REPORT

TO: Committee of Adjustment
FROM: Michael Benner
DATE: October 8, 2019
REPORT: PL.19.93
SUBJECT: B30.2019 - Gainor / Kastenek

RECOMMENDATION:

That Consent Application B30.2019 be approved, subject to the following conditions:

- Payment of any Municipal Taxes, if any.
- Payment of Parkland Dedication Fee.
- Payment of the $300.00 Approval Fee.
- That the proponent demonstrate their consultation with the Ministry of the Environment, Conservation and Parks (MECP) as there is potential habitat for threatened and endangered species within the vicinity of the subject property.
- That an entrance permit be obtained from the Municipality of Grey Highlands.
- That a zoning bylaw amendment, implementing the consent, be approved by the municipality of Grey Highlands.

BACKGROUND AND ANALYSIS:

Application Details: Consent Applications B30.2019

Location:
CIVIC ADDRESS: 315219 3rd Line A
LT 4 CON 2 EUPHRASIA; GREY HIGHLANDS
Registered Owner: John Gainor and Patricia Kastanek
Applicant: John Gainor

Grey County Official Plan: Rural, Provincially Significant Wetlands and Hazard
Grey Highlands Official Plan: Rural, Provincially Significant Wetlands and Hazard
Zoning By-law No. 2004-50: Rural (RU), Wetland (W) and Hazard (H)

Proposal:
The purpose of consent application B30.2019 is to sever a rural residential lot with a lot area of approximately 1.2 hectares and a lot frontage of 65 meters onto 3rd Line A. The retained parcel will have a lot area of 79.8 hectares and a lot frontage of 541 meters onto 3rd Line A.

OPERATIONAL CONSIDERATIONS:

1.0 Overview:

The subject lands have a total lot area of 81 hectares and a lot frontage of 606 metres along 3rd Line A. The lands are partly occupied by a house and workshop. This Consent proposes to sever a rural lot with an area of 1.2 hectares. The retained portion of the lands, being 79.8 hectares, contains a dwelling, workshop and a mix of farmlands and forests. A zoning by-law amendment was also submitted for the subject lands to permit a breeding dog kennel to be established on the retained lands.

2.0 Planning Analysis:

The following matters were reviewed as part of this application:

• General Development Policies
• Rural Consent Policies
• Proposed Lot Configuration
• Permitted uses for the subject lands.

2.1 Provincial Policy Statement (2014):

The Provincial Policy Statement (PPS) states that in respect of the exercise of any authority that affects a planning matter, Section 3 of the Planning Act requires that decisions affecting planning matters "shall be consistent with" policy statements issued under the Act.

Within the Rural Lands in Municipalities, permitted uses include the management or use of resources; resource based recreational uses; limited residential development; home occupations and home industries; cemeteries; and other rural land uses. Development that is compatible with the rural landscape and can be sustained by rural services levels should be promoted.

2.2 The County of Grey Official Plan:

Schedule A of the County OP identifies the subject property as 'Rural'. Policy 5.4.3(1) states that:

All consents for new lot development shall be no smaller than 0.8 hectares in area, and the maximum lot density shall not be exceeded. The Original Township lot is 30 hectares. Under the Rural consent policies, 3 total lots are permitted including the severed and the retained. As a result of the proposed severance, there will be 3 total lots on the Original Township 30 hectare lot.

Schedule A of the County OP also designates a portion of the subject property as 'Provincially Significant Wetlands'. Section 7.3.1 states that:
No development or site alteration may occur within the adjacent lands of the Provincially Significant Wetlands and Significant Coastal Wetlands land use type unless it has been demonstrated through an environmental impact study, as per Section 7.11 of this Plan, that there will be no negative impacts on the natural features or their ecological functions.

Development or site alteration within the adjacent lands of the Provincially Significant Wetlands and Significant Coastal Wetlands land use type will require a permit from the appropriate conservation authority.

Further, Schedule A also indicates that there are ‘Hazard Lands’ on the subject property. Section 7.2 states that:

Permitted uses in the Hazard Lands land use type are forestry and uses connected with the conservation of water, soil, wildlife and other natural resources. Other uses also permitted are agriculture, passive public parks, public utilities and resource based recreational uses. The aforementioned uses will only be permitted where site conditions are suitable and where the relevant hazard impacts have been reviewed.

Schedule C of the County OP identifies the existence of ‘Core Area and Linkages’ on the subject property. Section 7.1 states that:

Development proposed within Core Areas, their 120 metre adjacent lands, or Linkages will be required to undertake an environmental impact study (EIS), unless otherwise exempted by 7.11.3 of this Plan*. This EIS will assess the natural features, their adjacent lands and their connections to other natural features. Table 10 below provides for the permitted uses in Core Areas and Linkages.

Comments from the County and the Conservation Authority will be germane in the implementation of these policies and how they impact the proposed development.

2.3 The Municipality of Grey Highlands Official Plan:

The subject lands are designated as Rural in the municipality's Official Plan.

The purpose of the Rural designation is to protect existing farming operations and to sustain and improve the quality of the rural landscape and rural amenities, and to encourage land uses, which provide an economic benefit to the municipality. All development within the Rural designation must comply with the General Development Policies contained in subsections 4.2.1, and 4.2.2. Furthermore, all applications for Consent must comply with the Rural Consent Policies contained in subsection 4.2.3 of the Official Plan.

Subsection 4.2.2 provides detailed policies relating to uses permitted within the rural designation and, in particular, notes that new non-farm uses should not be developed on improved agricultural lands, and if proposed, it must be demonstrated that no reasonable alternative lands exist on the applicant’s holdings.
The proposed severance meets the above noted policies.

All MDS calculations have been satisfactorily addressed.

2.4 The Municipality of Grey Highlands Comprehensive Zoning By-law No. 2004-50:

The lands intended to be severed are zoned as Rural in the municipality's Comprehensive Zoning Bylaw. The policies contained in the Rural zone permit severances as proposed on the subject lands. However, as the size of the severed land is below the minimum size permitted in the Rural zone, the severed parcel will need to be rezoned to Rural Residential to implement the consent to sever.

3.0 Comments Received (Summary):

Comments were provided from the following authorities having jurisdiction over the subject lands:

The County of Grey comments dated September 27, 2019.
County planning staff recommend that comments be received from the local conservation Authority regarding the above noted natural heritage features.

Provided that test holes are dug for the Karst before future development occurs and positive comments are received from the conservation authority regarding the natural heritage features on the subject property, County planning staff have no further concerns with the subject application.

Grey Sauble Conservation Authority comments dated September 17, 2019.
GSCA staff recommend that as a condition of the consent the proponent demonstrate their consultation with the Ministry of the Environment, Conservation and Parks (MECP) as there is potential habitat for threatened and endangered species within the vicinity of the subject property. MECP should review to identify any breeding pairs on the property and determining any necessary associated development setback requirements.

The GSCA recommends that any development be completed outside the breeding bird nesting season, April 1st to August 15th.

Otherwise, based on the proposed location of the dog kennel adjacent to the existing developments and the previously disturbed nature of this area and the proposed land for severance the GSCA generally has no objections to the subject proposal as it is not anticipated to further negatively impact the O. Reg. 151/06 area, natural hazard and/or significant natural heritage features.

The Municipality of Grey Highlands Transportation and Environmental Services Department comments dated September 25, 2019.

An entrance permit will be required as a condition of consent.

No concerns

Hydro One Networks comments dated September 10, 2019.

No concerns

4.0 Summary

In summary Planning staff recommend support for the proposed severance subject to the conditions noted in this report.

5.0 Attachments

Appendix 1 – MGH Location Map
Appendix 2 – Aerial Map
Appendix 3 – Zoning Map
Appendix 4 – Agency/Department comments
Appendix 5 – Notice and Sketch

GREY HIGHLANDS’ STRATEGIC PLAN:
Vibrant Economy

Approved By: Status:
Michael Benner, Director of Planning Approved - 03 Oct 2019
Karen Mills, Chief Administrative Officer Approved - 04 Oct 2019
RE: Consent Application B30.2019  
315219 3rd Line A  
Municipality of Grey Highlands  
Applicant/Owner: John Gainor and Patricia Kastanek

Dear Mr. Benner,

This correspondence is in response to the above noted application. We have had an opportunity to review the application in relation to the Provincial Policy Statement (PPS) and the County of Grey Official Plan (OP), Recolour Grey. We offer the following comments.

The purpose and effect of consent application B30.2019 is to sever a rural residential lot with a lot area of approximately 1.2 hectares and a lot frontage of 65 meters onto 3rd Line A. The retained parcel will have a lot area of 79.8 hectares and a lot frontage of 541 meters onto 3rd Line A.

Schedule A of the OP designates the subject lands as ‘Rural’. Section 5.4.1 of Recolour Grey states,

1) All consents for new lot development shall be no smaller than 0.8 hectares in area, and the maximum lot density shall not be exceeded as outlined in Table 9 below. The lot density is determined based on the original Township lot fabric (i.e. as determined by the original crown survey) and shall be pro-rated up or down based on the size or the original Township lot. Any proposed increase to this maximum lot density will require an amendment to this Plan, and will require justification as to the need for additional Rural lot creation.
The subject application meets the above noted policy. The purpose new lot creation needs to meet the MDS formulae. Municipal staff shall confirm that MDS can be met.

Schedule A of Recolour Grey also designates a portion of the subject property as ‘Provincially Significant Wetlands’. Section 7.3.1 states,

2) No development or site alteration may occur within the adjacent lands of the Provincially Significant Wetlands and Significant Coastal Wetlands land use type unless it has been demonstrated through an environmental impact study, as per Section 7.11 of this Plan, that there will be no negative impacts on the natural features or their ecological functions.

Development or site alteration within the adjacent lands of the Provincially Significant Wetlands and Significant Coastal Wetlands land use type will require a permit from the appropriate conservation authority.

Further, Schedule A also indicates that there are ‘Hazard Lands’ on the subject property. Section 7.2 states,

2) Permitted uses in the Hazard Lands land use type are forestry and uses connected with the conservation of water, soil, wildlife and other natural resources. Other uses also permitted are agriculture, passive public parks, public utilities and resource based recreational uses. The aforementioned uses will only be permitted where site conditions are suitable and where the relevant hazard impacts have been reviewed.

Schedule C of Recolour Grey identifies the existence of ‘Core Area and Linkages’ on the subject property. Section 7.1 states,

3) Development proposed within Core Areas, their 120 metre adjacent lands, or Linkages will be required to undertake an environmental impact study (EIS), unless otherwise exempted by 7.11.3 of this Plan*. This EIS will assess the natural features, their adjacent lands and their connections to other natural features. Table 10 below provides for the permitted uses in Core Areas and Linkages.

County planning staff recommend receiving comments from the Conservation Authority regarding the above noted natural heritage features.

Appendix A of Recolour Grey indicates that the subject property contains ‘Karst Area’. Section 7.5 states,
In areas mapped as 'Karst Area' on Appendix A, it will be necessary for the proponent of any planning application to provide an assessment of the proposed area of development. Often, this can be accomplished by on-site test holes, however in some circumstances broader landscape features may indicate karst and may indicate the need for further assessment/confirmation. Depending on the site and the scale of the development, an environmental impact study, Hydrogeological or Karst Study, completed by a qualified individual may be required.

1) In determining if the constraint feature is present, the proponent shall dig two test holes in the location of the proposed main building (e.g. in the northwest & southeast 127 corners), one test hole in the location of the proposed sewage system and one test hole in the proposed location of each accessory structure. The test holes shall be inspected by a qualified municipal or conservation authority official, or a qualified third party consultant, capable of determining karst features. A brief report of the findings is then be prepared and submitted to the County of Grey and local municipality.

2) If the test holes reveal shallow overburden, less than one metre in depth, above fractured bedrock, or if broader landform features indicative of karst are observed on the landscape, a study by a qualified individual shall be prepared to assess impacts and mitigation measures relating to the proposed development. Considerations addressed by this study should include surface water drainage; groundwater quality; bedrock erosion; and, any anticipated hazard associated with unstable bedrock conditions potentially arising as a result of karst features. The study shall be to the satisfaction of the County of Grey, the local municipality, and the appropriate authority designated under the Ontario Building Code for sewage systems.

The application indicates that the subject applicants intend on using the severed parcel for residential use in the future. County planning staff will require test holes be dug and potential mitigation efforts be put in place before future development occurs.

Appendix B indicates that the subject property contains ‘Significant Woodlands’. Section 7.4 of Recolour Grey states,

1) No development or site alteration may occur within Significant Woodlands or their adjacent lands unless it has been demonstrated through an environmental
Grey County: Colour It Your Way

impact study, as per Section 7.11 of this Plan, that there will be no negative impacts on the natural features or their ecological functions.

Further, Appendix B indicates that the subject property contains ‘Other Wetlands’. Section 7.3.2 states,

1) No development or site alterations are permitted within Other Wetlands or their adjacent lands, shown on Appendix B, or as identified by conservation authorities, unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

County planning staff recommend that comments be received from the local conservation Authority regarding the above noted natural heritage features.

Provided that test holes are dug for the Karst before future development occurs and positive comments are received from the conservation authority regarding the natural heritage features on the subject property, County planning staff have no further concerns with the subject application.

The County requests notice of any decision rendered with respect to this application.

If you wish to discuss this matter further, please do not hesitate to contact me.

Yours truly,

Hiba Hussain
Planner
(519) 372-0219 ext. 1233
hiba.hussain@grey.ca
www.grey.ca
September 17, 2019

Mr. Michael Benner, Director of Planning and Development
206 Toronto St South, Unit 1
Box 409
Markdale ON
N0C 1H0

Dear Mr. Benner:

RE: Zoning Application Z37/2019
Consent Application B30/2019
Applicant: Patricia Kastanek
Lot 4, Concession 2; 315219 3RD LINE A
Roll Number: 420839000103400
Municipality of Grey Highlands, formerly Euphrasia Township
Our File: P19362

The Grey Sauble Conservation Authority (GSCA) has reviewed this application in accordance with our mandate and policies for natural hazards, for natural heritage issues as per the Memorandum of Agreement with the Municipality of Grey Highlands and relative to our policies for the implementation of Ontario Regulation 151/06. We offer the following comments.

Subject Proposal
The subject proposal is with regards to the following two applications

1) Zoning application Z37/2019 to permit the construction of a dog kennel.

2) Consent application B30/2019 proposes the severance of a 3 acre lot from the subject property.

Site Description
The subject property is located on the east side of 3rd Line A approximately 2.2 km north of the Artemesia-Euphrasia Townline in the Municipality of Grey Highlands, formerly Euphrasia Township. The majority of the property is forested featuring both coniferous and deciduous species such as cedar, white birch, spruce, maple and ash. A wetland feature through the south eastern corner of the lot. A watercourse extends from the north to the south through the middle of the property. The north western corner of the property was previously used for agricultural purposes,
however, during the site inspection no current agricultural use was evident. The field areas have been maintained to prevent vegetative overgrowth. Species such as queen Anne’s lace, heal all, cow vetch and clover were present.

**GSCA Regulations**
A portion of the subject property is regulated under Ontario Regulation 151/06: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses. The regulated area is associated with the meander belt encompassing the watercourse feature, wet prone areas and the Little Germany Provincially Significant Wetland Complex (PSW).

Under this regulation a permit is required from this office prior to the construction, reconstruction, erection or placing of a building or structure of any kind; any change to a building or structure that would have the effect of altering the use or potential use of the building or structures, increasing the size of the building or structure, or increasing the number of dwelling units in the building or structure; site grading; or, the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere, if occurring within the regulated area. Also, a permit is required for interference with a wetland, and/or the straightening, changing, diverting or in any way interfering with an existing channel of a river, lake, creek stream or watercourse.

Based on the submitted site plan, no permit from the GSCA is required for the subject proposals.

**Provincial Policy Statement (2014)**

### 3.1 Natural Hazards
The GSCA identified hazard on the subject property associated with the flooding and erosion of the Little Germany PSW Complex. The following policy under the Provincial Policy Statement (2014) is relevant:

3.1.1 b) Development shall generally be directed to areas outside of hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards

Based on the submitted site plan, no development is proposed within the hazard area.

### 2.1 Natural Heritage
The GSCA identified natural heritage features associated with provincially significant wetland, significant wildlife habitat and significant woodland, these features are located within the undisturbed, natural portion of the property. The proposed development is restricted to the previously disturbed portion of the property. However, potential habitat of threatened or endangered species is present on the subject property. The following policies under the Provincial Policy Statement (2014) is relevant:
2.1.7 Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.

Based on Natural Heritage Information Centre (NHIC) historical records indicate the presence of the Eastern Meadowlark, a species considered to be threatened by the Province, on or within the vicinity of the subject property. The Eastern Meadowlark is typically found in habitats of tall grasslands such as pastures and hayfield as present on the subject property. We recommend that the Ministry of the Environment, Conservation and Park (MECP) be consulted to determine whether any breeding pairs are present on the subject property and to establish the necessary setbacks. Though no Eastern Meadowlark were identified during the GSCA’s September 6, 2019 site inspection, the inspection was completed outside of the breeding bird season therefore, an accurate review could not be completed.

The County of Grey Official Plan (OP) includes a 120-metre allowance for adjacent lands from the habitat and threatened and endangered species habitat. The proposed dog kennel and property severance appear to be within the 120 metre adjacent lands width from the historical record of a threatened species.

2.1.8 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policy 2.1.4 (provincially significant wetland) and 2.1.5 (significant wildlife habitat and significant woodland) unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

The County of Grey OP includes a 120 metre allowance for adjacent lands from provincially significant wetland, significant wildlife habitat and significant woodland. Based on the submitted site plans, the developments associated with the subject proposal are within the adjacent land setback to the significant woodland feature.

Recommendations
We recommend that as a condition of the consent the proponent demonstrate their consultation with the Ministry of the Environment, Conservation and Parks (MECP) as there is potential habitat for threatened and endangered species within the vicinity of the subject property. MECP should review to identify any breeding pairs on the property and determining any necessary associated development setback requirements. The GSCA recommends that any development be completed outside the breeding bird nesting season, April 1st to August 15th.

Otherwise, based on the proposed location of the dog kennel adjacent to the existing developments and the previously disturbed nature of this area and the proposed land for severance our office generally has no objections to the subject proposal as it is not anticipated to further negatively impact the O. Reg. 151/06 area, natural hazard and/or significant natural heritage features.
Furthermore, the GSCA recommends that the current hazard zoning be amended to reflect the hazard mapping as proposed by our office to encompass the wetland and wet prone areas identified through stereo mapping as shown in the attached map. The revision of the Hazard Zone area is generally less than is currently mapped.

We request a notice of decision in this matter to be provided to our office and any notices of appeal.

If any questions should arise, please contact our office.

Regards,

Lauren McGregor
Planning Technician

enclosure

cc Ms. Cathy Little, GSCA Director, Municipality of Grey Highlands
Planning & Building Department, Municipality of Grey Highlands
Planning Department, Grey County
GSCA: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses (Ontario Regulation 151/06)
Hello,

We are in receipt of your Application for Consent, B30.2019 dated September 6, 2019. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time.

Our preliminary review considers issues affecting Hydro One’s ‘High Voltage Facilities and Corridor Lands’ only.

For proposals affecting ‘Low Voltage Distribution Facilities’ please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:

http://www.hydroone.com/StormCenter3/

Please select ‘Search’ and locate address in question by entering the address or by zooming in and out of the map.

If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre.

Please let me know if you have any questions or concerns.

Thank you,

Dennis De Rango
Specialized Services Team Lead, Real Estate Department
Hydro One Networks Inc.
Tel: (905)946-6237
Email: Dennis.DeRango@HydroOne.com

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Planning Application Comments

Department: Building

Date: September 23, 2019

File No: B30-2019

Property Owner: John Gainor and Patricia Kastanek

Roll Number: 390.001.03400

Comments:

☐ Building Department has no concerns with the proposed consent application from the above noted roll number to sever a rural residential lot with a lot area of approximately 1.2 hectares and a lot frontage of 65 meters onto 3rd Line A. The retained parcel will have a lot area of 79.8 hectares and a lot frontage of 541 meters onto 3rd Line A.

☐ The owner should be aware that any development in the future on the subject lands will require approved permits from all legislated authorities, and meet the required regulations in place at time of application.

Name: Debbie Anderson, CBCO, BCIN 11900

Title: Chief Building Official
Planning Application Comments

Department: Transportation and Environmental Services
Date: September 25, 2019
File No: B30.2019
Property Owner: John Gainor and Patricia Kastinek
Roll Number: 420839000103400

Comments:

The Transportation and Environmental Services Department has the following comments with regard to the Consent Development Application.

1. This area is within the Niagara Escarpment Commission’s natural area; therefore a permit for the proposed entrance on the severed portion will have to be obtained from the NEC prior to applying for a Municipality of Grey Highlands Entrance Permit.

2. As a condition of the severance, the applicant must complete and execute a Municipality of Grey Highlands entrance permit.

Name: Herb Lemon
Title: Director, Transportation ES
NOTICE OF PUBLIC MEETING

COMMITTEE OF ADJUSTMENT
Application for Consent B30.2019

Tuesday, October 8, 2019 at 5:00 p.m.
Municipality of Grey Highlands
206 Toronto St. S, Unit 1, Markdale, ON

Registered Owner: John Gainor and Patricia Kastanek
Applicant: John Gainor

Legal description: LT 4 CON 2 EUPHRASIA; GREY HIGHLANDS
Civic Address: 315219 3rd Line A
Severed Parcel Frontage: 65m Depth: 180m Area: 1.2 ha
Retained Parcel Frontage: 541m Depth: 1352m Area: 79.8 ha
Having access on: 3rd Line A

The purpose and effect of consent application B30.2019:
To sever a rural residential lot with a lot area of approximately 1.2 hectares and a lot frontage of 65 meters onto 3rd Line A. The retained parcel will have a lot area of 79.8 hectares and a lot frontage of 541 meters onto 3rd Line A.

A sketch of the proposed severance is attached.

Why did I receive this notice?
Property owners within 120 metres of the subject land are notified of an application for severance.

Where do I submit my comments?
Please submit written comments to the Secretary-Treasurer, Committee of Adjustment
By mail or in person:
50 Lorne Street
PO Box 409
Markdale, ON N0C 1H0
Fax: 226-909-0662
Email: planning@greyhighlands.ca

Written comments are requested by October 7, 2019 so that they may be read at the public meeting for the benefit of everyone in attendance.

Questions? Want more information? Ask the Planning Department.
Visit: 50 Lorne Street, Markdale, ON during regular office hours 8:30am to 4:30pm
Phone: 519-986-1216 x193 Email: planning@greyhighlands.ca Website: www.greyhighlands.ca