

ISSUE DATE:

Oct. 20, 2009



PL090523

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Benjamin Lawton
Subject:	Consent
Property Address/Description:	23170 Nairn Road
Municipality:	Township of Middlesex Centre
OMB Case No.:	PL090523
OMB File No.:	PL090523
Municipal No.	B-02/09

APPEARANCES:

Parties

Counsel

Benjamin Lawton

A. Patton

Municipality of Middlesex Centre

A. Wright

**MEMORANDUM OF ORAL DECISION DELIVERED BY S.J. STEFANKO ON
OCTOBER 13, 2009 AND ORDER OF THE BOARD**

This hearing was to deal with the appeal by Benjamin Lawton (“Owner”) of three of seven conditions imposed by the Committee of Adjustment (“Committee”) when it granted provisional consent in relation to the Owner’s severance application for property municipally known as 23170 Nairn Road.

At the commencement of proceedings however, I was advised that the parties had settled their differences. Specifically, the Appellant withdrew his appeal of condition 2 of the Committee’s decision dated May 25, 2009 and his appeal of conditions 1 and 5 resulted in new conditions (“New Conditions”) being agreed upon. These New Conditions were marked as Exhibit 2 in this proceeding and are annexed to this decision as Attachment “1”.

To support the settlement reached, Mr. Bancroft, the Senior Planner with the Municipality was called to provide expert evidence. In his view, the substance of the New Conditions and the settlement reached, constituted good planning.

Based on the agreement of the parties and the testimony of Mr. Bancroft, the New Conditions are hereby approved. The appeal is therefore allowed in part.

Before concluding this decision, one final point bears mentioning. Through inadvertence, the *Planning Act* Section Reference shown on the appeal form ("Appeal Form") filed by the Owner with respect to the appeal of the Committee's decision was section 53(27) as opposed to section 53(19). The Municipality had no concern with and took no exception to, this minor irregularity. As a result, and to the extent it may have been necessary, the Appeal Form was amended to read s.53(19) pursuant to the powers conferred on the Board in the *Ontario Municipal Board Act*, including section 38 thereof.

It is so Ordered.

"S.J. Stefanko"

S.J. STEFANKO
MEMBER

ATTACHMENT "1"

**OMB Case No. PL09523
OMB File No. PL09523**

EXHIBIT NO. _____

Re: Alternatives to Conditions 1 and 5 of Consent B-2/09 to facilitate the conversion of the existing accessory building to a single detached dwelling

Alternative to Condition 1

1. That, upon condition 5 of Consent B-2/09 being satisfied, the applicant converts within one (1) year of the Ontario Municipal Board's decision, the existing accessory building located on the lot to be severed to a single detached dwelling as defined by the Middlesex Centre Comprehensive Zoning By-law, provided all requirements of the Ontario Building Code are complied with in connection such conversion to the satisfaction of the Municipality of Middlesex Centre.

Alternative to Condition 5

5. That a Zoning By-law Amendment/Temporary Use By-law be in full force and effect to permit the conversion of the existing accessory building on the lot to be severed to a single detached dwelling as defined by the Middlesex Centre Comprehensive Zoning By-law while the existing single detached dwelling on the lot be retained remains.
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