

- He noted that a group letter of opposition had been received from Burr Atkinson, Alan & Judy Andersen, Glen & Helen Andrews, Ed & Joanne Maroney, Larry & Cathy Smith, Cory & Marie Wilson, and Rob & Elsie Wilson, as well as an individual letter of opposition from Elsie & Rob Wilson

Committee Deliberations:

- Councillor Boivin noted that a big issue is the fact that a wetland existing on the property, but that the lots propose to meet all criteria. Mr. Szczerbak confirmed this, and that in some cases the criteria was exceeded, but the fact that a natural constraint existed on the property required confirmation that development would not affect those values
- Councillor Casey asked for confirmation that the lake was moderately sensitive, not at capacity, and therefore that some development was permitted. Mr. Szczerbak confirmed this. Councillor Casey stated her appreciation of the concerns of the Walker & Pells Lake Area Association, and that the evaluation of the wetland that had been recommended by staff would help address their concerns
- Councillor Tapley asked if steep slopes were present on severed lot 2, and expressed her desire that all possible studies be requested up front to ensure its all addressed at the same time. Mr. Szczerbak advised this would be included in the resolution. She then referred to the letter from the lake association and its reference to an Indian encampment being located on the property, and wondered if an archaeological report was required. Mr. Szczerbak advised that it was not identified in the Official Plan (OP) but noted that mapping of heritage areas was available at the District and he has asked them to look at mapping for this area, noting that most waterfront areas contain moderate to higher sensitivity. He stated that normally a heritage assessment was mainly required if more than 4 lots were being proposed i.e. a plan of subdivision would require an assessment in our municipality. Councillor Tapley stated that she was aware the site was not identified in the OP, but asked that since it had been made known with site specific verification if it could be addressed now. Mr. Szczerbak stated that even though it was not recognized in documents and mapping reviewed by staff, Committee could request this if they wished. Committee agreed that they wished to include this requirement

Mr. Robert List:

- Mr. List advised that he did not have a concern with the request for some of the studies, and noted that the District's Public Works department has approved the entrances. He stated that a surveyor used aerial photographs to delineate the wetland and plotted them accurately on the sketch. Mr. List noted that the streams identified on the consent sketch were not provided by them, and that they must have been plotted on by staff; he wanted it known that they do not show up on aerial photography and should not be considered accurate.
- He stated that a wetland evaluation is not necessary, and that his client is prepared to enter into a 51(26) agreement to prohibit development in proximity of the wetland
- Respecting the requirement for a fish habitat impact assessment, he noted that the Waterfront Environmental Protection designation states that docks or structures are not permitted except in accordance with a study. He expressed his desire that By-law 04-180 contain a holding clause in order to give fair warning to applicants as to restrictions and what studies may be required in order to address them, as the by-law currently doesn't have this. Nonetheless, his client is prepared to do fish habitat study.
- Respecting an archaeological review, he will recommend to his client that they do this, and that he would like to do this in conjunction with Councillor Tapley, as she is chair of the Heritage Committee
- He protested the requirement for a wetland evaluation and asks that whichever biologist does the fish study if his or her opinion could be requested for the wetland portion as well

Further Committee Deliberations:

- Mr. Szczerbak stated that where wetland boundaries have been interpreted from aerial photos, the boundary on the ground needs to be evaluated by qualified biologist
- Councillor Boivin asked how the stream location was determined. Mr. Szczerbak advised that staff do add information that is available to them, and in this case it helps to orient to the Type 1 fish habitat that is present. Mr. Szczerbak provided committee with a copy of the mapping used by staff showing streams and wetland boundaries that were not the same as that provided by applicant
- Councillor Casey advised that the report card of the Muskoka Watershed Council states there is very little money available for wetland evaluation, and that only when development is proposed for wetland areas that evaluations get done. This is a shortcoming and was pleased to see a recommendation for an evaluation to be done. This lake is known for its wetland features and it is appropriate to do a wetland evaluation. She noted that once an evaluation is done, wetlands frequently turn out to be provincially significant
- Councillor Tapley stated that the wetland is already identified and there is aerial mapping & DMM mapping available. She noted that if they were trying to keep development out of the wetland, why couldn't the biologist doing the fish study do this and recommend greater setbacks if required. She stated her willingness to work with Mr. List to identify the archaeological resources on the property
- Councillor Burgess stated her agreement with Councillor Tapley, and her disturbance that streams have been penciled in and that Councillors should be advised if this has been done in the future. Mr. Szczerbak stated that the stream is shown on the zoning schedule, and that a possible option in the future is to have a surveyor identify such features. Chairperson Peake stated that Committee would be satisfied just to know where such information comes from
- Councillor Casey asked if the wetland and stream boundary been done on ground by the surveyor, or just interpreted from aerial photography

Mr. Alan Andersen, 1420 Limberlost Rd:

- Mr. Andersen stated that he was speaking on behalf of the Walker and Pells Lake Area Association
- He stated that the elevation from the road and lake is 1295 ft at the lake and 1360 ft at the road, and that Lot 2 has a steep drop from the lakeside then goes up and flattens out
- He confirmed the wetland shown and that a stream definitely runs through the wetland, and that it is a distance of 20 or 30 ft from the stream to dry land
- He advised that he had found the footings of the Henry Field sawmill referred to in the book "Roots in Muskoka" by Joe Cookson, which details this a bit more. He advised that it was situated on the point of the shoreline on Lot 2
- The site lines along this section of Limberlost Road are terrible and has dips and curves, and that in the summer season it is very busy and access onto the road would be difficult
- A wetland evaluation had been done, and it was only 12 points away from being a provincially significant wetland. They would like to see a new wetland evaluation study done to determine if there were any changes. He noted that there are fish in the lake, as neighbours have caught them
- He offered Committee a boat tour of the lake if they desired

Further Committee Deliberations:

- Councillor Boivin stated that a broader issue was at stake, and that he has a responsibility to protect values, but that when such a proposal comes forward wondered if it is the responsibility of the developer to do the study or should the cost be borne by the public at large as the information benefits everyone. He stated there needs to be a process whereby the cost can be deferred or shared

- Councillor Ross asked if site specific building envelopes could be identified. Mr. Szczerbak stated that it was better to deal with the discrepancy of wetland boundaries now
- Committee discussed the recommendation of a wetland evaluation versus a wetland assessment. A vote was taken and all but Councillor Casey were in favour of a wetland assessment only.

MOTION

MOVED BY: Philip Cote
SECONDED BY: Virginia (Ginny) Burgess

That applications B 03/04/05/08 LOB (Betula Forests Limited) be DEFERRED until the August 19th, 2008 meeting of Committee in order to provide the applicant with sufficient time to submit the following to the satisfaction of the Township:

- 1) **A wetland impact assessment in accordance with Section D.44 of the Official Plan;**
- 2) **A fish habitat impact assessment in accordance with D.96 of the Official Plan; and**
- 3) **Confirmation from the District of Muskoka’s Engineering and Public Works Department that applicable entrance permits from Muskoka Road No. 8 are available for the proposed lots.**
- 4) **Confirmation that suitable building envelopes exist for each proposed lot in relation to any natural constraints.**
- 5) **Preparation of a preliminary archaeological assessment.**

Recorded Vote:	Nays	Yeas
Ben Boivin	_____	_____✓
Philip Cote	_____	_____✓
Margaret Casey	_____✓	_____
Ruth Ross	_____	_____✓
Nancy Tapley	_____	_____✓
Virginia (Ginny) Burgess	_____	_____✓
Mayor Janet Peake	_____✓	_____

CARRIED.

- ii) **B 07 & 08/08 LOB, Applicant: Diane Hicks**
B 09/08 LOB, Applicant: Tom Pinckard
 Part Lot 11, Con. 9, Franklin Ward
 1076 & 1069 Lake of Bays Lane
 Roll Nos: 010-011-02400, 03400 & 03000
 Agent: John P. Gallagher & Associates

Present: Mr. Tom Pinckard, applicant for B 09/08 LOB, & Mr. John P. Gallagher, agent, were present to represent the applications

The following person was in attendance respecting the application:

- Mr. Ross Bagshaw, Box 5489, Huntsville, on behalf of potential purchaser

Planning Department Submission – Stefan Szczerbak, Township Planner

- He presented the staff report and advised that as the proposals generally conformed to both the District and Township Official Plans, staff had no concerns with the approval of the applications subject to the conditions outlined in the report
- He noted that a letter from Robert McMullen, an abutting landowner, had been received that expressed concerns that his driveway, which was located at the end of Lake of Bays Lane, was used as a turnaround by vehicles

Committee Deliberations:

- Discussion occurred respecting the terminating point of Lake of Bays Lane, as well as other clarification respecting the road

Mr. John Gallagher:

- Mr. Gallagher reviewed the recommended conditions for **B 07/08 LOB**, and protested condition 2 which required a turnaround. He asked that condition 3, being a condition to rezone the property should any deficiencies be revealed on the draft reference plan, be removed, as a reference plan is already in place and a draft reference plan is not being done for this particular application as it is the recreation of a lot that already has a plan registered. He stated his agreement with condition 4, and also with condition 5 and that he agrees with the replanting of a buffer but asked if the agreement could deal solely with the shoreline buffer, not the whole of the property. He noted that respecting condition 6 that the area around the Oxtongue River is already zoned Environmental Protection and wondered why further protection was necessary
- He advised that it has always been their intention to facilitate a turnaround for the Township on the property, and that he could meet with Mr. Brown later this week with a surveyor to clarify its location
- Mr. Gallagher then reviewed the recommended conditions for **B 08/08 LOB**. He noted that most municipalities were supportive of adding more area to existing lots. He asked that condition 3, which required a rezoning should any deficiencies in draft reference plan be revealed, be struck

Further Committee Deliberations:

- Mr. Szczerbak advised that respecting **B 07/08 LOB**, it was important to include condition 1, and that the turnaround specified in condition 2 for both applications was in the event that the turnaround spills onto the other lands and this would cover that scenario
- Mr. Gallagher asked if the words “if necessary” could be added to the conditions respecting rezoning
- Councillor Tapley referred to the right-of-way to the retained lands of **B 07/08 LOB**. Mr. Gallagher explained that an alternate driveway location was proposed that somewhat paralleled the existing driveway

Mr. Tom Pinckard:

- He explained that the only reason he had submitted the application for his property (**B 09/08 LOB**) was to give frontage to the Hicks property so that the Hicks lot had frontage on a public road. He stated that some of the conditions were unreasonable, and that he was not prepared to convey any of the road that traversed his property to the Township, and that if this condition remained the application should be rejected. He stated that the other alternative was to transfer the whole block to the Township, then a third application would not have been needed
- He advised that he had made application to purchase land abutting the rear of his waterfront property that had been expropriated through a similar situation, and that it didn't make sense for him to turn around and provide land here. He explained the history of the proposal to relocate Lake of Bays Lane from in front of the old Pinegrove Inn and Nor'Loch Lodge such that the entrance would have been located further east on Dwight

Beach Road. He stated that it hadn't proceeded due to lack of funds and that this has still left a bitter taste for residents in that area

- Respecting the requirement for a 51(26) agreement, he stated his belief that communities are not subject to site plan control. Mr. Szczerbak clarified that in some cases residential and rural lands may be exempt. Mr. Pinckard stated his refusal to put an agreement on his property, and that he was not prepared to transfer land for the road except perhaps for a turnaround as agreed with Mr. Tom Brown, the Director of Public Works. He advised that he and Mr. Brown had staked out a turnaround totally on his property 4 or 5 years ago and that there had been no interest at that time

Further Committee Deliberations:

- Councillor Tapley asked if Lake of Bays Lane was a trespass road along most of its entire length. Mr. Pinckard clarified that it was. She stated that she was unsure of what was to be gained by acquiring a small portion of the road if the Township didn't own all of it
- Chairperson Peake summarized that the consensus of Committee seemed to be that as long as the turnaround was gained, the road was not as important
- Councillor Casey recommended a deferral of application **B 09/08 LOB** until Tom Brown was in attendance to further discuss this issue
- Chairperson Peake asked if anyone was in the gallery to speak to the application. The following person came forward:

Mr. George Pudsey, 1058 Lake of Bays Lane

- He advised that he was a neighbour of Mr. Pinckard's, and that part of Lake of Bays Lane crosses his property. He stated his support of what Mr. Pinckard was doing. He also stated his disagreement with turning the road over to a government agency, and that respecting a turnaround Mr. Pinckard has been more than generous in his past efforts to rectify the turnaround situation
- Councillor Tapley stated her agreement with a deferral of **B 09/08 LOB**
- Chairperson Peake read the following resolution aloud:

MOTION

MOVED BY: Philip Cote
SECONDED BY: Virginia (Ginny) Burgess

THAT application B 07/08 LOB be APPROVED, subject to the following conditions:

- (1) That a registrable description of the severed and retained lands, together with any applicable rights-of-way over the subject lands, be submitted to the Secretary-Treasurer, along with two registered copies of the reference plan.**
- (2) That a registrable description of the severed lands and all applicable rights-of-way be submitted to the Secretary-Treasurer, along with two registered copies of the reference plan.**
- (3) That the severed lands be rezoned under the applicable Township by-law in order to recognize the resulting lot configuration, as well as any deficiencies that may be revealed upon review of the draft reference plan, if required. In addition, the location of all existing structures are to be verified on a sketch by an Ontario Land Surveyor and any resulting zoning deficiencies are to be addressed.**
- (4) That final approval be subject to confirmation by the Township of Lake of Bays that the severed lands are satisfactory for on-site sewage disposal, and that**

appropriate facilities exist for the development that is present on the severed lands.

- (5) That the applicant enter into an Agreement with the Township of Lake of Bays under Section 41 of the Planning Act and this Agreement be registered on the title of the severed lot. Said site plan shall require the re-establishment of a shoreline buffer of a depth of 9 metres along 50% of the shoreline, in accordance with Section G.24 of the Township Official Plan.
- (6) That the Applicant shall enter into an Agreement with the Township of Lake of Bays under Section 51(26) of the Planning Act and this Agreement be registered on the title of the retained lands. The Agreement shall state that a Site Plan Agreement is required prior to development, site alteration, vegetation removal, or issuance of a building permit on the subject lands.

REASONS:

1. The Committee is satisfied that the consent application conforms to the intent of the Township Official Plan and will serve to re-create a lot that previously existed prior to merging with the remainder of the applicant's holdings.

Pursuant to Subsection 41 of Section 53 of the Planning Act, all conditions imposed must be fulfilled within one year from the date of the sending of the Notice of Decision or the application is deemed to be refused.

It is a requirement that all conditions imposed be fulfilled prior to the granting of this consent and the giving by the Secretary-Treasurer of the certificate provided for in Subsection 42 of Section 53 of the Planning Act.

CARRIED.

MOTION

MOVED BY: Nancy Tapley
SECONDED BY: Ruth Ross

THAT application B 08/08 LOB be APPROVED, subject to the following conditions:

- (1) That a registrable description of the severed lands be submitted to the Secretary-Treasurer and all applicable rights-of-way, along with two registered copies of the reference plan.
- (2) That there be a written undertaking from the acting solicitor that the severed lot be joined in title to the abutting property to the north, under property roll no. 010-011-03000 (Thomas Pinckard), being Parts 1 to 6 on Plan BR-1696 and Part 1 on Plan 35R-21188. 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.
- (3) That the Applicant submit a rezoning under the applicable Township by-law, should the draft reference plan reveal any zoning deficiencies for the subject lands, if required. 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.

- (4) That the Applicant shall enter into an Agreement with the Township of Lake of Bays under Section 51(26) of the Planning Act and this Agreement be registered on the title of the retained lands. The Agreement shall state that a Site Plan Agreement is required prior to development, site alteration, vegetation removal, or issuance of a building permit on the subject lands.

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 northerly abutting parcel (Roll No. 010-011-03000).
- (✓) Subsection 3 of Section 50 of the Planning Act applies to any subsequent conveyance or transaction of or in relation to the parcel of land being the subject of this consent and the Certificate given under subsection 42 of Section 53 shall contain reference to this stipulation.

Pursuant to Subsection 41 of Section 53 of the Planning Act, all conditions imposed must be fulfilled within one year from the date of the sending of the Notice of Decision or the application is deemed to be refused.

It is a requirement that all conditions imposed be fulfilled prior to the granting of this consent and the giving by the Secretary-Treasurer of the certificate provided for in Subsection 42 of Section 53 of the Planning Act.

CARRIED.

MOTION

MOVED BY: Virginia (Ginny) Burgess
SECONDED BY: Ben Boivin

THAT application B 09/08 LOB be DEFERRED to the meeting of May 27, 2008.

CARRIED.

9. DEFERRED MATTERS

Minor Variances:

NIL

Consents:

NIL

10. CLOSED SESSION

NIL

11. BUSINESS ARISING FROM CLOSED SESSION

NIL

12. OTHER MATTERS

MOTION

MOVED BY: Nancy Tapley
SECONDED BY: Ruth Ross

That the Committee of Adjustment hereby constitutes itself for the purpose of hearing other matters.

CARRIED.

NIL

13. ADJOURNMENT

The meeting was adjourned at 11:20 a.m.

MOTION

MOVED BY: Margaret Casey
SECONDED BY: Ruth Ross

The Committee of Adjustment hereby adjourns the meeting of April 29th, 2008.

CARRIED.

CHAIRPERSON

SECRETARY-TREASURER