

ISSUE DATE:

Nov. 03, 2010



PL100409

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: Phil Bayford
Subject: Consent
Property Address/Description: Lot 6, Concession 11, Campbell Drive
Municipality: McNab-Braeside
Municipal File No.: B-3/10
OMB Case No.: PL100409
OMB File No.: PL100409

APPEARANCES:

Parties

Counsel*/ Agent

Phil Bayford

T. Stavanow

Township of McNab-Braeside

J. Bradley*

MEMORANDUM OF ORAL DECISION DELIVERED ON SEPTEMBER 27, 2010, BY M.C. DENHEZ AND ORDER OF THE BOARD

This matter has been settled. Phil Bayford (the Applicant) applied for a severance, for his residential property in the Pine Grove Settlement Area of the Township of McNab-Braeside (the Township), in the County of Renfrew (the County). The retained parcel would measure 4384 square metres, and the severed parcel would measure 2025 square metres.

He submitted this application to the Committee of Adjustment (COA). However, there was concern over an apparent conflict between the planning documents: the applicable Zoning By-law, dating from 1999, listed a minimum lot area of 2025 square metres; but the Official Plan (OP), dating from 2009, listed a higher figure, namely 2430 square metres. The COA turned down the application, on the concern that although the severed parcel was legal for purposes of the Zoning By-law, it did not appear to conform to the OP. The Applicant appealed to the Board.

The Applicant also discussed the matter with the Township, and with the County's planner, who handles such matters on behalf of the Township. The Applicant, the Township Council, and the County's Planner all agreed that the appropriate solution would be to insert two Conditions for the consent to the severance, namely that the Applicant would provide, to the satisfaction of the Township, (a) a hydrogeological report prepared by a professional engineer confirming that the proposed severed parcel could support the required well and septic system, and (b) a satisfactory grading plan.

The applicable criteria for approving consents for severances are outlined in separate sections of the *Planning Act*. The relevant provision for consents, Section 53(12), refers to the criteria in Section 51(24):

...Regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the municipality and to,

- (a) The effect of development... on matters of provincial interest...;
- (b) Whether the (proposal) is premature or in the public interest;
- (c) Whether the plan conforms to the Official Plan...;
- (d) The suitability of the land for the purposes...;
- (e) (Highways)
- (f) The dimensions and shapes of the proposed lots;
- (g) The restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on the adjoining land....
- (h)-(l) (Natural resources, floods, services, schools, land dedications, energy)

The Act also deals with whether the transaction should proceed instead by way of subdivision; but that suggestion was not made by anyone, and the Board finds no grounds for it.

At the hearing, the County's planner, Mr. Howarth, explained that in the lead-up to this hearing, there had been due regard for all the applicable statutory criteria, as required by the legislation above. That included the OP – notably careful attention to the way the OP provisions interact. In particular, OP Policy 16.4 clearly allows for minor adjustments “where the general intent of the Official Plan is maintained”. It was his

expert opinion that under the revised arrangements under the settlement, OP conformity had been secured.

The Board finds no dispute. The Board has carefully considered all the evidence, as well as the submissions of all concerned. The Board concludes, as the County Planner did, that the proposal now meets the terms of the *Planning Act* for consent to the severance, and the appeal is allowed accordingly.

THE BOARD THEREFORE ORDERS:

The appeal is allowed and the provisional consent is to be given, subject to the following Conditions:

- a) That the Applicant provide, to the satisfaction of the Township, a Hydrogeological Report prepared by a professional engineer, confirming that the proposed parcel to be severed can support the required well and septic system; and
- b) A Lot and Grading Plan, to the satisfaction of the Township.

It is so Ordered.

“M.C. Denhez”

M. C. DENHEZ
MEMBER