

**COMMITTEE OF ADJUSTMENT
MINUTES
MARCH 26th, 2009**

Present: Roy Perry, Chair
Bob O'Brien, Member
Lee Redmayne, Member

Also Present: Bev Mansbridge, Planning Technician
Colleen Healey, Manager of Planning and Development

Roy Perry, Chair called the meeting to order at 10:02 a.m. and explained the meeting process and the time frame for appeals to those persons present. He advised that all statements and evidence given before the Committee are of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

MINUTES:

The Minutes of February 19, 2009 were accepted by Committee.

DISCLOSURE OF INTEREST:

There were no disclosures of interest.

APPLICATIONS:

**B17-B20/05 VANLEEUVEN
Cecil Street**

Mr. Joe VanLeeuwen attended the meeting. Colleen then recommended a favourable decision and highlighted the severance history. She also noted that the applicant was working to fulfill all conditions including a lot grading plan. Colleen also added that the applicant's Engineer has informed that the surveys are completed, and should be forwarded to the Township shortly.

Roy Perry, Chair, then asked what the NVCA concerns were and Colleen noted those in the NVCA letter dated Sept. 29/08. This noted that NVCA Floodline mapping indicates the entire property is within floodplain of Mad River and that the floodfringe was not determined on this property. The applicant's engineer has submitted a plan indicating that sufficient building envelopes do exist and Colleen spoke recently to the NVCA who are in receipt of the mapping prepared by the applicant's Engineer which depicts building envelopes. The NVCA should be responding favourably to the Township shortly in this regard.

A short discussion ensued regarding the trees and forested area.

Members had no further questions and no audience questions were heard.

The Committee voted and Chair Roy Perry announced an approval of the application. The applicant then thanked Committee.

B2/09 COOPER
5684 County Road #27

Mr. John Cooper attended the meeting. Colleen then read the staff Planning Report. The home is occupied by Mr. Cooper's mother. Mr. Cooper relayed that he had just received a letter from the County this morning noting they had no objections, however, the County does require a \$2000 deposit for future road widening. Mr. Cooper asked why the deposit was required? Colleen noted this was typically required for deposit for road widenings. The applicant asked whether a road widening was planned, and Colleen noted she has no knowledge of plans for road widening at this time. The applicant noted the application was adding to back of property and Colleen noted that 92' of combined frontage would be added to County Road #27. She further noted that the County is entitled under legislation to ask for road widening. Colleen referred the applicant to contact the County directly regarding his question. Some discussion was held and Colleen noted that the dedication may not entirely cost the \$2000.

No further questions were heard and none were heard from the audience.

The Committee then voted on the lot addition.

The Committee Members then voted on the application and all were in favour of granting the severance subject to the standard conditions and those conditions as outlined in the County's letter.

Roy Perry noted the severance application had been passed.

A1/09 PORTSVILLE
Rainbow Mall, Massey and Margaret Street

Ardel Johnston, lawyer for C & I Investments, attended the meeting for her client. Portsville (applicant) for the minor variance did not attend the meeting.

Colleen read her update memo on the prior approved severance for C & I Investments. The Chair asked if the Committee had any questions.

Bob O'Brien, Committee Member then asked if the joint agreement issue was resolved for both parking and by-passing over other properties. Ardel Johnston noted an attempt to negotiate a parking easement with Portsville was made, however Portsville wanted C & I to give up parking over their lands with no benefit to C & I lands, therefore, an agreement between the 2 parties was not reached. Bob then asked whether C & I's parcel is land-locked? Ardel suggested that her client must meet all conditions under severance decision, which includes an entrance through to Margaret Street. Bob then asked who will supply the easement to the Margaret Street access and Ardel noted that the Mall owner, Portsville, will supply the easement. Bob noted he is not sure of this and requested a legal opinion of an easement granting access through to Margaret Street

and whether other parties would be required to sign this easement. Colleen noted that she could search for an email from the lawyer, as she had posed this question to the lawyer before or offered that she can phone the lawyer directly.

Roy announced a brief break to allow time for the Planner to speak with the Township's lawyer. The question posed to the lawyer included - if there are pre-existing agreements on title from neighbours/landowners, and if Portsville grants C & I access to Margaret Street, then do C & I have to ask for new agreement with all landowners?

At this time, the applicants attended for Tangle Creek Golf and the Chair proceeded with the hearing for Application B1/09.

B1/09 TANGLE CREEK GOLF
25th Sideroad

Colleen Healey, Manager of Planning and Development had noted that a new sketch was provided prior to the meeting. Secretary-Treasurer Bev Mansbridge then read the Manager of Planning and Development's memo. Colleen highlighted in the memo that a 20' additional strip will be added to the east property line of the existing lot and the applicant confirmed yes this was the case.

Mark Elliott then noted that his proposed lot is the same size as those existing being 270' deep x 150' frontage with a 20' strip in between the proposed lot and the existing lot. Discussion was then held with regard to no official/specific rule to granting severances from commercial properties. Severances to be directed to residential areas.

The applicant, Mark Elliott noted rural lands are allowed a new residential lot if properties contain a landholding of over 50 ac. The Committee questioned whether this was the case and this was confirmed by Bev Mansbridge.

Lee Redmayne noted that development is discouraged along rural roads. A lengthy discussion followed regarding the list of past commercial severances supplied to Committee.

Lee informed that Provincial directive is to direct residential development to residential communities, where current services exist and support communities.

Committee members voted as recorded: Lee Redmayne was not in favour; Bob O'Brien was in favour and Roy Perry was in favour.

Roy announced approval of the application.

A1/09 PORTSVILLE (Continued)
Rainbow Mall, Massey and Margaret Street

Colleen Healey returned to the meeting where Ardel Johnston noted that practical concerns for her client (C & I) included they have no short term plans to build.

Although she met with the above plaza owner, neither parties came together with a solution. She noted Portsville has a different practical issue than that of her client. She feels her client would be prejudiced if he cannot obtain the severance prior to June date.

Committee Member Bob O'Brien noted the addition being added to the supermarket and commented that parking would be depleted there. He also believes existing site plan approval includes an addition to supermarket. Ardel noted she cannot speak to this matter.

Ardel did note that she had inquired on surrounding vacant parcels that may be available for purchase and was able to find an owner that would consider sale of property for parking. Ardel commented that pertaining to the severance for her client, the severed parcel is self-sufficient with its own access. In terms of site plan approval, it is an independent and a self-sufficient parcel with parking. If C & I gives up their lot for parking to Portsville, before a building exists, her client may have to change his own plans for development, based on limitations put on by parking thus may put her client at risk.

Bob believes the lot needs its own access and to do so must join in mutual agreements re: snow plowing, maintenance, etc.

Ardel believes that the access does not cross the parking spaces and Colleen confirmed access does not cross the parking spaces available but stays to the existing established laneways which are shared by all retail units.

Chair Roy Perry asked if this was a condition and Colleen then commented that Committee passed a previous favourable decision regarding the severance. She noted that the lawyer advised and did confirm that he could follow up in writing but that the easement is being granted which is separate and a new issue from Portsville and previous agreements. She advised that an existing agreement (or more) is on title, and parking rights are not being taken away, but access is gained via Margaret Street. She added the lawyer also noted that a right of way cannot be granted over the parking spaces however and as long as Portsville is granting the right of way, clear of parking spaces, do not need to involve neighbours as the intent is not granting the right-of-way over parking area. Therefore, permission from neighbours is not required. The Township's lawyer was asked whether neighbours required to sign or not and the lawyer had responded this was a complicated title search and not a full title search has yet been completed. Colleen noted the lawyer offered to confirm in writing if the Committee requires, that additional parties are not needed to enter into a new agreement. Bob requested a letter on file. No further questions were heard.

The Committee Members then voted on the minor variance, and all were in favour of granting the minor variance.

It was confirmed that Committee granted the minor variance with a letter being sought from the Township's lawyer, which will go on file. Ardel Johnston then asked for

Committee to clarify, that the consent decision for C & I was being left as is, with no new conditions added and the Chair agreed.

OTHER BUSINESS:

Colleen noted of a recent OMB hearing where a local municipality won the case regarding a minor variance. This was made available to Committee members.

Colleen then updated the Committee on Official Plan proceedings beginning April 1 when the planning consultant from Ainley will be attending Council @ 5-6:00 p.m. RE: review of update for Township Official Plan. Mr. Watkin will be looking at Council ideas/vision RE: template for plans, and then present these back to Council, and then to schedule a public meeting. All Committees are welcome to attend this Wednesday or at a later date for the public meeting. She added this Wednesday's meeting is open to the public, but will be more of a working session with Council. Colleen noted letters have been received by the public and will be presented to Ainley's. Colleen has received a few since the public meeting. Colleen then noted the only hold up may be the County's update to its OP. The County may not hear back from the Province until June, so until then, we won't know how it may affect Essa. She added it may be until the Fall that the update to Essa's OP is done, pending County feedback.

ADJOURNMENT:

The meeting adjourned at 11:00 a.m.

Roy Perry, Chair

Bev Mansbridge, Secretary-Treasurer