

MUNICIPALITY OF TEMAGAMI			
Report Prepared For:	Suzie Fournier, Clerk	Application Number:	C-19-03 and MV-19-04
Report Prepared By:	Jamie Robinson, BES, MCIP, RPP and Patrick Townes, BA, BEd	Applicants:	Ian Carswell and Shona Amyotte
Location:	348 Lake Temagami Island 1197	Owners:	Same as applicants
Report Date:	June 25, 2020	Application Type:	Consent and Minor Variance

A. PROPOSAL/BACKGROUND

Applications for a Consent and Minor Variance have been submitted for the subject property located at 348 Lake Temagami Island 1197, by the owners Ian Carswell and Shona Amyotte. The subject property is legally described as PCL 17012 SECONDED BY NIP; SUMMER RESORT LOCATION HS2104 CYTHIA FORMING PART OF ISLAND 1197 OR HORSESHOE ISLAND IN LAKE TEMAGAMI AS IN NP9070. The subject property is located within the Special Management Area designation and within the Lake Temagami Neighbourhood in the Official Plan. The subject property is located within the Remote Residential (R1) Zone – Lake Temagami in the Zoning By-law. The subject property location is shown in black on Figure 1.

Figure 1: Subject Property



The subject property has a lot area of 2.4 hectares (5.9 acres) and a lot frontage of approximately 130 metres on the shoreline of Lake Temagami. The subject property is located on the south portion of Horseshoe Island and is immediately surrounding by forested Crown Land. Surrounding patented land includes two properties, one property to the east of the subject property, and one to the west on a separate island.

The subject property is currently developed with the following:

- Two seasonal dwellings;
- A boathouse;
- Two tool sheds;
- Two wood sheds;
- Two outhouses; and,
- Two docks.

Both of the existing seasonal dwellings are serviced with an individual water supply and septic system. There is no new development being proposed on the subject property as a result of the two applications before the Committee of Adjustment.

The proposed Consent application is required to legally separate the existing development on the subject property. As a result, one new lot is being created on the subject lands. The proposed Minor Variance application is to recognize a lot frontage for each of the proposed lots that does not comply with the Zoning By-law.

There are no environmental features identified on the subject property, however a portion of Lake Temagami adjacent to the subject property is identified as a Fish Spawning Area on Schedule B1 to the Official Plan. As noted in the comments provided by Temagami First Nation, the subject property is in close proximity to spawning sites identified by the Ministry of Natural Resources and Forestry, and close to sites in TFN/TAA traditional land use (including berry gathering, camping/tenting sites and net fishing sites).

It should be noted that MHBC staff conducted a site visit to the subject property on September 30, 2019. Photos of the subject property are included in Attachment #1 to this Report.

B. PROPOSED CONSENT

The purpose of the Consent application is to sever the subject property into two lots that would legally separate two existing dwellings. The proposed lot configuration is shown on Figure 2.

Figure 2: Proposed Lot Configuration

Proposed Lot #1 is to have a lot area of 1.2 hectares and 87 metres of lot frontage on Lake Temagami. Proposed Lot #2 is to have a lot area of 1.2 hectares and a lot frontage of 72 metres on Lake Temagami. The result of the proposed Consent application would be two shoreline residential lot, each with an existing seasonal dwelling, septic systems, accessory buildings and structures, and docks.

C. PROPOSED MINOR VARIANCE

The subject property is located within the Remote Residential (R1) Zone – Lake Temagami in the Zoning By-law. The minimum required lot frontage for the R1 Zone is 90 metres, as stated in Section 7.4.2 a) (The lot) of the Zoning By-law. As a result of the proposed lot configuration, both Proposed Lot #1 and Proposed Lot #2 require a variance to the minimum required lot frontage. The lot frontage for Proposed Lot #1 is 87 metres and the lot frontage for Proposed Lot #2 is 72 metres. To be conservative, variances are requested for minimum lot frontages of 80 metres and 65 metres respectively.

D. COMMENTS RECEIVED

Prior to the preparation of this Report, comments have been submitted from the following on the proposed applications:

- Letter from Victoria Winsor, on behalf of Temagami First Nation dated October 31, 2019 – Letter provides a summary of the surrounding sites related to the TFN/TAA traditional land use and notes that the subject property is identified as a high potential archaeological area and registered border sites. TFN is in favour of the application if the condition that any new developments/excavation activity would require a phase 2 archaeological assessment and that this condition be registered on title.
- Email from Paul Tamburro, on behalf of the Temagami Lakes Association dated June 10, 2020 – No objections.
- Email from Nick Roche dated June 8, 2020 – No objections and requested copy of decisions.
- Email from Robin Koistinen, on behalf of Temagami First Nation dated June 9, 2020 – Requested clarification on the process of reviewing building permits in order to ensure contents of the Site Plan Agreement are adhered to. A response was provided noting that the Planning/Building Department review the Site Plan Agreement prior to issuing any future building permits. A permit cannot be issued if not in compliance with the Site Plan Agreement.

A copy of the comments have been included as Attachment #2 to this Report.

E. POLICY AND REGULATORY CONSIDERATIONS

The following is a review of the relevant policy and regulatory considerations that pertain to the proposed Consent application.

Provincial Policy Statement

A new Provincial Policy Statement (PPS) was approved by the Ministry of Municipal Affairs and Housing on May 1, 2020, and is applicable to the subject property. In the context of the PPS, the subject property is located on rural lands. Section 1.1.5.2 of the PPS recognizes resource-based recreational development, such as recreational dwellings, as a permitted use on rural lands.

Section 1.6.4.4 of the PPS contains policies that permit individual on-site sewage services and individual on-site water services where municipal services are not available, provided that the site conditions are suitable for the long-term provision of such services. The subject property contains existing development, including two seasonal dwellings that are each serviced by their own water and sewage services.

Section 2.0 of the PPS is titled Wise Use and Management of Resources. Policies are included in this section of the PPS regarding Natural Heritage (Section 2.1), Water (Section 2.2) and Cultural Heritage and Archaeology (Section 2.6) which are applicable to the subject property.

Section 2.1 of the PPS includes policies to protect natural heritage features, including wetlands, significant woodland, significant wildlife habitat, significant areas of natural and scientific interest, fish habitat and habitat of endangered and threatened species. The Official Plan identifies a Fish Spawning Area on Schedule B1 of the Official Plan. Although there is fish habitat identified on adjacent lands, the proposed Consent application does result in additional development on the subject property. The proposed Consent application is to separate the existing development on the subject property. Existing docks will also service each of the proposed lots. Due to the fact that development on the subject property is existing, an Environmental Impact Study was not required.

It is noted that the purpose of an Environmental Impact Study is to confirm no negative impacts on natural heritage features as a result of development, and to confirm building envelopes and docking locations for new lots and development. In this case, the building envelopes and the docking locations have already been established and have existed for some time.

Should additional development be proposed in the future, an EIS may be required as part of any future Planning Act application (including Site Plan Control).

Section 2.2 of the PPS includes policies that relate to the protection of water, and provides direction to planning authorities to protect, improve or restore the quality and quantity of water. The proposed Consent application does not result in the creation of a new lot that would require new development to be constructed. The subject property is currently developed and the proposed Consent application is simply to legally separate the existing development. On this basis, no negative impacts are anticipated to water quality as a result of the application.

Section 2.6 of the PPS includes policies regarding cultural heritage and archaeology. Section 2.6.2 states:

"Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved."

No additional development or site alteration is proposed on the subject property, or as a result of the proposed Consent application. It is recognized that the lands may contain archaeological resources or areas of archaeological potential based on the mapping and comments provided by Temagami First Nation. It is recommended that a condition in the Site Plan Agreement be included

to state that if additional development or excavation is proposed on the lots in the future, a Phase Two Archaeological Assessment would be required.

Section 3.1 of the PPS includes policies regarding natural hazards and the protection of new development. There are no known hazards on the subject property, and there is no new development proposed as a result of the Consent application.

Following a review of the relevant policies in the PPS, the proposed Consent application is consistent with the PPS.

Northern Ontario Growth Plan

The Northern Ontario Growth Plan recognizes that tourism is an important component of the economy of Northern Ontario. The applicability to this document in regards to the proposed Consent application is limited, however the development of resource-based recreational lots could be considered to conform to the policies of the Growth Plan.

Municipality of Temagami Official Plan

The subject property is located within the Special Management Area designation and is located within the Lake Temagami Neighbourhood in the Official Plan. An area on Lake Temagami to the south of the subject property is identified as a Fish Spawning Area on Schedule B1 to the Official Plan.

The permitted uses within the Lake Temagami Neighbourhood are included in Section 5.3.2 of the Official Plan. In accordance with the permitted uses, permanent and seasonal single detached dwellings are permitted on islands in Lake Temagami. However, the Plan requires the suitability of each lot for development to be assessed on a site by site basis in accordance with the policies of the Official Plan.

Permitted uses within the Special Management Area designation are limited to existing and new private residential development on islands, in accordance with the policies of Section 5.3.3 and 9.7 of the Official Plan.

Regarding the creation of new lots in the Lake Temagami Neighbourhood, Section 5.3.3 of the Official Plan states:

“Remote Residential development exists within the Lake Temagami Neighbourhood and a small amount of new development is anticipated on islands in the Special Management Area land use designation. The development impact by existing and new lots should be mitigated to the extent possible in order to conserve wilderness and semi-wilderness values. Plans of subdivision are not permitted in this Neighbourhood.”

Section 5.3.3.2 of the Official Plan includes policies that apply to the creation on new lots in the Lake Temagami Neighbourhood. Table 1 provides a summary of these policies.

Table 1: Lot Creation Policies in the Lake Temagami Neighbourhood

Section 5.3.3.2 - Remote Residential - Lot Creation Through Consents on Private Land	Comments on Conformity
The intended use of the lot conforms to the intent and policies of the Plan and the provisions of the Zoning By-law;	The existing and proposed use of the proposed lots meet the intent of the Official Plan and the provisions of the Zoning By-law. Seasonal single detached dwellings are permitted uses on the subject property and the proposed lots.
The Municipality shall not assume any responsibility for the provision of municipal services such as fire fighting, ambulance, water supply, sewage treatment and garbage collection to remote residential properties;	There is no new development proposed as a result of the Consent application. The service levels are to remain the same as existing.
In creating the lot, conformity with this Plan's policies is required respecting any natural heritage features and areas identified in this Plan;	There is a Fish Spawning Area identified on adjacent lands to the south of the subject property. The subject property contains existing development, including docks, and as a result there are no negative impacts anticipated to the adjacent fish habitat.
The applicant, when required, shall provide a study or studies acceptable to the Municipality that include an inventory of all existing natural and cultural heritage features both on the site and in the water adjacent to the site, including the shoreline characteristics such as type of littoral community and physical characteristics, the anticipated impact of the development and any measures proposed to satisfactorily mitigate the anticipated impacts of the development on the features otherwise, the Municipality will not approve the consent;	The proposed Consent application is to separate the existing development on the subject property. Due to the existing development on the subject property, an Environmental Impact Study was not required. The purpose of an Environmental Impact Study is used to confirm no negative impacts on natural heritage features as a result of development, and to confirm building envelopes and docking locations for new lots and development. In this case, the building envelopes and the docking locations have already been established and have existed for some time.
The soil, drainage, and slope conditions on the lot are suitable or can be made suitable for the proper siting of buildings and the installation of an approved water supply and Class IV sewage disposal system;	The soil, drainage and slope conditions on the subject property are not proposed to be altered as a result of the Consent application. Both the proposed lots are to contain a seasonal single detached dwelling, serviced by its own existing septic system.
The fisheries habitat, cultural heritage features, steep or unstable soils, environmentally sensitive areas, and other bio-physical aspects of the consent are not negatively impacted by the development;	As mentioned above, there are no negative impacts anticipated to fish habitat nor environmentally sensitive areas as a result of the Consent application. It is recognized that the lands may contain archaeological resources

	or areas of archaeological potential based on the mapping and comments provided by Temagami First Nation. It is recommended that a condition in the Site Plan Agreement be included to state that if additional development or excavation is proposed on the lots in the future, a Phase Two Archaeological Assessment would be required.
Where a water well is proposed, the well shall be established and quality and quantity standards proven prior to final consent is granted;	There are existing water supplies in place for each of the existing seasonal single detached dwellings.
Where access to the lot is by water, adequate long term parking and docking facilities and a receiver for garbage shall be secured to the satisfaction of the Municipality;	There are two existing docks on the subject property and the proposed lots are to each have their own dock.
Documentation is provided indicating that suitable dock locations are available on the lot;	Same comment as above.
<p>The lot shall be subject to site plan control which shall include:</p> <ul style="list-style-type: none"> • Visual screening, setbacks, protection of vegetation, and landscaping; • Utilization of existing vegetation and topography to minimize visual impacts; • Buildings and structures located in the shoreline activity area; • Lots with sparse or no vegetative buffer where the siting of buildings or structures have the potential for significant visual impact; • Rehabilitation of vegetation disturbed due to construction; and • Mitigation techniques to minimise impacts on surrounding development and uses. 	As a result of the proposed Consent application, the existing development on the subject property will be unaltered. The character of the area and the view from the lake will remain the same. The subject property is currently subject to a Site Plan Agreement. A condition of provisional Consent will require that both properties enter into a Site Plan Agreement with the Municipality.

In addition to the above Consent policies that apply to the Lake Temagami Neighbourhood, the Official Plan includes additional Consent policies that apply on a municipal-wide basis. Table 2 provides a summary of these policies.

Table 2: General Consent Policies

Section 9.7.1 - Consents to Sever Patented Land	Does the Consent application Conform?
The intended use of the severed and retained parcels conform to the intent and policies of this plan.	Yes. The existing and intended use of the proposed lots conform to the Official Plan.
Generally the number of lots created does not exceed three.	Yes. The Consent application is to legally separate existing development and to create one new lot.
A registered plan of subdivision is not required.	Yes. A Plan of subdivision is not required.
The size and dimensions of the severed and retained parcels conform to the provisions of the Zoning By-law.	No. As a result of the proposed lot configuration, both Proposed Lot #1 and Proposed Lot #2 require a variance to the minimum required lot frontage. The lot frontage for Proposed Lot #1 is 87 metres and the lot frontage for Proposed Lot #2 is 72 metres. To be conservative, variances are requested for minimum lot frontages of 80 metres and 65 metres respectively. These variances would bring the proposed lots into compliance with the Zoning By-law. See Section F of this Report.
The application represents an orderly and efficient use of land and the severance would not hinder development of the retained lands.	Yes. The Consent application does not result in any new development and the character of the area, including view from the lake is unaltered.
The size and dimensions of the severed parcel and the retained parcel, are adequate to accommodate the proposed use or uses.	Yes. The subject property contains two existing seasonal single detached dwellings. The proposed lot areas meet the minimum in the Official Plan and the Zoning By-law.
Demonstrated ability that the dock locations are suitable by study and/or approval by the appropriate authority.	Yes. Two existing docks are located on the subject property. The lot configuration is proposed such that each of the proposed lots will contain one of the existing docks.
Site Plan Control	Yes. The proposed lots will be subject to Site Plan Control.
Adequate access to the severed and retained parcel can be provided.	Yes. The subject property is located on an island and accessible by water. Access can be provided by the access point or by one of the marinas. The development is existing and would not create an additional demand on access facilities.
The severed parcel is not within 500 metres of a known sanitary landfill site.	Yes. We are not aware of any landfill sites in the area.

Where central sewage and water facilities are not available, it has been established that the soil and drainage conditions on the severed and retained parcels are suitable or can be made suitable to permit the proper siting of buildings and the installation of an approved water supply and Class IV or VI sewage disposal systems.	Yes. The subject property and the proposed lots are developed and contain septic systems.
Where a water well is proposed, the well shall be established and quality and quantity standards proven prior to final consent is granted.	Yes. The subject property and the proposed lots are developed and contain water supplies.
The applicant, when required, has provided a study or studies acceptable to the Municipality that include an inventory of all existing natural and cultural heritage features both on the site and in the water adjacent to the site, including the shoreline characteristics such as type of littoral community and physical characteristics, the anticipated impact of the development and any measures proposed to mitigate the anticipated impacts of the development on the features.	<p>Yes. The proposed Consent application is to separate the existing development on the subject property, as well as the two docks that currently provide access to the subject property, and to the proposed lots. Due to the nature of the proposed Consent and the existing development, an Environmental Impact Study was not required. The purpose of an Environmental Impact Study is used to confirm no negative impacts on natural heritage features as a result of development, and to confirm building envelopes and docking locations for new lots and development. In this case, the building envelopes and the docking locations have already been established and have existed for some time.</p> <p>As mentioned above, there are no negative impacts anticipated to fish habitat nor environmentally sensitive areas as a result of the Consent application. It is recognized that the lands may contain archaeological resources or areas of archaeological potential based on the mapping and comments provided by Temagami First Nation. It is recommended that a condition in the Site Plan Agreement be included to state that if additional development or excavation is proposed on the lots in the future, a Phase Two Archaeological Assessment would be required.</p>
The financial impacts on the Municipality have been considered.	Yes. There are no anticipated financial impacts on the Municipality.

Further to the review of the policy framework in the Official Plan regarding lot creation, the policies within Section 2.14 and Section 9.24 regarding cultural heritage features have been reviewed. The Temagami First Nation was circulated a copy of the application and have provided comments. In accordance with these comments and a review of the Official Plan policies, it is recognized that the lands may contain archaeological resources or areas of archaeological potential based on the mapping and comments provided by Temagami First Nation. It is recommended that a condition in the Site Plan Agreement be included to state that if additional development or excavation is proposed on the lots in the future, that a Phase Two Archaeological Assessment would be required.

Policies regarding natural heritage features and areas are included in Section 9.7.4 of the Official Plan. The proposed Consent application is not anticipated to have negative impacts on any natural heritage features and areas, including the area identified as a Fish Spawning Area on Schedule B1 to the Official Plan. The proposed Consent application does not result in any new development or site alteration on the subject property, and the proposed lots are already developed with seasonal single detached dwellings and individual water supplies and septic systems. Each of the proposed lots are also to contain a dock which are also existing.

The proposed Consent application to legally separate the existing development on the subject property and to create one additional lot conforms to the Official Plan.

Municipality of Temagami Zoning By-law

The minimum lot frontage for properties located within the Remote Residential (R1) Zone – Lake Temagami is 90 metres, as stated in Section 7.4.2 a) (The lot) of the Zoning By-law. The proposed lots are to have lot frontages of approximately 87 metres and 72 metres on Lake Temagami which do not meet the minimum required in the Zoning By-law. As a result, a Minor Variance application is required to recognize these deficient lot frontages.

Permanent and seasonal dwelling units are included under Section 7.4.1 of the Zoning By-law and are permitted in the R1 Zone. Other zone requirements for the R1 Zone have been reviewed, including minimum lot area, minimum side yard, and total lot coverage. The minimum lot frontage is the only zone requirement that requires a variance.

A summary of the proposed Minor Variance is provided in Section F of this Report.

F. THE FOUR TESTS OF A MINOR VARIANCE

The purposes of the Minor Variance application is to seek variances to the minimum required lot frontage of the Remote Residential (R1) Zone – Lake Temagami. The lot frontages of the proposed lots do not meet the minimum lot frontage in the Zoning By-law. The minimum lot frontage for properties located within the Remote Residential (R1) Zone – Lake Temagami is 90 metres, as stated in Section 7.4.2 a) (The lot) of the Zoning By-law. As shown on Figure 2, Proposed Lot #1 is to have a lot frontage of 87 metres and Proposed Lot #2 is to have a lot frontage of 72 metres on the shoreline of Lake Temagami. Variances are sought to permit a minimum lot frontage of 80 metres and 65 metres respectively, to facilitate the creation of the proposed lots on the subject property.

In considering the Minor Variance application, the Committee of Adjustment needs to be satisfied that the proposal is in-keeping with the “Four Tests” of a Minor Variance as set out in Section 45 (1) in the *Planning Act*. Information pertaining to Section 45(1), the four tests of a minor variance, is as follows:

1) Is the variance in-keeping with the intent of the Official Plan?

The subject property is designated as Special Management Area and is located within the Lake Temagami Neighbourhood in the Official Plan. The permitted uses within the Lake Temagami Neighbourhood and the Special Management Area designation include seasonal single detached dwelling units.

Section 2.17 of the Official Plan contains policies which guide development on waterfront properties. This policy promotes the retention of vegetative buffers to screen development from the shoreline.

New development is not considered through this application, as the new lots are being created to legally separate two existing seasonal single detached dwellings. From the shoreline perspective, no changes are proposed through this application.

The purpose of the minimum lot frontage requirement in the Zoning By-law is to implement the policies in the Official Plan regarding the shoreline, and to ensure properties are adequately spaced to assist in maintaining the character of the shoreline area, particularly when the properties are viewed from the lake. Minimum lot frontages also assist to ensure that sufficient areas exist to establish docking locations along the shoreline.

In this case, the proposed variances are in-keeping with the intent of the Official Plan. The character of the shoreline is established by the existing development and no changes are proposed. Existing docking areas also exist for both of the proposed lots.

2) Is the variance in-keeping with the intent of the Zoning By-law?

The subject property is located within the Remote Residential (R1) Zone – Lake Temagami. Section 7.4.2 a) (The lot) of the Zoning By-law requires a lot to have a minimum lot frontage of 90 metres. The variances are to permit the proposed lots to have minimum lot frontages of 80 metres and 65 metres.

Although the proposed lot frontages do not meet the requirement in the Zoning By-law, the variances are in-keeping with the intent of the Zoning By-law. The minimum lot frontage of 90 metres is established to ensure adequately spacing between lots, and to ensure sufficient areas are made available for docking along the shoreline. Considering the proposed lots are already developed, the reduced lot frontages are appropriate in this instance. The lots are developed, serviced and already contain docking facilities.

3) Will the variance provide for the desirable development of the land?

Is this unique case, there is no new development or site alteration proposed as a result of this application. The subject property is designated and zoned for shoreline residential purposes, and the effect of the application will facilitate the legal separation of two existing seasonal single detached dwelling. The proposed variance would not result in a negative impact to the existing character of the area, view from the lake, nor have an impact on adjacent landowners. The proposed variances are desirable.

4) Is the variance minor?

MHBC staff conducted a site inspection to the subject property on September 30, 2019. Based on the site inspection and a review of the application, it is our opinion that the variances are minor in nature. The subject property is currently developed and no new development or site alteration is proposed. The resulting lots are being created by legally separating the existing development on the subject property, and the reduction of the required minimum lot frontages are minor in our opinion.

G. RECOMMENDATIONS

Consent Application

Based on the review of the Consent application C-19-03 submitted by Ian Carswell and Shona Amyotte, the application is consistent with the PPS, and conforms to the Growth Plan and the Municipality's Official Plan. It is recommended that the Consent application be provisionally approved in accordance with the application sketch and subject to the following conditions of provisional Consent:

- 1) Preparation of an updated Reference Plan, in substantial compliance with the application sketch, to the satisfaction of the Municipality;
- 2) That a Site Plan Agreement be entered into with the Municipality for both Lots #1 and Lot #2;
- 3) That the Site Plan Agreements include the following clause: The property is located within an area of high archaeological potential. If artifacts are uncovered on the property, the owners shall contact the Ministry of Tourism, Culture and Sport, as well as Temagami First Nation, to determine whether or not a licensed archaeologist needs to attend the site;
- 4) Confirmation that Proposed Lot #1 (western lot) has a lot frontage of 80 metres or greater and that Proposed Lot #2 (eastern lot) has a lot frontage of 65 metres or greater in accordance with Minor Variance application MV-19-04; and,
- 5) Any other standard conditions of the Municipality.

Minor Variance Application

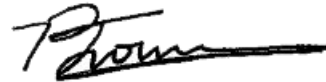
Based on the review of the Minor Variance application MV-19-04 submitted by Ian Carswell and Shona Amyotte, the proposed variances meet the intent of the Official Plan, the intent of the Zoning By-law, are desirable, and appear to be minor. It is recommended that the variances be approved that would permit new lots with a lot frontage of 80 metres (Lot #1) and a lot frontage of 65 metres (Lot #2).

Respectfully Submitted,

MHBC Planning

A handwritten signature in black ink, appearing to read 'J. Robinson', with a long horizontal flourish extending to the right.

Jamie Robinson, BES, MCIP, RPP
Partner

A handwritten signature in black ink, appearing to read 'P. Townes', with a long horizontal flourish extending to the right.

Patrick Townes, BA, BEd
Associate