopy for Township records be provided, for endorsement by the Secretary-Treasurer should all consent conditions be fulfilled within the one year time frame. In addition, said Transfer / Deed of Land form must include a Schedule, that includes the entire legal description of the parcel(s) in question.
- (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 west, under property roll no. 030-009-01603 (being Parts 1, 2 & 3 on Plan 35R-6960), being the benefiting lands. Subsection 50(3) of the Planning Act applies to any subsequent conveyance of a transaction involving the parcel of land that is the subject of this consent. As electronic registration is being used, this approval will involve a two-step process as follows:
 - (a) Creation of the new parcel for lot addition purposes whereupon it will obtain a new Property Identifier Number (PIN) from the Registry Office; and
 - (b) An Application to Consolidate the newly created lot with the benefiting lands. A copy of the draft Application to Consolidate and an undertaking by the acting solicitor to electronically register the application is to be provided. Once the consolidation has been registered, a copy is to be provided to the Secretary Treasurer.
- (4) Further to Condition 3, the following procedure shall occur for the joining in title of the lands to be benefited by the lot addition (which were the subject of previous consent application **B/ 270/80/LB**, and which are identified as roll no. 030-009-01603, being Parts 1, 2 & 3 on Plan 35R-6960) with the lands that are the subject of this consent application:
 - (a) That prior to registration of the deed conveying the severed lands to the benefiting lands, there shall be a conveyance from the benefiting lands to the lands adjoining to the north and west (property of Lorraine Weatherell, Part Lot 7, Conc. 11, being under property roll no. 030-009-01600) of a one inch square parcel of land;
 - (b) The aforesaid one inch square parcel of land shall be endorsed with the consent of the Committee of Adjustment, quoting application number "**B 21/09 LOB**", which consent is hereby granted;
 - (c) Subsection 50(3) of the Planning Act applies to any subsequent conveyance of or transaction involving the one inch square parcel of land that is the subject of consent **B 21/08 LOB**;
 - (d) There shall be a written undertaking from the acting solicitor that the one inch square parcel of land shall be joined in title to the adjoining parcel of land under property roll no. 030-009-01600.

BACKGROUND:

Purpose:

The purpose of consent application **B 20/09 LOB** is to sever the lands such that a new residential back lot is created as follows:

	Lot Area		Frontage on Bellwood Acres Road	
	Severed Lot	12.8 ha	31.7 ac	597 m
Retained Lot	0.85 ha	2.1 ac	0 m	0 ft
Total Property	13.65 ha	33.8 ac	597 m	1958 ft

Consent application **B 21/09 LOB** proposes to sever a 435 m² (4690 ft²) parcel of land from the Weatherell property and merge it with the westerly benefiting property (Roll No. 030-009-01603) owned by Diane & Gary Thompson. The effect of this application is to ensure the structures on the Thompson's property meet the minimum required side yard setback and provide increased privacy between these lots.

Site Characteristics and Surrounding Uses:

The subject property is developed with a single family dwelling with attached deck, a garage, two storage buildings, and a dock. The lot is currently accessed by a private road called Nortons Lane and has approximately 342 ft of straight line frontage on Paint Lake.

The severed lands of application **B 20/09 LOB** are vacant, are well vegetated with primarily mature deciduous trees with a few pockets of mature coniferous vegetation. The proposed lot has frontage on both Bellwood Acres Road and Nortons Lane. The lands contain a prominent ridge that traverses the centre of the proposed lot from east to west, and the southerly slope contains very steep slopes that face towards Paint Lake, while the northerly side of the ridge contains less severe slopes that face towards Bellwood Acres Road.

The severed lands of application **B 21/09 LOB** are vacant, level, and well vegetated with a mix of mature deciduous and coniferous trees.

The surrounding lands contain low density residential uses.

Resource and Other Information:

Previous/Current Files:	<ul style="list-style-type: none"> • Consent applications B/270/80/LB, B 01/94, B 03/95 & B 23/01 LOB • Site Plan Agreement application D 02/94 LOB
Natural Constraints:	<ul style="list-style-type: none"> • Deer wintering habitat on majority of property (DMM Constraints mapping) • Unknown fish habitat (treat as Type 1); • Slopes ranging from 30% to 40%, and in excess of 40% in some locations (Schedule D1)
LOB Official Plan:	<ul style="list-style-type: none"> • Waterfront
District Official Plan:	<ul style="list-style-type: none"> • Waterfront
LOB By-law 04-180:	<ul style="list-style-type: none"> • "Waterfront Residential (WR)" Development Permit Area

OSRA Status:	• Closed by By-law 95-82, registered as application LT190668
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ANALYSIS:

Amended Sketch

Recent correspondence with the applicant and their agent has clarified that the portion of the property occupied by Nortons Lane (being Part 3 on Plan 35R-2447 and Parts 5 & 6 on Plan 35R-15780) should be included within the boundary of the subject lands, and would therefore comprise part of the proposed severed lands of **B 20/09 LOB**. A revised sketch has been submitted that depicts this new configuration. Staff consider this change to be minor and feel the intent of the subject proposals has not changed. A re-circulation is not necessary in this instance.

Application B 20/09 LOB

Planning Comments:

Terrain

A review of Schedule D1 "Terrain" of the Township's Official Plan has revealed that portions of the severed lot contain steep slopes of 30% to 40%, and also an area containing slopes in excess of 40%. A site visit has also confirmed the presence of these slopes. Therefore, the steep slope policies of the Township (Section E.6) and Muskoka (Section F.54 – F.59) Official Plans would apply. When creating lots containing steep slopes, the direction of both Official Plans is that the development of the lot be carefully undertaken, such that there is no substantial alteration of the landscape and that issues such as visual intrusion of the development, slope stability, erosion, the protection of identified fish and wildlife habitat, and stormwater run-off are all addressed. In addition, the location of buildings and structures on parcels with steep slopes must also address the potential for negative visual impacts when viewed from the water's perspective in accordance with the design principles found in Section H.20 of the Township Official Plan.

Given the existing terrain on the proposed lot, it is important to ensure that the location and construction of the dwelling do not result in a considerable amount of site alteration which could negatively affect the panorama when viewed from Paint Lake. In this regard, it is important to ensure that existing vegetation is maintained along the ridge line adjacent to the top of this rock slope. To address this concern, the applicant's agent submitted a sketch which identifies a building and septic envelope located on a plateau area fronting onto Bellwood Acres Road. This location is situated well below the ridge, and the Building Department has verified that the envelope contains a suitable area for a septic system. Staff would therefore recommend that the severed lands be re-designated to ensure that the removal of vegetation not be permitted except for the identified building and septic envelope in order to address the policy direction related to steep slopes. In addition, the site specific amendment would require the issuance of a development permit prior to any vegetation removal or development on the lands.

Deer Wintering Habitat

A review of Schedule C2 of the Township Official Plan has revealed that the majority of the property contains deer wintering habitat. Section D.109 states that development within a deer wintering area should be located and occur in such a way that coniferous vegetation required for shelter and food is substantially preserved to continue to provide food and shelter. Although it would appear that the proposed building envelope is located within one of the isolated and smaller pockets of coniferous vegetation, it is noted that a larger pocket exists to the west of the proposed envelope and the

issuance of a development permit would ensure the protection of a significant portion of the existing vegetation. Therefore, sufficient vegetation for food and shelter will be substantially preserved for the protection of deer and moose habitat.

Planning Comments Re. B 21/09 LOB:

This severance (lot addition) application does not propose the creation of a new lot. The lot addition will increase the side yard setback to a minimum of 4.5 metres (15 ft) from the structures, which meets the minimum by-law requirement and affords additional privacy between the two lots.

Conclusion

As these applications are consistent with the Provincial Policy Statement and generally conform to both the District and Township Official Plans, staff have no concerns with the approval of these applications, subject to the conditions outlined in this report.

Respectfully submitted by:

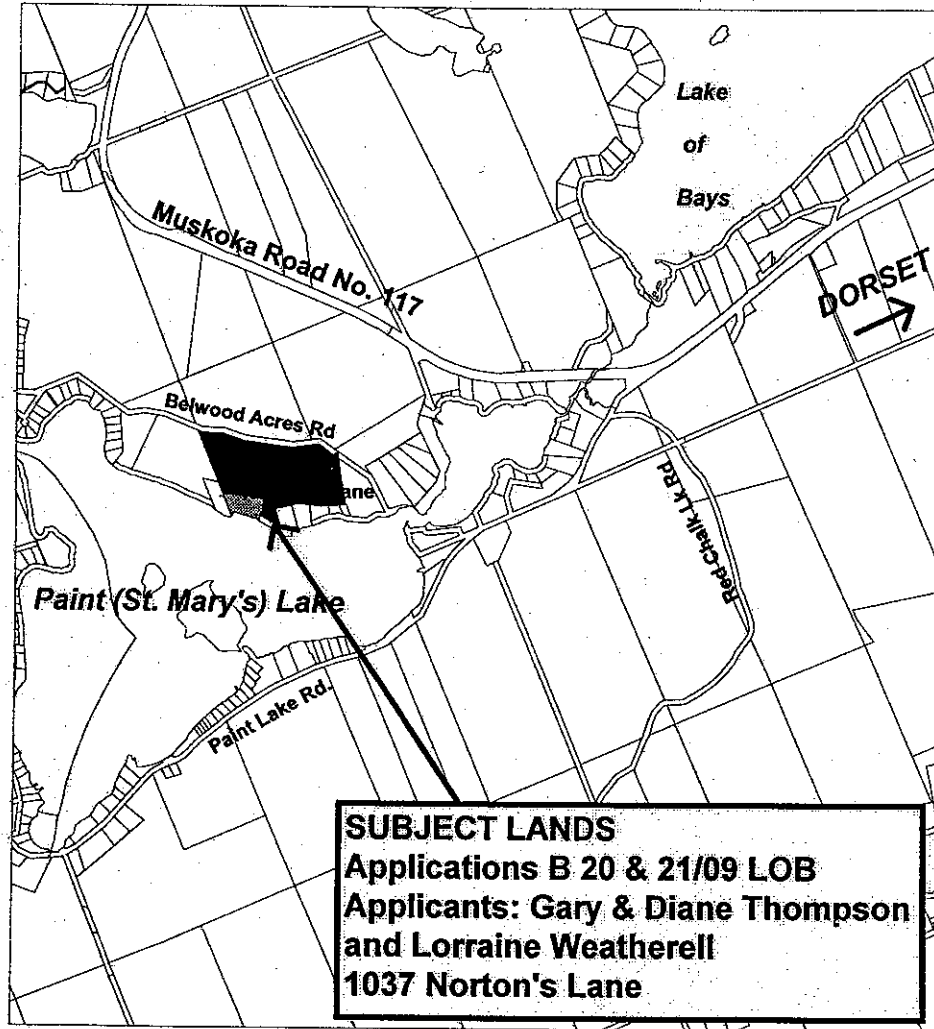
With the concurrence of:



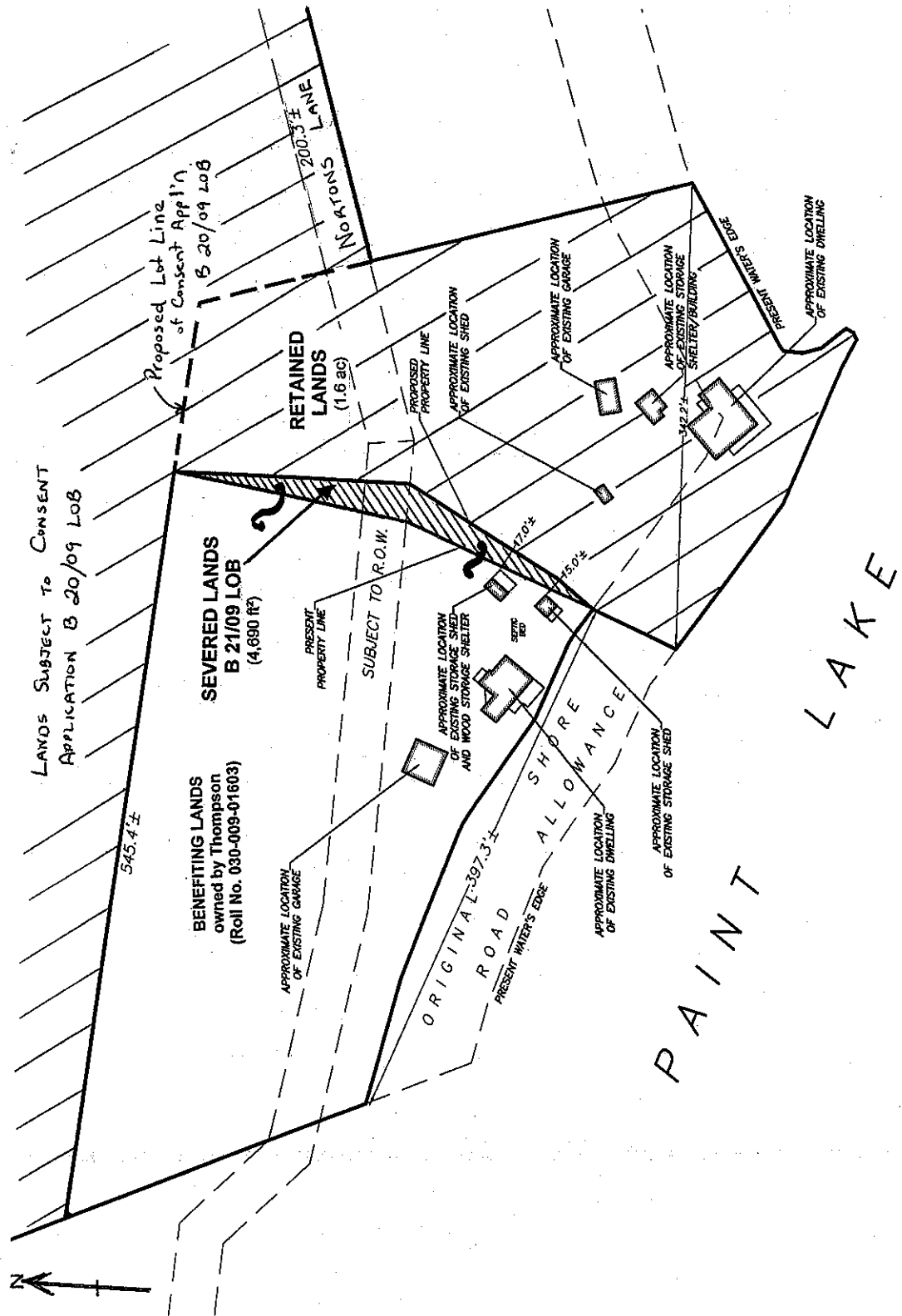
Kelly Stronks, CPT
Planning Technician



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



CONSENT APPLICATION B 21/09 LOB
Applicant: Lorraine Weatherell
Part Lots 6 & 7, Concession 11, Ridout Ward, on Paint Lake



NOT TO SCALE