



The Corporation of the Town of Tecumseh

Planning & Building Services

To: Mayor and Members of Council

From: Brian Hillman, Director Planning & Building Services

Date to Council: November 9, 2021

Report Number: PBS-2021-49

Subject: Consent Agreement
11945 Intersection Road
Municipal Drain Access Culvert
OUR FILE: B-09-20

Recommendations

It is recommended:

That By-law No. 2021-87 being a by-law to authorize the Mayor and Clerk to execute a Consent Agreement between The Corporation of the Town of Tecumseh and Clement Lachance and Jeannette Laura Bernadette Lachance, which facilitates the future construction of an access culvert across a municipal drain on the property located at 11945 Intersection Road in order to satisfy conditions 6 and 7 of consent application B-09-20, satisfactory in form to the Town's Solicitor, **be adopted**;

And that the execution of such further documents as are called for by the Consent Agreement approved above including, but not limited to, the execution of the acknowledgement/direction required to register the Consent Agreement on title to the lands and such other acknowledgements/directions for any related transfers or real property registrations contemplated by the consent agreement, by the Mayor and Clerk, **be authorized**.

Background

Consent to Sever Application

On November 23, 2020, consent application B-09-20 was granted provisional consent by the Committee of Adjustment for a property on the south side of Intersection Road, west of its intersection with Shawnee Road (11945 Intersection Road). The purpose of the consent

application was to sever a vacant residential lot having a frontage of 45.7 metres (150 feet), a depth of 48.8 metres (160 feet) and a lot area of 2,229.7 square metres (0.55 acres) and to retain a farm lot containing an existing dwelling and four out buildings, having a frontage of 78.9 metres (259 feet) and a lot area of 7.8 hectares (19.22 acres) (see Attachment 1). Minor variance application A-16-20, which was heard concurrently with the consent application, was also approved granting relief for the undersized retained farm lot area and frontage.

As conditions of consent, the applicant was required to:

- i) provide separate water, storm and sanitary services for both the proposed severed and retained lot; and
- ii) provide a new access culvert and driveway from Intersection Road to the proposed severed lot.

In accordance with the *Planning Act*, these conditions need to be fulfilled on or before November 27, 2021 or the severance is deemed to be refused.

Comments

Since an open municipal drain (Lachance Drain) runs along the south side of Intersection Road, the installation of the required new access culvert and driveway is subject to the requirements of Section 78 of the *Ontario Drainage Act*. In addition, the required storm drainage service cannot be installed until after the access culvert is constructed. Due to the timelines established by the *Ontario Drainage Act* with respect to the Section 78 requirements, the applicant will not be able to install the access culvert prior to the aforementioned November 27, 2021 deadline, which would result in the severance approval lapsing.

In order to address the discrepancy between the consent approval and the *Ontario Drainage Act* timelines, Town Administration, in consultation with the Town Solicitor, provided the applicant with the option of entering into a Consent Agreement. This Agreement ensures the access culvert will be constructed and the storm drainage service will be installed thereby enabling the applicant to meet those corresponding conditions of consent.

The Town Solicitor has drafted the attached Consent Agreement (see Attachment 2), which commits the Owner to the future construction of the access culvert and storm drainage service. The Consent Agreement is also to be registered on the title of the property to ensure that future owners are made aware of their responsibilities related to the costs of the access culvert and storm service should the property be sold before these works are constructed.

Summary

Town Administration has reviewed the proposed Consent Agreement and has no concerns. Accordingly, Town Administration recommends that Council authorize the execution of the Consent Agreement, as prepared by the Town Solicitor attached hereto.

Consultations

Corporate Services & Clerk
Financial Services
Public Works & Environmental Services
Town Solicitor

Financial Implications

Due to the challenges presented by the *Ontario Drainage Act* timelines, Administration is in the process of refining the requested conditions related to municipal drain access culverts for consent applications. Historically, the receipt of a Request for Repair and Improvement under Section 78 of the *Ontario Drainage Act* and the appointment of a drainage engineer to prepare a design and report were considered adequate to satisfy a condition of consent related to an access culvert. Based on this approach, however, the property could be sold before the culvert is installed without the future owner being aware of the culvert requirement and their responsibility for the related costs (which can be significant). Accordingly, Administration requested that the Town Solicitor prepare the attached Consent Agreement that can be used as a standard template for all future consent applications where this issue arises. Being a standard template, the costs related to the preparation of same are to be covered through the Planning and Building – Committee of Adjustment operations budget.

In addition, Administration now considers the Consent Agreement necessary to adequately address the Town's responsibilities related to clearing the conditions of the consent application prior to access culverts being installed. Since this was a new requirement and was not an original condition of the consent application B-09-20, it was negotiated with the property owner that the Town would cover the agreement registration cost for this specific application and that the property owner would be responsible for the future discharge costs related to the removal of the consent agreement from title when the works are completed. The costs related to the agreement registration are also to be covered through the Planning and Building – Committee of Adjustment operations budget. The total estimated costs for the preparation of the agreement and its registration is approximately \$825 plus HST.

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input checked="" type="checkbox"/>	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input checked="" type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable ☒

Website ☐

Social Media ☐

News Release ☐

Local Newspaper ☐

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

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Reviewed by:

Brian Hillman, MA, MCIP, RPP
Director Planning & Building Services

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
1	Approved Consent Application Sketch
2	Consent Agreement