
To: Melissa Markham, Director of Planning Services

From: April Best-Sararas, Planner

Date: July 5, 2021

Subject: Consent Application B 17/21 LOB (Berner), 1028 Maple Drive, Roll No. 030-013-09400

Report Highlights

- to sever a parcel of land and merge with a corresponding abutting waterfront property on Lake of Bays in order to provide additional area and frontage to the benefitting lot located at 1032 Maple Drive (roll no. 030-013-09500) owned by Kimberley Berner
- as the subject consent application does not propose the creation of a new lot, but rather will serve to provide additional lands to an abutting property to the north, whereby the lot area and water frontage of the lots will meet the minimum requirements, and no additional development is proposed on the subject or benefitting lands as part of the subject application, staff have no concerns with the application
- as the application is 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 application, 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 Application B 17/21 LOB (Berner), 1028 Maple Drive, Roll No. 030-013-09400” dated July 5, 2021.

BE IT RESOLVED THAT Consent Application B 17/21 LOB (Berner), to sever a parcel of land and merge with a corresponding abutting waterfront property on Lake of Bays in order to provide additional area and frontage to the benefitting lot located at 1032 Maple Drive (roll no. 030-013-09500) owned by Kimberley Berner be **APPROVED** subject to the Provisional Decision attached to the staff report as Appendix “B”.

Origin

This application was received from Kimberley and Robert Berner, landowners.

Application

The purpose of this application is to sever a parcel of land and merge with a corresponding abutting waterfront property on Lake of Bays in order to provide additional area and frontage to the benefitting lot as follows:

	Lot Area & Shoreline Frontage (Approx.)	Resulting Lot Area & Frontage (Approx.)	Property Roll No.	Owners
Retained	1.00 acre 85.4 metres	1.00 acre 85.4 metres	030-013-09400	Kimberley & Robert Berner
Severed	0.16 acres 10.96 metres	N/A	030-013-09400	Kimberley & Robert Berner
Benefitting	0.99 acres 67.1 metres	1.15 acres 80.5 metres	030-013-09500	Kimberley Berner

Analysis

Property Information		
	Subject Lands (030-013-09400)	Benefitting Lands (030-013-09500)
Official Plan Designation	Waterfront	Waterfront
Development Permit By-law 2004-180	Waterfront Residential "(WR)"	Waterfront Residential "(WR)"
Waterbody	Lake of Bays	Lake of Bays
Access	Maple Drive (<i>private road</i>)	Maple Drive (<i>private road</i>)
Lot Area	0.47 hectares (1.16 acres) (<i>Survey</i>)	0.40 ha (0.99 acres) (<i>Survey</i>)
Water Frontage	96.4 metres (316.1 ft.) (<i>Survey</i>)	67.1 metres (220.1 ft.) (<i>Survey</i>)

Existing Buildings and Structures	Developed with a dwelling with attached decks and screened porch, shed, pump house, bunkie and dock	Developed with a dwelling, detached garage, and dock with boathouse
Natural Constraints: <i>Values obtained from Official Plan Schedules & District of Muskoka Web Map</i>	<ul style="list-style-type: none"> • Lake of Bays is classified as a Category 1 lake (>350 ha.) • “Type 2” fish habitat • Lake Trout Lake • Deer Wintering Habitat (Stratum 2) 	<ul style="list-style-type: none"> • Lake of Bays is classified as a Category 1 lake (>350 ha.) • “Type 2” fish habitat • Lake Trout Lake • Deer Wintering Habitat (Stratum 2)
Previous/Current Files	<ul style="list-style-type: none"> • A 14/97 LOB – to recognize a legal non-complying dwelling and to further permit an addition onto the northerly side of the existing legal non-complying dwelling 	<ul style="list-style-type: none"> • A 31/02 LOB – to replace and enlarge a single family dwelling with a reduced shoreline setback and road frontage for an existing lot • D 11/03 LOB – to retain shoreline and other vegetation on the property

Appropriateness of the Application

- this application does not propose the creation of a new lot, but rather will serve to provide additional lot area to a benefitting lot along the shoreline, and no development on the subject or benefitting lands is proposed as part of the subject application
- 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 addition 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
- there is a shed on the southern boundary of the retained lands located at 1028 Maple Drive that belongs to the neighbouring property to the south and appears to encroach onto the subject lands; as well as a shed on the western boundary of the benefitting lands located at 1032 Maple Drive that belongs to the neighbouring property to the west that appears to encroach onto the benefitting lands (see detailed site plan attached as Schedule “A” to the provisional decision). The

applicants have indicated that they do not plan on changing anything with regards to the two sheds

- the proposed new lot line would not create any non-compliance for any existing buildings or structures on the retained lands, and would increase the existing 3.19 metre (10.5 ft.) side yard setback to an existing garage on the benefitting lands as a result of the lot addition
- the proposed severed lands currently contain a portion of the driveway to the benefitting lot, as well as a set of stone steps adjacent to the driveway. The owners have indicated that the stone steps currently lead up to an existing propane tank on the benefitting lands
- the benefitting lands have a legal right-of-way for pedestrian and vehicular traffic along and upon Parts 2 & 3 on Plan RD-369, whereby the existing driveway is located. No changes to this right-of-way are proposed as part of this application
- as the subject and benefitting lot front onto Lake of Bays, new lots require a minimum of 0.4 hectares (1 acre) of lot area with 60 metres (196.9 ft.) of shoreline frontage
- both the retained and benefitting lots will meet the minimum lot area and frontage requirements

Conclusion

- as the subject consent application does not propose the creation of a new lot, but rather will serve to provide additional lands to an abutting property to the north, whereby the lot area and water frontage of the lots will meet the minimum requirements, and no additional development is proposed on the subject or benefitting lands as part of the subject application, staff have no concerns with the application
- as the application is 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 application, subject to the recommendations outlined in this report

Public/Agency Comments:

Clerk's Department

- No concerns. There does not appear to be an OSRA associated with the property according to RD-369.

Building Department

- No concerns.

Public Works Department

- No concerns – Maple Lane is a private road, it appears that some sections are on Township land and some are on private land.

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| Fire Department | • No concerns as of the date of this report. |
| District of Muskoka Planning | • No objection. |
| Hydro One | • No comments or concerns at this time. |

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: July 5, 2021

Approvals

Prepared by:

April Best-Sararas, MCIP, RPP
Planner

Attachments

- Appendix “A” – Location Map
- Appendix “B” – Provisional Decision for B 17/21 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 17/21 LOB**

Applicant(s): **Kimberley & Robert Berner**

Application for Consent for: **Lot Addition**

Location: **Part of Lot 5, Concession 14, Ridout**

Parent Roll Nos.: **030-013-09400**

Date of Decision: **July 5, 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 existing Site Plan Agreement (D 11/03 LOB) for the benefitting lands be amended to include the severed lands.
- (5) That there be a written undertaking from the acting solicitor that the severed lot be joined in title to the abutting benefitting lands, owned by Kimberley Berner, under Roll No. 030-013-09500. 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 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 and merge with a corresponding abutting waterfront property on Lake of Bays in order to provide additional area and frontage to the benefitting lot located at 1032 Maple Drive (roll no. 030-013-09500) owned by Kimberley Berner.

