

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



**ISSUE DATE:** September 16, 2015

**CASE NO(S):** PL150328

**PROCEEDING COMMENCED UNDER** subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Derik Hodgson
Applicants:	Robert Vye and Majel Vye
Subject:	Consent
Property Address/Description:	Concession 6, Part Lots 2 & 3
Municipality:	Township of Rideau Lakes
Municipal File No.:	B-34-14
OMB Case No.:	PL150328
OMB File No.:	PL150328
OMB Case Name:	Hodgson v. Rideau Lakes (Township)

**PROCEEDING COMMENCED UNDER** subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Derik Hodgson
Applicants:	Robert Vye and Majel Vye
Subject:	Consent
Property Address/Description:	Concession 6, Part Lots 2 & 3
Municipality:	Township of Rideau Lakes
Municipal File No.:	B-35-14
OMB Case No.:	PL150328
OMB File No.:	PL150338

**PROCEEDING COMMENCED UNDER** subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Derik Hodgson
Applicants:	Robert Vye and Majel Vye
Subject:	Consent
Property Address/Description:	Concession 6, Part Lots 2 & 3
Municipality:	Township of Rideau Lakes

Municipal File No.: B-36-14  
 OMB Case No.: PL150328  
 OMB File No.: PL150339

Heard: September 10, 2015 by telephone conference call

**APPEARANCES:**

<u>Parties</u>	<u>Representative</u>
Robert and Majel Vye	Self-represented
Derik Hodgson	Self-represented

**DECISION DELIVERED BY M. C. DENHEZ ON SEPTEMBER 10, 2015 AND ORDER OF THE BOARD**

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[1] This severance dispute has been settled.

[2] In the Township of Rideau Lakes ("the Township"), in the United Counties of Leeds and Grenville ("the County"), Robert Vye and Majel Vye ("the applicants") proposed a four-way split of their waterfront property. They submitted three concurrent consent applications to the relevant municipal committee, called the United Counties of Leeds and Grenville Consent Granting Authority ("the Authority").

[3] The proposal would have created three new vacant rural lots, with areas of some 3.5 acres, 6.5 acres and 7.0 acres, with a retained parcel of approximately 9 acres.

[4] The subject lands are located on an island known locally as Deans Island, and are bounded to the north by Deans Pond and Deans Pond Provincially Significant Wetland, and to the south by Whitefish Lake.

[5] The Township's Official Plan ("OP") states, at s. 3.4.3, that the general rule is that the setback from certain significant waterbodies is 120 metres ("m"). The applicants

proposed less; but another OP provision, at s. 2.21.1(3), states that exceptions can be made if it can be demonstrated that there will be no negative impacts.

[6] An Environmental Impact Study (“EIS”) was completed by EcoTec Environmental Consultants Inc. (“the Consultants”), concluding that the development could proceed with a setback of 30 m.

[7] Comments were submitted by the Rideau Waterway Development Review Team (representing Rideau Valley Conservation Authority and Parks Canada), and the Township of Rideau Lakes.

[8] The Consultants then provided an Addendum, clarifying the recommended setback of 30 m from Deans Pond, Deans Pond Provincially Significant Wetland, and Whitefish Lake.

[9] A final version of the revised EIS Report was issued by the Consultants, to the apparent satisfaction of the Rideau Waterway Development Review Team and the Township of Rideau Lakes.

[10] Indeed, the Township's Planning Advisory Committee passed a Motion supporting the proposed severances. It also recommended conditions, including the implementation of all the recommendations in the EIS, to provide a survey-accurate site plan (for the retained lands to demonstrate a suitable building and septic envelope), and to ensure that any existing rights to cross the private road known as Deans Island Road were protected.

[11] By decision dated April 1, 2015, the Authority approved the three consents, subject to conditions including those requested by the Township, as well as an additional condition to protect and enhance shoreline vegetation.

[12] Neighbour Derik Hodgson (“the neighbour”) expressed concern about the digression from the normal setback figure of 120 m. He further expressed concerns

about the potential for negative impacts on the Deans Pond Provincially Significant Wetland, as a result of the development of three new residential lots.

[13] The neighbour appealed the Authority's decision to the Ontario Municipal Board ("the Board").

[14] However, negotiations continued during the lead-up to the Board hearing. The parties reached consensus on a revised proposal, and executed Minutes of Settlement.

[15] Under the revision, instead of a four-way split, there would be a two-way split. Instead of three lots, a single new severed lot would be created.

[16] Furthermore, the revised setback figure would be fixed at 75 m from Deans Pond Provincially Significant Wetland.

[17] The new lots would, in all respects, comply with the requirements of the OP and the relevant Zoning By-law, in terms of dimensions, access, servicing, and stormwater.

[18] The applicable criteria for approving consents for severances are outlined in separate sections of the *Planning Act* ("the Act"). The relevant provision for consents, s. 53(12), refers to the criteria in s. 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)

[19] The Act also deals with whether the transaction should proceed instead by way of subdivision; but that suggestion was not made at the hearing. The Board finds no need to proceed by way of subdivision.

[20] The Board heard from Tracy Zander, the applicants' planner. It was her expert opinion that the revised proposal – subject to the agreed conditions – would comply with all statutory criteria and represent good planning. There was no dispute.

[21] The Board has carefully considered all the evidence. First, the Board agrees that under s. 53(35.1) of the Act, the change from the original application does not warrant re-circulation.

[22] On consideration, the Board further concludes that, subject to the agreed conditions, the proposed severance meets the terms of the Act.

[23] The Board orders that the appeal is allowed in part:

1. Provisional consent is to be given for the creation of one new lot, in accordance the terms of the Minutes of Settlement dated July 15, 2015, and the sketch reproduced at Exhibit J to the Affidavit of Ms. Zander, dated August 25, 2015, in the present file.
2. The Board confirms that the conditions binding on this severance, including Notes 1, 2 and 3 in consent application B-34-14, B-35-14 and B-36-14, are the same as those imposed by the Authority in its decision of April 1, 2015.
3. The Board notes that, under the terms of the above settlement, the Deans

Pond Wetland minimum setback is set at 75 m.

*"M.C. Denhez"*

M. C. DENHEZ  
MEMBER

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**Ontario Municipal Board**

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