

TOWNSHIP OF CHISHOLM

COMMITTEE OF ADJUSTMENT MEETING

TUESDAY, DECEMBER 1ST, 2015

CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Chairperson Leo Jobin with Councillors David Hodgins and Nunzio Scarfone, and members Don Butterworth and Ken Frederick present. Guests in attendance were Martin Hochstetler, Nicole Tran, and Terry Tran and Applicants Brooks Tran, Neil Gillespie, and Ralph Smith. Staff member present was Clerk-Treasurer Linda Ringler.

DECLARATION OF PECUNIARY INTEREST – None noted.

APPROVAL OF AGENDA

Resolution 2015-33 (COA)

Nunzio Scarfone – David Hodgins: Be it resolved that the *Agenda* for this meeting be approved as presented. **‘Carried’**

APPROVAL OF MINUTES

Resolution 2015-34 (COA)

Don Butterworth – Ken Frederick: Be it resolved that the *Minutes* of the November 3rd, 2015 Committee of Adjustment Meeting be adopted as printed and circulated. **‘Carried’**

SUMMARY OF APPLICATION – RALPH SMITH AND NEIL GILLESPIE – LOT 21, CONCESSION 9 – FILE NO. 2015-11

A letter, dated November 24th, 2015, was received from the North Bay-Mattawa Conservation Authority (NBMCA) relating to File No. 2015-11 stating:

- NBMCA has reviewed the application as per its mandate.
- This property is within the Wasi River watershed. There is a small headwater tributary of the Wasi River found at the northern end of the retained lands which is regulated by the Conservation Authority as per Ontario Regulation 177/06. Any work within 30m of this tributary requires a DIA permit from the Conservation Authority. This property is not part of Callander’s Issue Contributing Area (ICA).
- A sewage system permit was not found in the NBMCA database for either of the existing dwellings. Due to the size of the retained portion there are multiple locations to accommodate a replacement Class 4 septic system should one be required in the future. There is adequate room to accommodate a replacement Class 4 septic system based on a 22 m² bed and a 3600 litre tank for a 3-bedroom single family dwelling, on the severed portion.
- Although Minimum Distance Separation (MDS) data sheets were provided for three livestock facilities located within 1000m of the proposed new lot, but would not apply in this instance due to the fact that there is an existing dwelling located on the proposed new lot (Guideline # 8).
- The Conservation Authority has no objection to this application.

Staff was asked to contact Hydro One to ascertain if an easement is required due to the location of a hydro pole on the retained lands and inform Mr. Gillespie and Mr. Smith accordingly.

Resolution 2015-35 (COA)

Ken Frederick – Don Butterworth: Be it resolved that the application from Ralph Smith and Neil Gillespie to sever one rural lot from Lot 21, Concession 9, Pcl 12885, Township of Chisholm, District of Nipissing, be approved subject to the following conditions which must be fulfilled within one year from the date of the Committee's Notice of Decision letter. These conditions must be fulfilled prior to the granting of consent.

1. That this approval applies to the creation of one rural lot to be approximately 188.72 meters in frontage and 64.3 meters in depth and 1 hectare in area.
2. That the following documents be provided for the transaction described in Condition No. 1:
 - (a) That a signed Acknowledgement and Direction Consent and Draft Electronic Transfer setting out the entire legal description of the parcel in question be submitted to the Clerk-Treasurer of the Township for the issuance of a Certificate of Consent.
 - (b) A reference plan of survey, which bears the Land Registry Office registration number and signature as evidence of its deposit therein, illustrating the parcel to which the consent approval relates.
3. That this approval is given subject to the creation of a right-of-way for the driveway to the retained lands, which shall be registered on title to both lands.
4. That any traveled road situated on the severed property be transferred to the township for road purposes.

NOTES:

1. The required Acknowledgement and Direction Consent and Draft Electronic Transfer form shall contain a complete and accurate legal description. Inaccuracies or omissions with regard to the legal description in the Acknowledgement and Direction Consent and Draft Electronic Transfer forms or the survey plan will result in the documents being returned without consent.
2. This property is within the Wasi River watershed. There is a small headwater tributary of the Wasi River found at the northern end of the retained lands which is regulated by the Conservation Authority as per Ontario Regulation 177/06. Any work within 30m of this tributary requires a DIA permit from the Conservation Authority. This property is not part of Callander's Issue Contributing Area (ICA).
3. A sewage system permit was not found in the NBMCA database for either of the existing dwellings. Due to the size of the retained portion there are multiple locations to accommodate a replacement Class 4 septic system should one be required in the future. There is adequate room to accommodate a replacement Class 4 septic system based on a 22 m² bed and a 3600 litre tank for a 3-bedroom single family dwelling, on the severed portion.
4. Minimum Distance Separation (MDS) data sheets were provided for three livestock facilities within 1000m of the proposed new lot, and would not apply in this instance due to the fact that there is a dwelling on the property to be severed. **'Carried'**

SUMMARY OF APPLICATION – MVA-01-2015 – BROOKS TRAN (APPLICANT), TERRY AND CAROL TRAN (OWNERS) – PART LOT 7, CONCESSION 9

A facsimile letter, dated November 25th, 2015, was received from the North Bay-Mattawa Conservation Authority (NBMCA) relating to MVA-01-2015, stating:

- This property is within the Wasi River watershed. There is a small headwater tributary of the Wasi River found at the northern end of the property which is regulated by the

Conservation Authority as per Ontario Regulation 177/06. Any work within 30m of this tributary requires a DIA permit from the Conservation Authority. A DIA permit is not required for the construction of the addition to the livestock facility.

- A record of a sewage system permit was not found for this property, however, it is anticipated that servicing is not required for the livestock facility.
- With respect to the MDS II calculation, the Ministry of Agriculture, Food and Rural Affairs, Minimum Separation Distance (MDS) Formulae Implementation Guidelines provide direction for this circumstance:
 - **Implementation Guideline 12: Existing uses that do not conform to MDS.** MDS II is measured from the proposed new construction of an expanding livestock facility(ies) even though there may be parts of the existing livestock facility, that do not conform.
 - **Implementation Guideline 41: Measurement of MDS.** For MDS II, measurement is taken as the shortest distance between the point of new construction for the livestock occupied portion of a first or expanded livestock facility and the dwelling/lot line/road allowance/or area zoned or designated.
 - **Implementation Guideline 45: Affects of wind, etc. on MDS.** The direction of prevailing wind, surrounding topography and the presence of trees, berms or other screening do not affect MDS calculations, but could be elements considered in Minor Variance applications.
 - **Implementation Guideline 46: Reducing MDS setbacks and minor variances.** Minor variances to MDS II distances can be considered based on site specific circumstances. Circumstances that meet the intent, if not the precise distances of MDS II, or mitigate environmental impacts, may warrant further consideration.
- Given the above guidelines, if there are potential odour impacts from the expansion, mitigative measures may be required to reduce those impacts.
- Given the above-noted information, the reduction of the MDS requirement from a livestock facility to the nearest dwelling was reduced from 134 m to 94 meters to permit the addition to the livestock facility.

Mr. Brooks Tran was asked why he had not obtained a building permit prior to starting to build an addition to the existing livestock facility, and responded that the Chief Building Official was away at the time and he needed to move forward to house his livestock as winter was coming on. Mr. Tran was also asked how close he was to completing a Nutrient Management Plan, one of the requirements to obtaining a building permit, and advised that it would be approximately one to one and one half months before it would be completed.

An email letter from Kim and Steve Frederick, dated November 24th, 2015, was read aloud by Mrs. Ringler, expressing their contempt for the process, given the livestock facility addition had already been constructed, and the variance should have been obtained prior to construction.

Mr. Martin Hochstetler advised that he was in support of Mr. Tran's farming endeavour.

Resolution 2015-36

Nunzio Scarfone – David Hodgins: Be it resolved that the application from Brooks Tran (Applicant) and Terry and Carol Tran (Owners) requesting permission to reduce the Minimum Distance Separation (MDS) requirement from a livestock facility to the nearest dwelling from a minimum requirement of 134 meters to 94 meters to permit an addition to an existing livestock facility at Con. 9, Part Lot 7, Part Parcel 12648, Township of Chisholm, District of Nipissing, be approved for the following reasons and subject to the following conditions.

Reasons:

1. That the variance is minor in nature.
2. That a reduction to the MDS requirement permits an addition to an existing livestock facility for a growing agricultural operation in the Agricultural Zone, and is therefore desirable for the appropriate use of the land.
3. That the general intent and purpose of the Official Plan and Zoning By-law are maintained.

Conditions:

1. That the Applicant follow through with all requirements to obtain a building permit for the barn addition within a 90 day period from the date of this decision. **‘Carried’**

Councillor David Hodgins informed the Committee that he had requested that Item No. 7, related to Con. 11, Lot 18, be placed on the Agenda given that the property had recently been sold and the new owner was planning to install roll forming equipment. After checking the Zoning By-law Amendment (ZBA) and Development Agreement (DA) associated with this property, the Committee concurred that the installation is not prohibited by the ZBA or DA.

ADJOURNMENT

Resolution 2015-37

Ken Frederick – Don Butterworth: Be it resolved that we do now adjourn to meet again at the call of the Chair. **‘Carried’**

Time: 7:30 p.m.

Chairperson

Secretary-Treasurer