

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

**TO:** Melissa Markham, Director of Planning Services  
**FROM:** April Best-Sararas, Planner  
**DATE:** July 14, 2020  
**RE:** Consent Application B 03/20 LOB (Thorley), 379 Grassmere Road,  
Roll No. 020-002-09000

**REPORT HIGHLIGHTS:**

- the application proposes to sever a parcel of land from a waterfront property at 379 Grassmere Lane, under Roll No. 020-002-09000, and provide it to an abutting northerly vacant property on Peninsula Lake under Roll No. 020-002-09002. The proposed severed parcel contains an existing driveway to the northerly vacant property
- the consent application does not propose the creation of a new lot, but rather will serve to provide additional lands to an abutting property, whereby the water frontage of the lots will remain unchanged. Therefore, staff are satisfied that the proposed lot addition would not require any additional steps to address the change in lot area as a result of the minor adjustment in lot boundaries
- staff are also satisfied that no additional steps are required for continued legal access to the retained lands following the proposed lot addition to the benefitting lands as the owner's lawyer confirmed that the owner of the retained lands has utilized Grassmere Lane for vehicular access to their cottage for over 40 years without interruption
- staff recommend that a conveyance from the benefitting lands to an adjoining parcel of land or Township road allowance be required so that the severed and benefitting lands can be merged; that the existing Section 51(26) Agreement for the benefitting lands be amended to reflect the change in lot boundaries; and that Schedule B to By-law 10-58 for the benefitting lands be amended to reflect the change in lot boundaries with the additional lands
- the application conforms with Sections J.48 and J.53 of the Official Plan related to the size, shape, dimension and orientation of the lots as no new lot is being created; and the application conforms with Section J.48 related to the orientation of existing buildings and structures as no structures exist on or near the severed lands and proposed new property boundaries
- therefore, staff have no concerns with the proposed lot addition

**RECOMMENDATION:**

**WHEREAS** the Director of Planning hereby receives the staff report "Consent Application B 03/20 LOB (Thorley), 379 Grassmere Road, Roll No. 020-002-09000"

dated July 14, 2020.

**AND WHEREAS** the applicants have submitted Consent Application B 03/20 LOB to sever a parcel of land from a waterfront property at 379 Grassmere Lane, under Roll No. 020-002-09000, and provide it to an abutting northerly vacant property on Peninsula Lake under Roll No. 020-002-09002.

**BE IT RESOLVED THAT** Consent Application **B 03/20 LOB (Thorley)** be **APPROVED** subject to the Provisional Decision attached to the staff report as Appendix “B”.

**ORIGIN:**

This application was received from Lanny Dennis of Wayne Simpson & Associates, agent, on behalf of Michael Thorley, landowner.

**APPLICATION:**

The subject Consent Application B 03/20 LOB proposes to sever a parcel of land from a waterfront property at 379 Grassmere Lane, under Roll No. 020-002-09000, and provide it to an abutting northerly vacant property on Peninsula Lake under Roll No. 020-002-09002. The proposed severed parcel contains an existing driveway to the northerly vacant property.

The consent application does not propose the creation of a new lot, but rather will serve to provide additional lands to an abutting northerly vacant property.

The lot configurations proposed are as follows:

|                          | Lot Area (approx.)   |           | Frontage on Peninsula Lake |          |
|--------------------------|----------------------|-----------|----------------------------|----------|
| <b>Severed Lands</b>     | 1194± m <sup>2</sup> | 0.295± ac | n/a                        | n/a      |
| <b>Retained Lands</b>    | 1.31± ha             | 3.24± ac  | 116.4 m                    | 382 ft   |
| <b>Benefitting Lands</b> | 1.61 ha              | 3.98 ac   | 126.6 m                    | 415.5 ft |

**ANALYSIS:**

| Property Information      |   |   |
|---------------------------|---|---|
|                           | <b>Subject Lands<br/>379 Grassmere Road – 020-002-09000</b> | <b>Benefitting Lands<br/>Vacant – 020-002-09002</b> |
| Official Plan Designation | Waterfront  | Waterfront  |

|   |   |  |
|---|---|--|
| <p>Development Permit<br/>By-law 2004-180</p> | <p>Waterfront Residential “(WR)” with Waterfront Environmental Protection Development Permit Area One “(WEP1)” along portions of the shoreline</p>  | <p>Waterfront Residential Development Permit Area with an Exception “(WR-E242)”, with Waterfront Environmental Protection Development Permit Area One “(WEP1)” along the shoreline</p>   |
| <p>Waterbody</p>                              | <p>Peninsula Lake</p>   | <p>Peninsula Lake</p>  |
| <p>Access</p>                                 | <p>Grassmere Lane (private road, Town of Huntsville and Township of Lake of Bays) off of Grassmere Resort Road (Town road, Town of Huntsville)</p> <ul style="list-style-type: none"> <li>• Legal right-of-way over Parts 1 &amp; 2 on Plan 35R-18192 &amp; Part 4 on Plan 35R-5382 being portions of Grassmere Lane</li> <li>• Property does not have registered right-of-way over Part 3 on Plan 35R-18192, or Parts 6 &amp; 8 on Plan 35R-8070, being the portion of Grassmere Lane lying between Grassmere Resort Road and Part 4 on Plan 35R-5382; but the owner of the retained lands has utilized Grassmere Lane for vehicular access to their cottage for over 40 years without interruption</li> </ul> | <p>Existing right-of-way across abutting properties to the south and west over Parts 2 &amp; 6 on Plan 35R-23360; and granted permission to cross the unopened road allowances in Township of Lake of Bays and Town of Huntsville (Parts 3 &amp; 4 on Plan 35R-23360) from Grassmere Resort Road (Town road, Town of Huntsville)</p> |
| <p>Existing Buildings and Structures</p>      | <p>The property is developed with a single detached dwelling with attached decks, accessory building, stairs/landings down to the shoreline, and boathouse/boatport and docks</p>   | <p>Vacant</p>  |
| <p>Site Characteristics</p>                   | <ul style="list-style-type: none"> <li>• overall, the property contains varying topography, being fairly level along the rear of the property, sloping down towards the existing dwelling and accessory building, and sloping more steeply down</li> </ul>  | <ul style="list-style-type: none"> <li>• overall, the property contains varying topography, being fairly level along the rear of the property, sloping gradually and then more steeply down towards shoreline</li> </ul>   |

|  |   |   |
|--|---|---|
|  | <p>towards the shoreline and shoreline structures</p> <ul style="list-style-type: none"> <li>the property is well vegetated with mature vegetation</li> </ul>   | <ul style="list-style-type: none"> <li>the property is well vegetated with mature vegetation</li> </ul> |
| <p>Natural Constraints:<br/> <i>Values obtained from Official Plan Schedules &amp; District of Muskoka Web Map</i></p> | <ul style="list-style-type: none"> <li>Peninsula is classified as a Category 1 lake (&gt;350 ha in size)</li> <li>Peninsula Lake is moderately sensitive to phosphorus and is a lake trout lake at capacity</li> <li>Type “1” Fish Habitat along the majority of the subject lands, and along the entire frontage of the benefitting lands; with Type “2” Fish Habitat along a portion of the subject lands</li> <li>Steep slopes &gt;40% along the shoreline, and 20-40% on a large portion of the remainder of the properties</li> </ul>  |   |
| <p>Previous/Current Files:</p>   | <ul style="list-style-type: none"> <li>Subject lands:                             <ul style="list-style-type: none"> <li>B 18/09 LOB to consolidate six separately conveyable parcels, and then recreate a lot line such that two parcels exist together with a right-of-way to the severed (being the benefitting lands in the subject application) and retained parcels over private lands (in the Township and Town of Huntsville) and unopened road allowances (in the Township and Town of Huntsville)</li> <li>Deeming By-law F 03/10 LOB as a condition of B 18/09 LOB to declare Lots 1-5 on Plan No. 1 Sinclair to not be lots on a plan of subdivision so that the lots could be merged</li> </ul> </li> <li>Benefitting lands:                             <ul style="list-style-type: none"> <li>B 18/09 LOB to consolidate six separately conveyable parcels, and then recreate a lot line such that two parcels exist together with a right-of-way to the severed (being the benefitting lands in the subject application) and retained parcels over private lands (in the Township and Town of Huntsville) and unopened road allowances (in the Township and Town of Huntsville)</li> <li>Section 51(26) Agreement (C 07/10) as a condition of B 18/09 LOB to require a Development Permit for the vacant severed lot to ensure the lands are developed in accordance with the recommendations of the fish habitat assessment report, and the site evaluation and stormwater reports</li> <li>Deeming By-law F 03/10 LOB as a condition of B 18/09 LOB to declare Lots 1-5 on Plan No. 1 Sinclair to not be lots on a plan of subdivision so that the lots could be merged</li> <li>Z 15/10 LOB (By-law 10-58) as a condition of B 18/09 LOB to rezone the severed lot (now the benefitting lands in the subject application) to “WR-E242” to implement specific shoreline buffer, pathway, and shoreline structure provisions; and identify building and septic envelopes to reflect recommendations of the fish habitat assessment report and related reports</li> </ul> </li> </ul> |   |

|                                      |  |  |
|--------------------------------------|--|--|
| Original Shore Road Allowance (OSRA) | Closed by Transfer PM2587 and Crown Sale Grant 196 in 1915 | Closed by Transfer PM2587 and Crown Sale Grant 196 in 1915 |
|--------------------------------------|--|--|

### Appropriateness of Application

- Section J.48 of the Township's Official Plan states that the size, shape, dimension and orientation of any lot will be appropriate to the use proposed, character of the area, configuration and orientation of abutting parcels or buildings and structures, environmental and terrain considerations and the water and sewage services and access proposed
- Section J. 53 of the Official Plan states that interests in, or parcels of land may only be created where they conform and comply with the Development Permit By-law and Zoning By-law
- Section D.115 of the Official Plan states that a fish habitat impact assessment will be required by the Township prior to consideration of a planning application, where there is not sufficient fish habitat information or knowledge available on which to make a decision
- D.117 of the Official Plan states that development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements
- Section D.119 of the Official Plan states that the creation of a lot should not be permitted where its entire shoreline would abut Type 1 fish habitat, wetlands and any other natural constraints that would limit access to the water
- Sections E.2-E.6 of the Official Plan speak to policies pertaining to the varying levels of steep slopes and where present, states that natural vegetation will be substantially retained on slopes, and that development is encouraged to be directed away from areas of the property containing steep slopes
- Section H.48a) of the Official Plan states that new lots on Peninsula Lake shall have a minimum water frontage of 122 metres (400 ft.); and Section 5.1.1a) and b) of the Township's Development Permit By-law state that the minimum lot area and frontage for new lots shall be that which currently exists where a WEP1 Development Permit Area exists along the entire frontage
- Section 4.18 of the Township's Development Permit By-law states that where additional land is added to an existing lot which complies with this by-law, (such as through the closure of a shore road allowance or lot addition), the new lot configuration is deemed to conform to the By-law
- the consent application does not propose the creation of a new lot, but rather will serve to provide additional lands to an abutting property, whereby the water frontage of the lots will remain unchanged. Therefore, staff are satisfied that the proposed lot addition would not require any additional steps to address the change in lot area as a result of the minor adjustment in lot boundaries
- the retained lands have an established shoreline activity area with shoreline structures; and further, a fish habitat assessment was conducted by RiverStone

Environmental Solutions Inc., dated January 11, 2010, as well as a Site Evaluation, Storm Water Management and Construction Mitigation Plan Report by Pinestone Engineering Ltd., dated February 26, 2010, for the benefitting lands. The recommendations of these reports were incorporated into the site specific By-law 10-58 for the benefitting lands that outlines specific shoreline activity area, building and septic envelopes and the requirement for a Development Permit application prior to any removal of vegetation, development or site alteration on the property. Therefore, staff are satisfied that additional steps to address fish habitat and steep slopes on the properties should not be required as a condition of the subject application

- the applicant's agent advised that the location of the existing driveway over Part 6 on Plan 35R-23360 physically separates the triangle of land (being Part 5 on Plan 35R-23360) from the balance of the retained lands; and further that Part 5 more appropriately functions with the benefitting lands as it is separated by the driveway quite some distance from the utility of the land where the existing cottage is located on retained lands. Staff is of the opinion that the configuration of the lot addition is appropriate for the lands
- no new development is proposed at this time, and any future development will be subject to the "WR" requirements of the Development Permit By-law and Official Plan policies pertaining to waterfront residential properties, namely design policies in Sections D.10 and H.18, as well as the site-specific provisions of By-law 10-58 for the benefitting lands
- a right-of-way currently exists over the subject lands and abutting property to the west (also owned by the applicant) from Grassmere Resort Road (Town of Huntsville road), which traverses Township of Lake of Bays and Town of Huntsville unopened road allowances. As per conditions of previous consent application B 18/09 LOB, letters were received from Public Works at both the Town of Huntsville and Township of Lake of Bays advising that no permit or license was required to cross the unopened road allowance between Lot 25, Concession 2, Sinclair Ward, and Lot 35, Concession 1, Chaffey Ward
- since the right-of-way located on the subject lands is proposed to be severed and added to the abutting northerly property, the retained lands no longer have full legal right-of-way over that portion of the right-of-way located within the Township. Therefore, staff requested confirmation from the owner's agent as to alternative legal access to the retained lands. As a result, the owner's lawyer supplied legal documents illustrating that the retained lands have registered legal access over portions of Grassmere Lane (private road off of Grassmere Resort Road). In relation to those portions of Grassmere Lane that the property does not have the benefit of a registered right-of-way over, the owner's lawyer confirmed that the owners of the retained lands have utilized Grassmere Lane for vehicular access to their cottage for over 40 years without interruption
- therefore, staff are satisfied that no additional steps are required for continued legal access to the retained lands following the proposed severance of Parts 5 & 6 on Plan 35R-23360 that contain an existing driveway, and legal right-of-way, to the benefitting lands

- the benefitting lands (under roll no. 020-002-09002) were created by way of previous Consent Application B 18/09 LOB; therefore, for additional lands to merge with the benefitting lands, a conveyance from the benefitting lands to an adjoining parcel of land or Township road allowance of a one inch square parcel of land will be required, and has been included as a condition of consent
- with the boundaries of the benefitting lands changing by way of the proposed lot addition, the existing Section 51(26) Agreement will need to be amended to reflect the change in legal description of the lands, and has been included as a condition of consent
- with the benefitting lands currently zoned “WR-E242”, and the proposed severed lands to be added to the benefitting lands currently zoned “WR”, staff plan to amend the zoning of the severed lands to “WR-E242” to be consistent with the zoning of the benefitting lands through a housekeeping amendment in the future
- although the minimum lot area and minimum shoreline frontage permitted for the lots are that which currently exist, the proposed lot addition will increase the lot area of the benefitting lands; will not change the lot frontage of either the retained or benefitting lands; will only slightly reduce the lot area of the retained lands which are already developed with a dwelling with attached decks, accessory building, stairs/landings, and dock/boatport/boathouse a sufficient distance from the proposed severed lands; and will merely serve to sever and add the lands containing the existing driveway to the benefitting lands. Therefore, staff have no concerns with the proposed lot addition
- the application conforms with Sections J.48 and J.53 of the Official Plan related to the size, shape, dimension and orientation of the lots as no new lot is being created; and the application conforms with Section J.48 related to the orientation of existing buildings and structures as no structures exist on or near the severed lands and proposed new property boundaries
- as this application is consistent with the 2014 Provincial Policy Statement and generally conforms to both the District and Township Official Plan, staff has no concerns with the approval of this application, subject to the conditions outlined in this report

**PUBLIC/AGENCY CONCERNS:**

- |                              |  |
|------------------------------|--|
| Clerk’s Department           | <ul style="list-style-type: none"><li>• No concerns. Closed by Transfer PM2587 and Crown Sale Grant 196 in 1915.</li></ul> |
| Building Department          | <ul style="list-style-type: none"><li>• No concerns.</li></ul>   |
| Public Works Department      | <ul style="list-style-type: none"><li>• No concerns. Privately owned/ROW, privately maintained.</li></ul>                  |
| Fire Department              | <ul style="list-style-type: none"><li>• No concerns.</li></ul>   |
| District of Muskoka Planning | <ul style="list-style-type: none"><li>• No concerns.</li></ul>   |

Hydro One • No comments or concerns.

**ALTERNATIVES:**

- Deny the applications;
- Defer making a decision; or
- Approve the application (refer to recommendation).

**LINKAGE TO THE COMMUNITY-BASED STRATEGIC PLAN:**

- Engage and communicate openly with the community;
- Develop long-term land and community plans that are balanced and adaptive;
- Protect, preserve and promote our healthy natural environment.

Date of report: July 14, 2020

Prepared by,

Approved by,

**April Best-Sararas**  
Planner

**Melissa Markham, MCIP, RPP**  
Director of Planning

Attachments: Appendix "A" - Location Map  
Appendix "B" - Provisional Decision for B 03/20 LOB

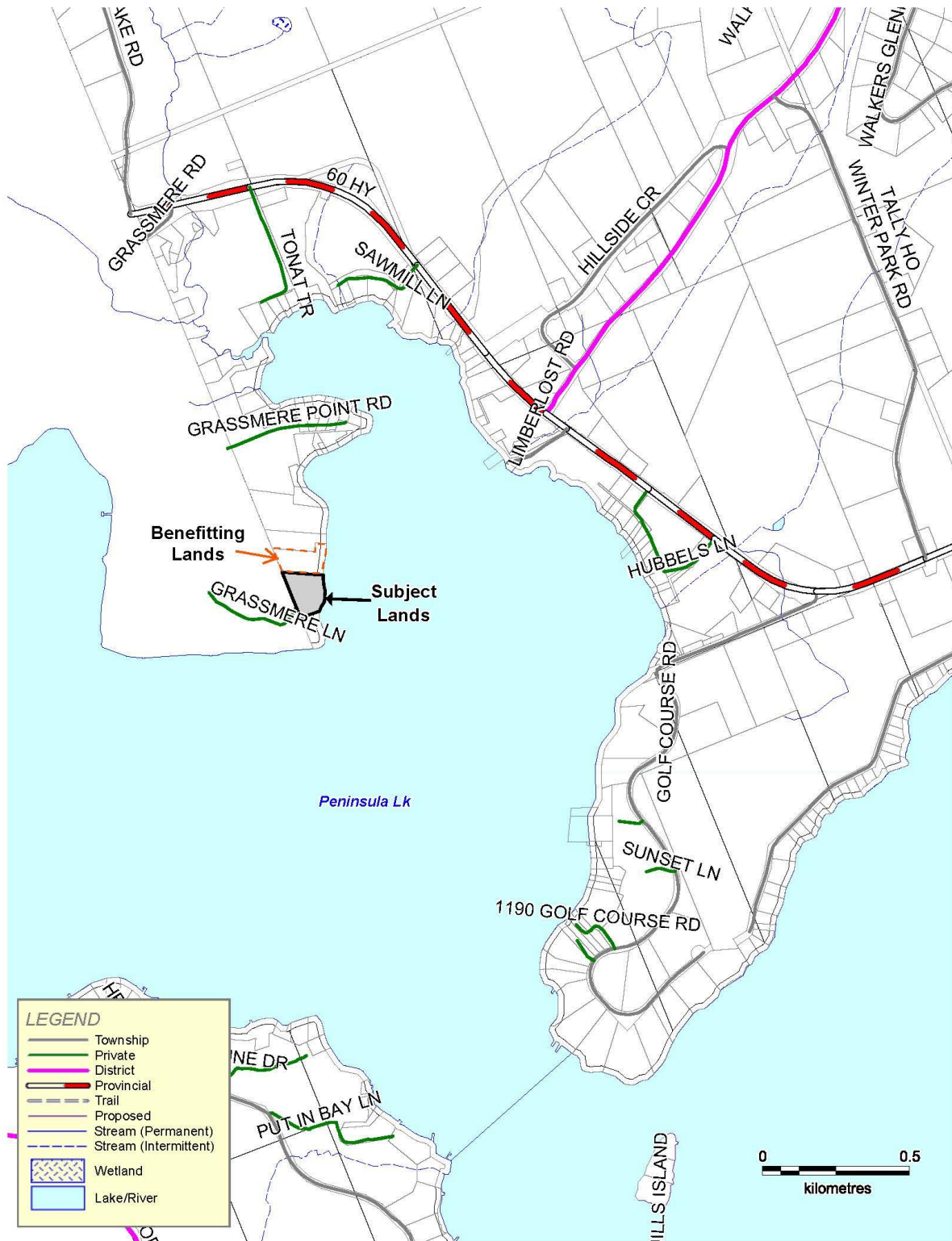
**REFERENCES:**

- 2014 Provincial Policy Statement
- Township of Lake of Bays Official Plan, as adopted on January 12, 2016 by By-laws 2016-005 & 2016-049
- By-law 04-180, being the Development Permit By-law
- Staff report by Stefan Szczerbak, titled "Consent Applications: B 18/09 LOB (Thorley)", dated October 27<sup>th</sup>, 2009
- Muskoka Web Map
- Archived documents in Laserfiche



### Appendix "A"

### Location Map



## Appendix "B"

### **PROVISIONAL DECISION**

[The Planning Act, R.S.O. 1990, Chapter 13, Section 45(8)]

File: **B 03/20 LOB**  
Applicant(s): **Michael Gordon Thorley**  
Application for Consent for: **Lot Addition**  
Location: **Lot 25, Con. 2, Sinclair Ward, on Peninsula Lake**  
Parent Roll No.: **020-002-09000**  
Date of Decision: **July 14, 2020**

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

#### **THAT Consent will be GRANTED provided:**

- (1) A draft reference plan of survey is to be submitted to the Secretary-Treasurer for approval prior to registration. The reference plan must identify the dimensions and lot area of the severed lands shown in Schedule "A", together with any applicable easements, the location of any buildings, structures, driveways and roadways located thereon, as well as any watercourse locations. An electronic version (i.e. "pdf" format) is also to be provided.
- (2) Following the above condition, submit two copies of a deposited reference plan of survey that confirms the dimensions and lot areas of the proposed lot addition, to which this consent approval has been granted. An electronic version (i.e. "pdf" format) is also to be provided.
- (3) That any zoning non-compliances, identified through Condition 1 above, resulting from the proposed severance, be brought into compliance.
- (4) That a "Transfer in Preparation" and a "Long Form Certificate" for the severed lands be provided to the Secretary-Treasurer.
- (5) That the existing Section 51(26) Agreement (C 07/10) for the benefitting lands be amended to include the legal description of the severed lands.
- (6) That there be a written undertaking from the acting solicitor that the severed lands be joined in title to the abutting property, under Roll No. 020-002-09002, being the benefitting 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 benefitting 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.

- (7) That the following procedure shall occur for the joining in title of the benefiting lands (being Part 8 on Plan 35R-23360, Roll No. 020-002-09002, and which were created by way of previous consent application **B 18/09 LOB**) to the severed lands that are subject to 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 an adjoining parcel of property or Township road allowance of a one inch square parcel of land, and that evidence of this be provided to the Secretary-Treasurer;
  - (b) The aforesaid one inch square parcel of land shall be endorsed with the consent of the Committee of Adjustment, quoting application number "**B 03/20 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 03/20 LOB**.
- (8) That any outstanding balances related to the subject application be paid to the Township of Lake of Bays in accordance with the Cost Acknowledgement Agreement.

REASONS:

1. The Director of Planning Services is satisfied that the consent application generally conforms to the intent of the Township Official Plan and will serve to provide a lot addition to the northerly vacant abutting property under Roll No. 020-002-09002.

**SCHEDULE "A"**  
**CONSENT APPLICATION B 03/20 LOB (Thorley)**  
**Lot 25, Con. 2, Sinclair Ward, on Peninsula Lake**  
**379 Grassmere Road, Roll No. 020-002-09002**



**BENEFITTING LANDS**  
Roll No. 020-002-09002  
Vacant

**SEVERED LANDS**  
1194± m<sup>2</sup> (0.295± ac)

**RETAINED LANDS**  
Roll No. 020-002-09000  
379 Grassmere Lane

*Retained lands*