

ISSUE DATE:

April 11, 2008



PL070522

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant(s): Greg & Laurie Pyle
Maureen Alexander & Brendon Fisher
Applicant: Michael & Janet Stack
Subject: Minor Variance
Property Address/Description: 780 Widdifield Station Road
Variance from By-law: 28-80 Section 10.1.3 Rural (A)
Municipality: City of North Bay (Nipissing)
OMB Case No.: PL070522
OMB File No.: V070271
Municipal File No.: A-11/07

APPEARANCES:

Parties

Michael Stack

Greg & Laurie Pyle

Counsel

W. Brunton

**MEMORANDUM OF ORAL DECISION DELIVERED BY G. C. O'CONNOR
ON FEBRUARY 7, 2008 AND ORDER OF THE BOARD**

At the outset of the hearing the Appellant requested a brief adjournment to discuss a possible settlement. The Board adjourned the hearing accordingly.

The parties reached an agreement in these proceedings, with the result that the appeals are withdrawn as per the executed Minutes of Settlement (Exhibit "1") and as set out in Attachment "1" to this Order.

THE BOARD ORDERS that the appeal of the decision of the Committee of Adjustment of the City of North Bay is dismissed as described in Attachment "1".

So Orders the Board.

"G. C. O'Connor"

G. C. O'CONNOR
MEMBER

ATTACHMENT "1"
ONTARIO MUNICIPAL BOARD
IN THE MATTER OF SUBSECTION 45(12)
OF THE PLANNING ACT, R.S.O. 1990 Ch. P13, as amended

PL070522

BETWEEN;

GREG AND LAURIE PYLE

Appellant

- and -

MICHAEL AND JANET STACK

Applicant Respondent

RE: Subject	-	Minor Variance
Property Address/Description	-	780 Widdifield Station Road
Variance from By-Law	-	28-80 Section 10,1.3. Rural (A)
Municipality	-	City of North Bay (Nipissing)
OMB Case NO.	-	PL070522
OMB File NO.	-	V070217
Municipal File No.:	-	A-11/07

MINUTES OF SETTLEMENT

1. WHEREAS the Appellant Greg and Laurie Pyle (hereinafter referred to as "Pyle") have appealed the decision of the Committee of Adjustment for the City of North Bay to grant a minor variance to the Applicant, Michael and Janet Stack (hereinafter referred to as "Stack") with respect to the above noted file.

2. The parties have agreed to settle this Appeal on and subject to the terms and conditions hereinafter set forth:

NOW THEREFORE IN CONSIDERATION of the withdrawal of the Appeal by Pyle and the mutual covenants herein contained, the parties hereto agree as follows:

1. Pyle hereby withdraws the Appeal herein.

2. In consideration thereof, the parties agree as follows:

a) Stack shall be entitled to commence and conclude construction of the proposed barn with four stalls at the location shown on Schedule "A". In addition Stack shall be entitled to locate ~~and~~ manure waste management system as may be approved by the appropriate authority.

b) Stack shall not cause, suffer or permit horses to enter upon or remain at their property and premises municipally known as 780 Widdifield Station Road and more particularly shown on Schedule "A" hereto until the first day of September, 2008.

c) Stack will comply with all other conditions as set out in decision of the Committee of Adjustments.

d) Pyle will provide to Stack and to the North Bay Mattawa Conservation Authority evidence of the fecal coliform contamination of his drinking water well (situate to the rear of their home and in proximity to the easterly boundary of their lot as sketched on Schedule "A" hereto.

and Pyle will cause an independent third party of their choosing

e) As soon as weather and soil conditions permit in the spring of 2008, Stack will cause the North Bay Mattawa Conservation Authority to inspect the septic system located on the Stack lands and to conduct such tests as are necessary or desirable to determine whether or not the Stack septic system is the source of the fecal coliform contamination of the Pyle drinking water well.

f) In the event that the testing aforesaid discloses that the source of fecal coliform contamination of the Pyle drinking water well is the Stack septic system, Stack undertakes and agrees to take all steps as are reasonably necessary to correct the deficiencies in the Stack septic systems *as soon as* reasonably possible.

g) Following completion of the remedial steps outlined above, the North Bay Mattawa Conservation Authority will again be asked to take such tests as are necessary or desirable to determine whether or not the Stack septic system continues to contaminate the Pyle drinking water well.

h) If such additional testing reveals continuing problems, Stack will take such remedial steps as are necessary to alleviate the problem.

i) Thereafter, Pyle will cause ~~periodic~~ *every two weeks* testing for fecal coliform in the Pyle drinking water well and provide the results of those tests to Stack and to the North Bay Mattawa Conservation Authority.

j) If the fecal coliform testing reveals that the fecal coliform contamination continues and if the North Bay Mattawa Conservation Authority is satisfied that the Stack septic system continues to be the cause of the such contamination Stack will take such steps as are necessary or desirable to alleviate the fecal coliform contamination including such steps as are recommended by the North Bay Mattawa Conservation Authority.

k) Both Pyle and Stack covenant and agree to co-operate fully with one another and with the North Bay Mattawa Conservation Authority to give full effect to this agreement.

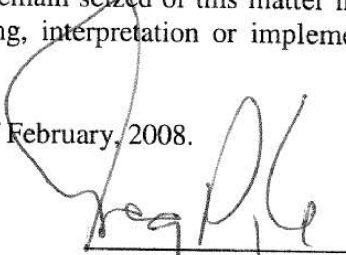
l) In consideration of this Agreement, Pyle covenants and agrees to release and forever discharge Stack from any claims, actions, causes of action or demands other than as set out herein arising out of the alleged contamination of the Pyle drinking water well or arising out of the issues raised in the within Appeal.

3. There will be no order as to costs of this Appeal.

4. The Presiding Board Member shall remain seized of this matter in the event that there is any disagreement as to the meaning, interpretation or implementation of this Agreement.

DATED at North Bay, Ontario this 7th day of February, 2008.

Witness:



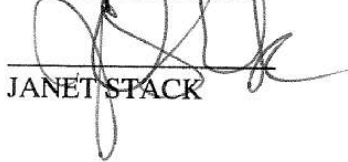
GREG PYLE



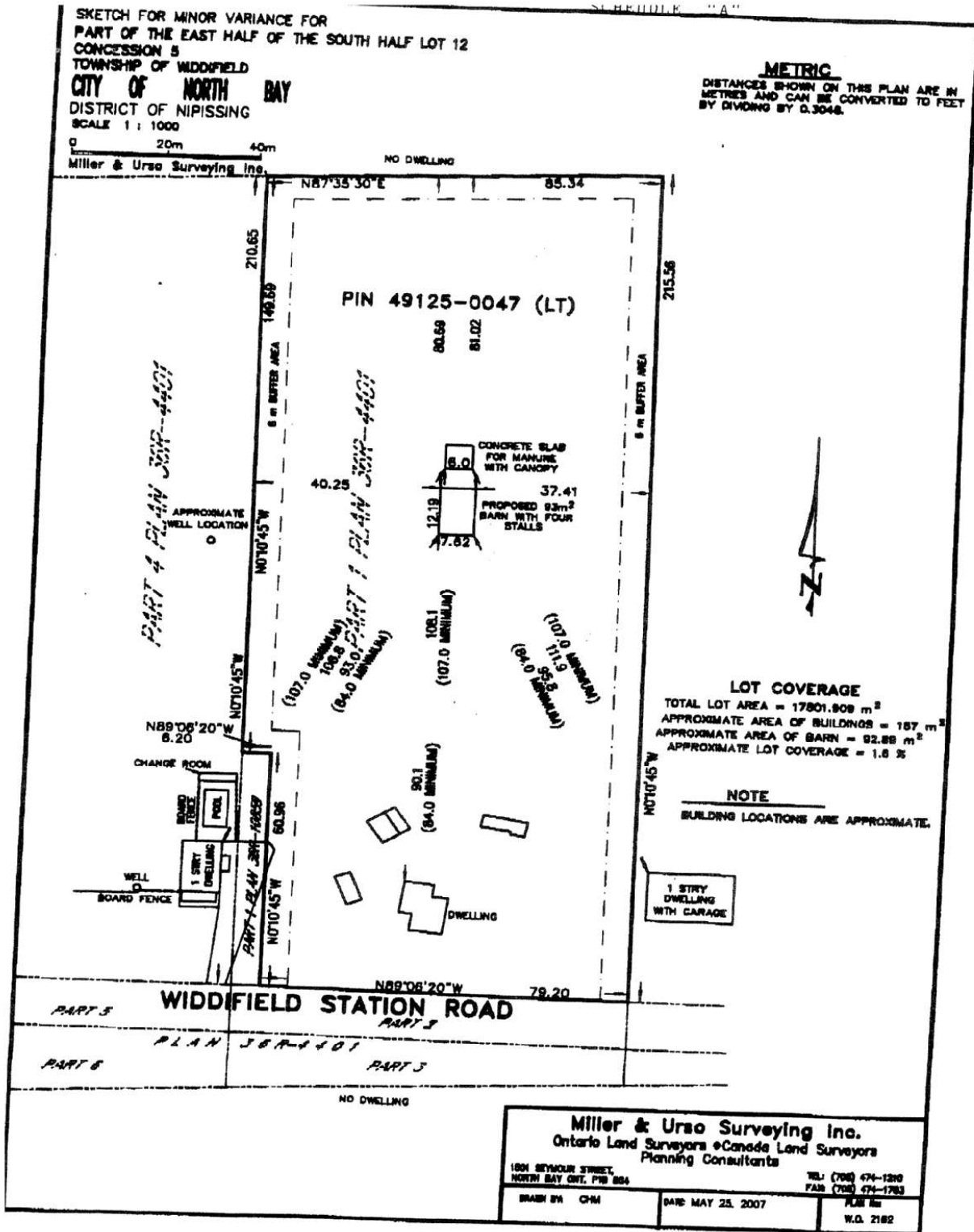
Laurie Pyle



MICHAEL STACK



JANET STACK



THE CORPORATION OF THE CITY OF NORTH BAY
COMMITTEE OF ADJUSTMENT

FILE NO. A-11-07

RESOLUTION NO. 3

DATE: May 16, 2007

MOVED BY: *P. Woodley*

SECONDED BY: *Th Buchanan*

"THAT the Minor Variance Application submitted by Miller & Urso Surveying Inc. on behalf of Michael & Janet Stack requesting relief from Zoning By-law 28-80, Section 10.1.3 Rural (A) zone requirements for a Hobby Farm to reduce Minimum Lot Area from 2ha to 1.78ha for the property located at 780 Widdifield Station Road, North Bay, BE Approved."

REASONS:

- 1) The variance is minor
- 2) The general intent and purpose of the City of North Bay's Official Plan and Zoning By-law 28-80 are being maintained
- 3) It is appropriate development for the use of the land.

CONDITIONS:

- 1) Subject to Site Plan Control addressing the following requirements prior to the issuance of a building permit:
 - (i) a 6m vegetative buffer be required around the perimeter of the property
 - (ii) buildings be located and sized as shown on the attached schedule
 - (iii) that all existing and future drainage be directed away from the abutting property owners and be directed to the front and rear of the property.
 - (iv) Addressing how the manure will be spread and/or disposed of

J. Rogerson
"CARRIED"
J. Rogerson, Chairman

CONCURRING MEMBERS

P. Woodley
Th Buchanan

NON-CONCURRING MEMBERS

