
To: Melissa Markham, Director of Planning Services

From: April Best-Sararas, Planner

Date: May 28, 2021

Subject: Consent Applications B 08/21 LOB & B 09/21 LOB
(Moffat), 1056 Shaws Road, Roll No. 010-006-07510

Report Highlights

- to sever 2 parcels of land, from 1 retained parcel, and provide to two abutting waterfront properties on Peninsula Lake in order to provide additional area to the benefitting lots located at 1072 Shaws Road (roll no. 010-006-08500) owned by Thomas and Mary Kilner and 1088 Shaws Road (roll no. 010-006-08700) owned by David and Janet Walker
- as the subject consent applications do not propose the creation of a new lot, but rather will serve to provide additional lands to two abutting properties, whereby the lot area and water frontage of the lots will be increased, and no development is proposed on the subject or benefitting lands as part of the subject applications, staff have no concerns with the applications
- as the applications are consistent with the 2020 Provincial Policy Statement and generally conform to both the District and Township Official Plans, staff has no concerns with the approval of the applications, subject to the recommendations outlined in this report

Recommendation

WHEREAS the Director of Planning Services of the Corporation of the Township of Lake of Bays hereby receives the staff report “Consent Applications B 08/21 LOB & B 09/21 LOB (Moffat), 1056 Shaws Road, Roll No. 010-006-07510” dated May 28, 2021.

BE IT RESOLVED THAT Consent Applications B 08/21 LOB & B 09/21 LOB (Moffat), to sever 2 parcels of land, from 1 retained parcel, and provide to two abutting waterfront properties on Peninsula Lake in order to provide additional area to the benefitting lots located at 1072 Shaws Road (roll no. 010-006-08500) owned by Thomas and Mary Kilner and 1088 Shaws Road (roll no. 010-006-08700) owned by David and Janet Walker be **APPROVED** subject to the Provisional Decisions attached to the staff report as Appendix “B” and “C”.

Origin

These applications were received from David Walker and Tom Kilner, agents, on behalf of Heather Moffat, landowner.

Application

The purpose of applications B 08/21 LOB & B 09/21 LOB is to sever 2 parcels of land, from 1 retained parcel, and provide to two abutting waterfront properties on Peninsula Lake in order to provide additional area to the benefitting lots as follows:

		Lot Area & Shoreline Frontage (Approx.)	Area & Frontage of Benefitting Lot (Approx.)	Resulting Lot Area & Frontage (Approx.)	Property Roll No.	Owners
B 08/21 LOB	Severed	0.25 acres 7.6 metres	0.58 acres 30.5 metres	0.83 acres 38.1 metres	010-006-08700	David & Janet Walker
	Retained	42 acres 181.4 metres	N/A	N/A	010-006-07510	Heather Moffat
B 09/21 LOB	Severed	0.25 acres 7.6 metres	1.17 acres 53.3 metres	1.42 acres 60.9 metres	010-006-08500	Thomas & Mary Kilner
	Retained	42 acres 181.4 metres	N/A	N/A	010-006-07510	Heather Moffat

Analysis

Property Information		
	Subject Lands (010-006-07510)	Benefitting Lands (010-006-08700 & 010-006-08500)
Official Plan Designation	Waterfront	Waterfront
Development Permit By-law 2004-180	Waterfront Residential with an Exception "(WR-E162)"	Waterfront Residential "(WR)"
Waterbody	Peninsula Lake	Peninsula Lake
Access	Shaws Road (<i>private road</i>)	Shaws Road (<i>private road</i>)

Lot Area	17.16 hectares (42.41 acres) (MPAC)	<ul style="list-style-type: none"> • 010-006-08700: 0.23 ha (0.58 acres) (MPAC) • 010-006-08500: 0.47 ha (1.17 acres) (MPAC)
Water Frontage	196.6 metres (645 ft.)	<ul style="list-style-type: none"> • 010-006-08700: 30.5 metres (100 ft.) (MPAC) • 010-006-08500: 53.3 metres (175 ft.) (MPAC)
Existing Buildings and Structures	Developed with a cabin and shed	<ul style="list-style-type: none"> • 010-006-08700: developed with a dwelling, detached garage with sleeping quarters, and shed • 010-006-08500: developed with a dwelling, detached garage, and sleeping cabin
Natural Constraints: <i>Values obtained from Official Plan Schedules & District of Muskoka Web Map</i>	<ul style="list-style-type: none"> • Peninsula is classified as a Category 1 lake (>350 ha.) • “Type 2” fish habitat 	<ul style="list-style-type: none"> • Peninsula is classified as a Category 1 lake (>350 ha.) • “Type 2” fish habitat
Previous/Current Files	<ul style="list-style-type: none"> • B 28/05 LOB – to sever the subject lands • Z 15/07 LOB – to rezone the subject lands to WR-E162 as a condition of Consent Application B 28/05 LOB, which does not permit the placement of structures, removal of vegetation or site alteration within the first 30 metres (98 ft.) of the waters edge of Parts 10 & 13 on Plan 35R-14629, requires a minimum lot area for new lots of 17 ha (42 acres), and a minimum water frontage for new lots as existing (at inner limit) 	<ul style="list-style-type: none"> • 010-006-08700: DP 25/10 LOB to construct dwelling, detached garage with living space above, relocating shed and new dock envelope where lot coverage is above 12% (being 12.3%) • 010-006-08500: N/A

Appropriateness of the Application

- these applications do not propose the creation of a new lot, but rather will serve to provide additional lot area to two benefitting lots along the shoreline, and no development on the subject or benefitting lands is proposed as part of the subject applications

- Section J.48 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
- the configuration of the lot additions is appropriate for the lands, and no new development is proposed at this time. Any future development will be subject to the Waterfront Residential "(WR)" requirements of the Development Permit By-law and Official Plan policies pertaining to waterfront residential properties, namely design polices in Sections D.10 and H.18
- the Original Shore Road Allowances (OSRA) fronting the proposed benefitting lots appear open, and encroachments exist on the OSRA abutting both properties. Accordingly, a condition to close the OSRA fronting the lot addition lands, as well as a condition for the owners of the benefitting lots to enter into a License of Occupation for the OSRA fronting their lands, has been included
- the Township's Building Department indicated that there is an open septic permit 2018-141 for a septic system on the subject lands to serve a proposed dwelling and sleeping cabin; and commented that if the severance is complete, this septic system cannot be used by any lot on the south side of the road as a septic system must be on the lot it serves. Therefore, staff have included a condition that requires the owner of the subject lands to request that the septic permit for the retained lands be revoked, and to submit an amended site plan illustrating this, to the Township's Building Department
- the existing right-of-way, known as Shaws Road, runs through the subject lands, and no changes to this right-of-way are proposed as part of the subject applications
- as the subject and benefitting lots front onto Peninsula Lake, Appendix A of the Township's Official Plan states that Peninsula Lake has been identified by the Province of Ontario as being managed for Lake Trout and unable to sustain further lot creation. Sections D.123, J.8, J.9 and Appendix A of the Official Plan speak further to specific criteria for lot creation on Lake Trout Lakes at capacity
- furthermore, Section H.48 of the Township's Official Plan requires a minimum water frontage of 122 metres (400 ft.) for new lots on Peninsula Lake
- both benefitting lots are existing undersized lots as they do not meet the minimum shoreline frontage requirements, and the southerly benefitting lot does not meet the minimum lot area requirement of the WR Development Permit Area of 0.4 ha (1 acre)
- 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 proposed retained lands are decreasing in area slightly (by 0.5 acres); however, the lands appear to retain approx. 42 acres of area with approx. 181.4 metres of shoreline frontage
- the site-specific By-law 07-97 which applies to the subject lands, restricts the lot area and water frontage for new lots to 17 ha (42 acres) and frontage as existing (at inner limit). As no new lots are being created, the retained lands appear to retain approx. 42 acres of lot area, and the proposed lot additions would serve to increase the frontage and lot area of the two undersized benefitting lots, staff are satisfied that the proposed lot additions would not require any additional steps to address the change in lot area as a result of the minor adjustment in lot boundaries
- By-law 07-97 also does not permit the placement of structures, removal of vegetation or site alteration within the first 30 metres (98 ft.) from the waters edge identified on Parts 10 & 13 on Plan 35R-14629, whereby the severed lands are partly described as Part 13 on Plan 35R-14329. Therefore, no development, vegetation removal or site alteration would be permitted within 30 metres (98 ft.) of the waters edge on the severed lots to be added to the two benefitting lots, which is consistent with the shoreline yard setback for a WR property on Peninsula Lake

Conclusion

- as the subject consent applications do not propose the creation of a new lot, but rather will serve to provide additional lands to two abutting properties, whereby the lot area and water frontage of the lots will be increased, and no development is proposed on the subject or benefitting lands as part of the subject applications, staff have no concerns with the applications
- as the applications are consistent with the 2020 Provincial Policy Statement and generally conform to both the District and Township Official Plans, staff has no concerns with the approval of the applications, subject to the recommendations outlined in this report

Public/Agency Comments:

Clerk's Department

- Concerns. The benefitting lands do not appear to own their OSRA. There appear to be some encroachments per the DMM Aerial photos.
- Conditions: that the owner(s) submit an application for LOC/Encroachment Agreement to the Township; and that the owner(s) submit an application to purchase the OSRA to the Township.

Building Department

- Concerns – there is an open septic permit 2018-141 for a septic system (on the north side of the road) to serve a proposed dwelling and sleeping cabin of the lands to be severed. If this severance is complete this septic system cannot be used by any lot on the

south side of the road as a septic system must be on the lot it serves. What is the intent of this septic system?

Public Works Department

- No concerns – private road, privately maintained.

Fire Department

- This property is located in an area served by a Volunteer Fire Department, and emergency response times to this location will be delayed. For occupant safety, it is recommended that an automatic sprinkler system conforming with NFPA13D be installed in all residential structures. It is also recommended that a year-round water source for firefighting water (i.e. dry hydrant) be constructed on the property.
- Fire access routes as per OBC 3.2.5 to each building is required, must be shown on a detailed site plan showing the % grade and distance.

District of Muskoka Planning

- No objection.

Hydro One

- No comments or concerns.

Alternatives

Upon review of the proposal, the Director of Planning Services of the Corporation of the Township of Lake of Bays may choose one of the following options:

- Deny the application;
- Defer the application; 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: May 28, 2021

Approvals

Prepared by:

April Best-Sararas, MCIP, RPP
Planner

Attachments

- Appendix “A” – Location Map
- Appendix “B” – Provisional Decision for B 08/21 LOB
- Appendix “C” – Provisional Decision for B 09/21 LOB

References

- 2020 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 Zoning By-law
- 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)]

Files: **B 08/21 LOB**

Applicant(s): **Heather Moffat**

Application for Consent for: **Lot Addition**

Location: **Part of Lots 19 & 20, Concession 13, Franklin**

Parent Roll Nos.: **010-006-07510**

Date of Decision: **May 28, 2021**

Upon application for consent for the lands described in the above noted file, the decision of the Director of Planning Services 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 Director of Planning Services for approval prior to registration. The reference plan must identify the dimensions and lot area of the severed and retained 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 wetland/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 area 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 a “Transfer in Preparation” and a “Long Form Certificate” for the severed lands be provided to the Director of Planning Services.
- (4) That the owner of the subject lands request that Septic Permit 2018-141 for a septic on the retained lands, serving a new dwelling and sleeping cabin on the severed lands, be revoked.
- (5) That there be a written undertaking from the acting solicitor that the severed lot subject to consent B 08/21 LOB be joined in title to the abutting benefitting lands, owned by David and Janet Walker, under Roll No. 010-006-08700. 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 Director of Planning Services.
- (6) That the owner(s) of the benefitting lot subject to consent B 08/21 LOB, owned by David & Janet Walker (under roll no. 010-006-08700) enter into a License of Occupation with the Township to address the structures situated on the Original Shore Road Allowance fronting the lot.
- (7) That the owner(s) submit an application to close the Original Shore Road Allowance fronting the subject lands to convey the lands into the same ownership as the benefitting lot subject to consent B 08/21 LOB, owned by David & Janet Walker (under roll no. 010-006-08700).
- (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 sever a parcel of land, from 1 retained parcel, and provide to an abutting waterfront property on Peninsula Lake in order to provide additional area to the benefitting lands located at 1088 Shaws Road (roll no. 010-006-08700) owned by David and Janet Walker.

Appendix “C”

PROVISIONAL DECISION

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

Files: **B 09/21 LOB**

Applicant(s): **Heather Moffat**

Application for Consent for: **Lot Addition**

Location: **Part of Lots 19 & 20, Concession 13, Franklin**

Parent Roll Nos.: **010-006-07510**

Date of Decision: **May 28, 2021**

Upon application for consent for the lands described in the above noted file, the decision of the Director of Planning Services 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 Director of Planning Services for approval prior to registration. The reference plan must identify the dimensions and lot area of the severed and retained 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 wetland/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 area 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 a “Transfer in Preparation” and a “Long Form Certificate” for the severed lands be provided to the Director of Planning Services.
- (4) That the owner of the subject lands request that Septic Permit 2018-141 for a septic on the retained lands, serving a new dwelling and sleeping cabin on the severed lands, be revoked.
- (5) That there be a written undertaking from the acting solicitor that the severed lot subject to consent B 09/21 LOB be joined in title to the abutting benefitting lands, owned by Thomas and Mary Kilner, under Roll No. 010-006-08500. 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:
 - (c) Creation of the new parcel for lot addition purposes whereupon it will obtain a new Property Identifier Number (PIN) from the Registry Office; and

- (d) 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 Director of Planning Services.
- (6) That the owner(s) of the benefitting lot subject to consent B 09/21 LOB, owned by Thomas and Mary Kilner (under roll no. 010-006-08500) enter into a License of Occupation with the Township to address the structures situated on the Original Shore Road Allowance fronting the lot.
- (7) That the owner(s) submit an application to close the Original Shore Road Allowance fronting the subject lands to convey the lands into the same ownership as benefitting lot subject to consent B 09/21 LOB, owned by Thomas and Mary Kilner (under roll no. 010-006-08500).
- (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 sever a parcel of land, from 1 retained parcel, and provide to an abutting waterfront property on Peninsula Lake in order to provide additional area to the benefitting lands located at 1072 Shaws Road (roll no. 010-006-08500) owned by Thomas and Mary Kilner.

SCHEDULE "A"
CONSENT APPLICATION B 09/21 LOB (Moffat)
Part of Lots 19 & 20, Concession 13, Franklin
1056 Shaws Road, Roll No. 010-006-07510

