

# TAY TOWNSHIP



## Committee of Adjustment Meeting, January 18, 2017

**Presented By:**

**Steve Farquharson**

Director of Planning and Development

**Tony Huguenin**

Secretary Treasurer

# TAY TOWNSHIP



## Committee of Adjustment October 19, 2016

- 1) 2017-A-01 & 2017-B-01 (John Eplett and Leah Eplett)
- 2) 2017-B-02 & 2017-B-03 (Hayward Properties Ltd.  
(Kim Seeley))
- 3) 2017-A-02 (Jeremy Shaw and Ashley Antonio)
- 4) 2017-B-04 (Lawrence Horton and Debora Horton)



## Corporation of the Township of Tay

450 PARK ST.  
P.O. BOX 100  
VICTORIA HARBOUR  
ONTARIO L0K 2A0

(705) 534-7248  
FAX (705) 534-4493

### PLANNING & DEVELOPMENT DEPARTMENT Staff Report

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<b><u>Department/Function:</u></b>	Committee of Adjustment
<b><u>Chair:</u></b>	Andy Ott
<b><u>Meeting Date:</u></b>	January 18, 2017
<b><u>Subject:</u></b>	Consent Application 2017-B-01 & Variance Application 2017-A-01 John Michael Eplett and Leah Annette Eplett
<b><u>Location:</u></b>	39 and 83 Robins Point Road

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### **RECOMMENDATION:**

**THAT,**

The Planning and Development Department recommends that Consent Applications **2017-B-01** be granted provisional approval subject to the following conditions being imposed on the Committee's decision:

1. That the Township receives cash in lieu of parkland dedication of 5% of the appraised value of the area of the severed lands. The value of the land to be determined as of the day before the granting of provisional consent. The appraiser to be determined by the Township at the expense of the owner, with the appraisal fee paid in advance;
2. That a copy of a registered reference plan for the subject land indicating the severed parcels be prepared by an Ontario Land Surveyor and submitted to the Secretary-Treasurer;
3. That the applicant's solicitor prepare and submit a copy of the proposed conveyances for the severed parcels, for review by the Township;
4. That all municipal taxes be paid in full to the Township of Tay;
5. That the severed parcel have a minimum lot area of approximately 3,340 square metres and a minimum lot frontage of approximately 43.1 metres;

6. That the retained lands have minimum lot area of approximately 49,299 square metres and a minimum lot frontage of approximately 15.2 metres;
7. That the applicant enter into an updated private road agreement with the Township per By-law 2004-039;
8. That Variance Application 2017-A-01 be approved;
9. That the conditions of consent imposed by the Committee be fulfilled within one year from the date of giving of the notice.

The Planning and Development Department recommends that Variance Application **2017-A-01** be approved subject to the following conditions being imposed on the Committee's decision:

1. That the minimum lot frontage be 15.2 metres;
2. That Consent Application 2017-B-01 be approved.

### **INTRODUCTION/BACKGROUND:**

The purpose of Consent Application **2017-B-01** is to sever the subject lands 39 Robins Point Road and create an additional lot at 83 Robins Point Road within the Victoria Harbour settlement area. The severed land currently has an existing dwelling, while the retained lands are currently vacant and would support the future development of a single detached dwelling.

The subject property is designated as Village Residential in the Township's Official Plan and is zoned Village Residential (R2) and Village Residential Hold "R2 (H) in the Zoning By-Law. A sketch of the proposed severance is provided as Attachment 1.

The applicant is requesting consent which would result in three parcels as follows:

Lot (Consent Application)	Frontage (metres) (Robins Point Road)	Lot Area (square metres)
Retained Parcel	15.2 m	49,299 m <sup>2</sup>
Severed Parcel (2017-B-01)	43.1 m	3,340 m <sup>2</sup>

The applicant revised their application in order to align the severance with the Council approved By-law 2004-33. This approval removed the Holding Provision on the property in order for the dwelling to be constructed. To ensure

that the proposed severance is in keeping with the approval of Council, the dwelling that was constructed on the severed lands, the applicant reduced the proposed frontage and lot area of the severed lands.

**ANALYSIS:**

**Provincial Policy Statement 2014 (PPS):**

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. This includes lot creation, provided the proposal efficiently uses lands and its resources such as existing infrastructure. The proposal for the lot addition does not anticipate any negative affects with the future construction of a detached garage.

The PPS focuses new growth and development towards settlement areas and encourage efficient land use patterns by utilizing existing infrastructure to avoid the need for their unjustified and/or uneconomical expansion. As stated in Section 1.1.3.1 of the PPS, "Settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted". Further, it recommends that local planning authorities examine existing built up areas that have the ability to accommodate intensification and promote those areas first. As the proposed consent has frontage onto an existing road that complies with municipal standards, there is no extension of municipal infrastructure that is required.

It is the opinion of the Planning staff that the proposed consent would be consistent with the policies as outlined in the PPS.

**Growth Plan for the Greater Golden Horseshoe:**

The Growth Plan speaks to managing growth through *intensification* which is defined as: The development of a property, site or area at a higher density than currently exists through:

1. Redevelopment, including the reuse of brownfield sites;
2. The development of vacant and/or underutilized lots within previously developed areas;
3. Infill development; or
4. The expansion or conversation of existing buildings.

(Section 7, Growth Plan).

*Intensification* according to the Growth Plan shall be directed to *Settlement Areas* as defined by the PPS. Therefore, the proposed applications would appear to conform to the Growth Plan as the proposed lots will be within the Settlement Area of Victoria Harbour and are considered infill development.

It is the opinion of the Planning staff that the proposed consent would be consistent with the policies as outlined in the PPS.

**County of Simcoe Official Plan:**

The County of Simcoe Official Plan permits the creation of residential lots either by way of subdivision or consent provided that the land use is permitted and that it maintains the intent of the Official Plan.

The County of Simcoe Official Plan designates Victoria Harbour as a "Designated Settlement Area." The objectives and policies of the County Plan reflect the Provincial Policy documents by allowing development to occur within built up areas that utilize existing infrastructure. It is the opinion of the Planning staff that the application maintains the intent of the County of Simcoe Official Plan.

**Township of Tay Official Plan:**

The subject property is designated "Village Residential" in the Township's Official Plan. The Official Plan permits a variety of residential uses. The Official Plan permits consents subject to meeting the consent policies of the Official Plan. The consent applications would be subject to conditions requested by Planning staff and represents a suitable opportunity for infill residential development in the Victoria Harbour Settlement Area.

Planning staff has reviewed the consent policies listed in Section 3.11 of the Official Plan and are satisfied that the consent applications are consistent with the intent and direction of the Township's Official Plan.

**Zoning By-law 2000-57, as amended:**

Both the severed and retained lands are zoned as Village Residential "R2". The proposed severed and retained lots would have frontage on a Robins Point Road, and would comply with the standards of the Zoning By-law.

The "R2" zoned retained parcel supports a single detached dwelling and an accessory building. The retained parcel is supported by municipal water and sanitary services.

On the basis of the above, the proposed creation of the two new lots for residential purposes maintains the intent and is consistent with the permitted uses of the Zoning By-law 2000-57, as amended.

## **Minor Variance**

The intent and purpose of a minimum 18 metre lot frontage under the Zoning By-law is to provide sufficient area for access to the property and separation to the adjacent properties. The retained parcel as a result of consent application **2017-B-01** is approximately 48,899 square metres (12 acres). However the required 18 metre frontage cannot be accommodated along Robins Point Road. The proposed lot frontage of approximately 15.2 metres would provide sufficient access to the property and the 48,899 square metre lot area provides sufficient locations for future residential use.

In response to the comments provided by Township staff, the applicant has changed their application as per Attachment #2. The retained lands on the unopened portion of Lakeview Avenue would have approximately 20 metres of frontage. This would provide for a future access point to the retained lands if development of those lands is to occur.

The variance is found to be desirable for the appropriate development of the lot as it is of similar size with the surrounding properties on Robins Point Road.

The proposed variance is viewed as being minor in nature and would be in keeping with the character of the area.

## **Outside Agency, Internal Department and Public Comments:**

**Simcoe County District School Board-** No objections

**Chief Administrative Officer –** No issues or concerns.

**Clerk-** Severed lands are subject to a private road agreement per By-law 2004-39.

**Director of Finance –** No concerns.

**Director of Public Works –** Future road access for retained parcel

- Update agreement for existing dwelling access to Robins Point Road and Non-Exclusive
- Existing dwelling to remain as #39 Robins Point Road.

**Water/ Sanitary Wastewater Superintendent –** “Municipal water available. Sanitary sewer available.”

**Manager of Roads and Fleet –** Township will require a road user agreement for 39 Robins Road.

**Chief Building Official-** No concerns.

**Fire Chief –** No concerns.

## **FINANCIAL BUDGET IMPACT:**

There are no budgetary impacts to this report.

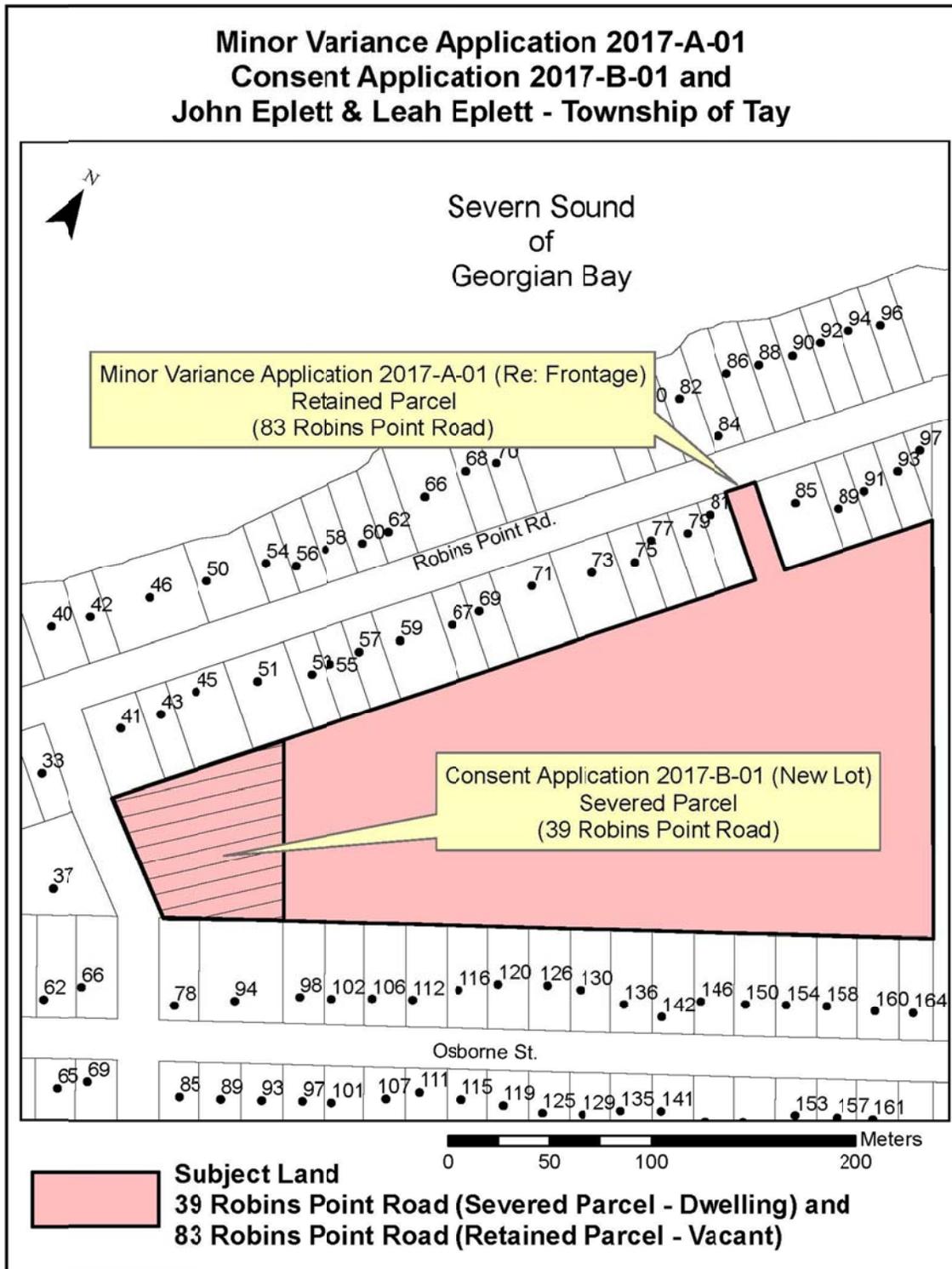
**CONCLUSION:**

In summary, the consent applications which propose to create an additional lot at 39 Robins Road and one (1) retained lot at 83 Robins Point Road is appropriate. Planning Staff are satisfied that the consent and minor variance applications are consistent with the Provincial, County and Township policies. It is the recommendation of the Planning and Development Department that Consent Application **2017-B-01** & **2017-A-01** be granted provisional approval.

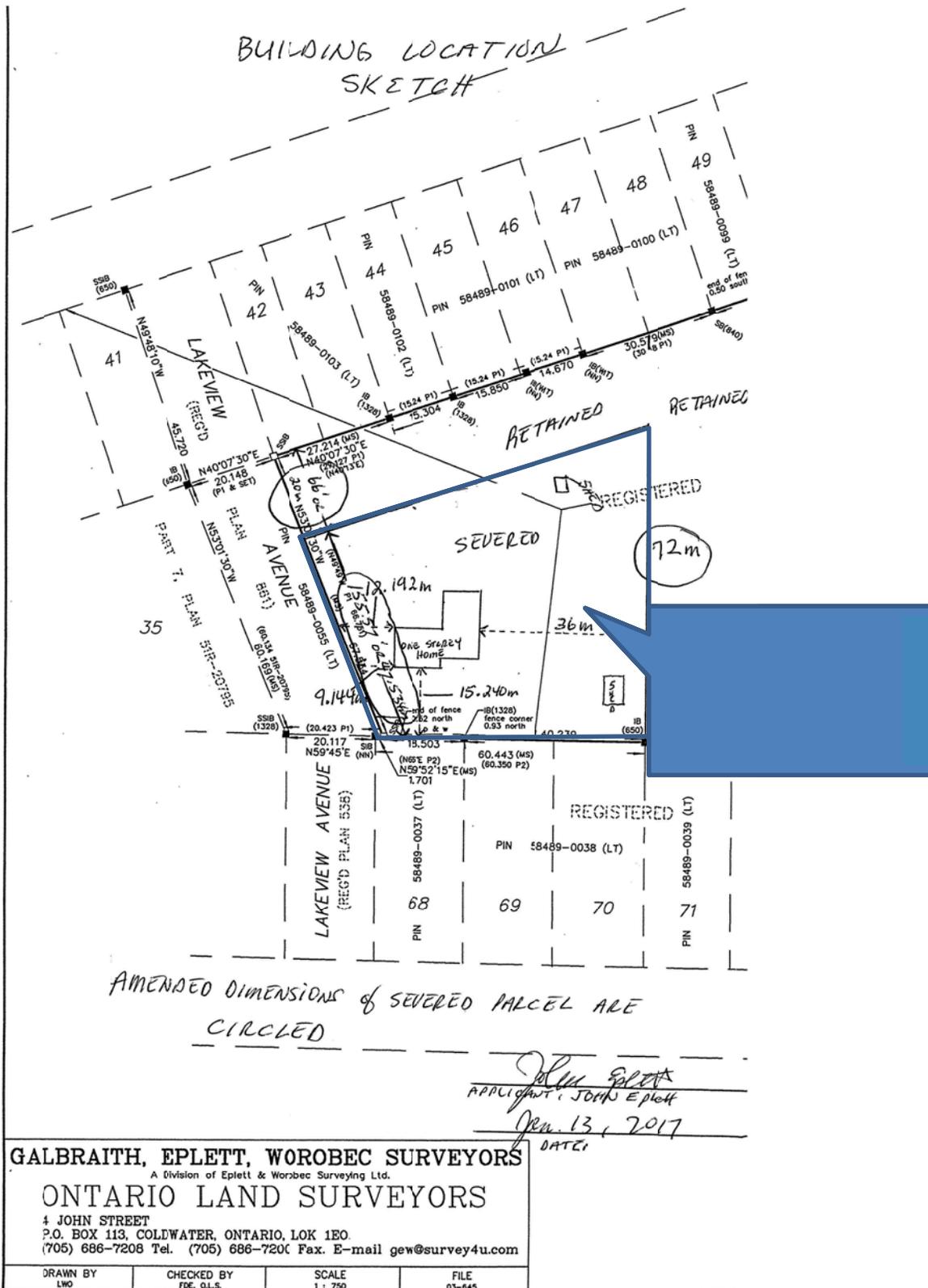
Prepared and Recommended by;

Steven Farquharson, BURPL., MCIP. RPP  
Director of Planning and Development

Attachment 1: Original Key Map

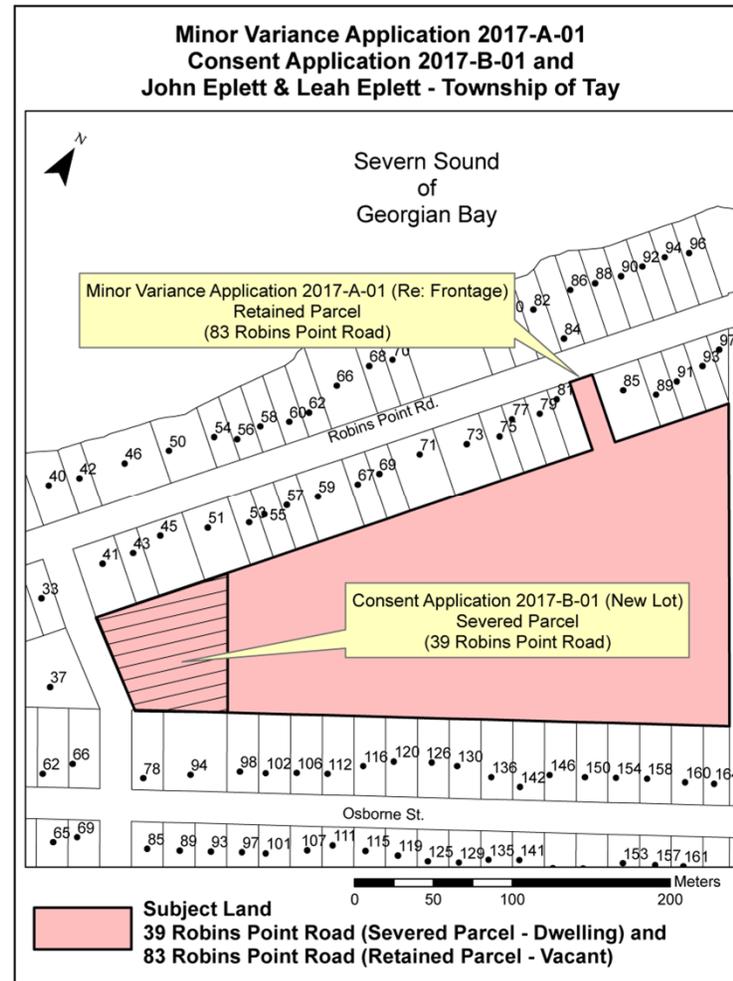


Attachment 2: Proposed Severance



# TAY TOWNSHIP

## 2017-A-01 & 2017-B-01 (John Eplett and Leah Eplett)



# TAY TOWNSHIP

## 2017-A-01 & 2017-B-01 (John Eplett and Leah Eplett)

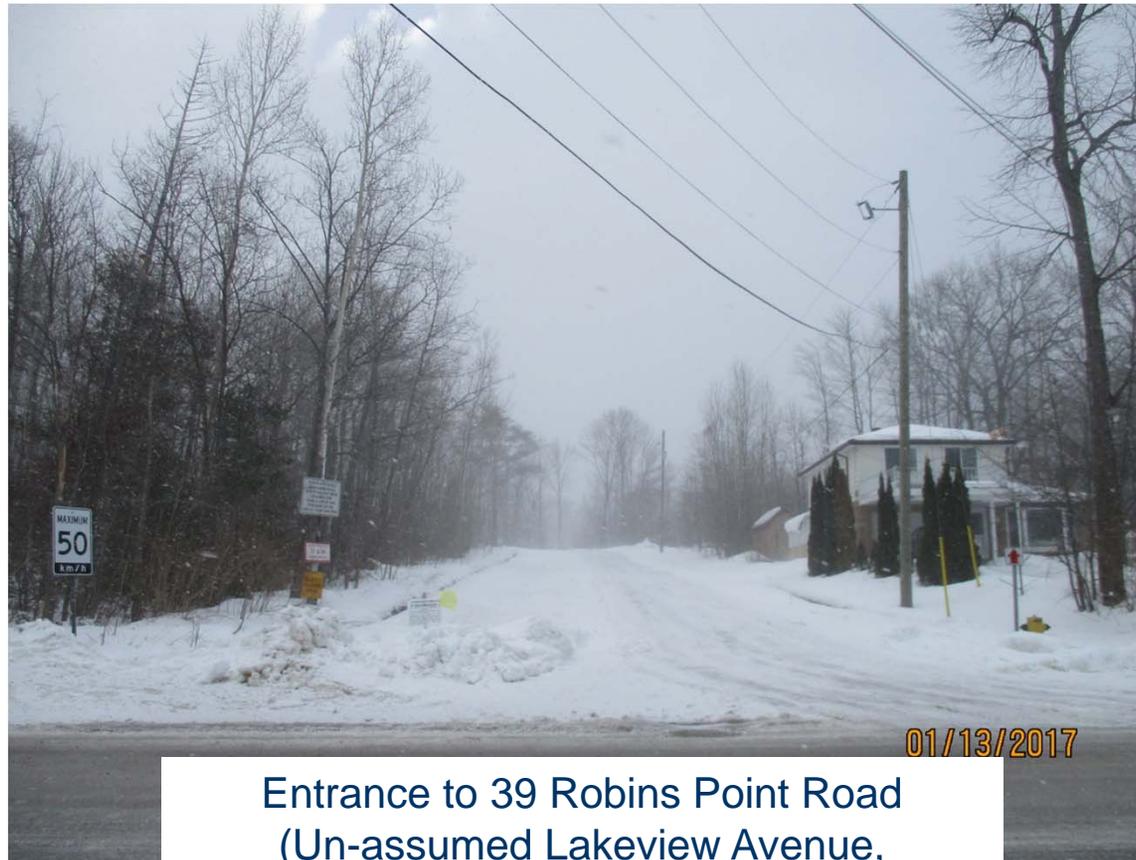


83 Robins Point Road  
Deficient Lot Frontage - 15.2 m

# TAY TOWNSHIP



## 2017-A-01 & 2017-B-01 (John Eplett and Leah Eplett)



Entrance to 39 Robins Point Road  
(Un-assumed Lakeview Avenue,  
under existing Road Agreement)

# TAY TOWNSHIP



## 2017-A-01 & 2017-B-01 (John Eplett and Leah Eplett)



Existing Dwelling Located on Severed Parcel

# TAY TOWNSHIP



## 2017-A-01 & 2017-B-01 (John Eplett and Leah Eplett)



Original Parcel  
North-west Corner



Original Parcel  
South-west Corner



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### PLANNING & DEVELOPMENT DEPARTMENT Staff Report

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<b><u>Department/Function:</u></b>	Committee of Adjustment
<b><u>Chair:</u></b>	Andy Ott
<b><u>Meeting Date:</u></b>	January 18, 2017
<b><u>Subject:</u></b>	Consent Application 2017-B-02 & 2017-B-03 Hayward Properties Ltd. (Kim Seeley)
<b><u>Location:</u></b>	204 John Street

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### **RECOMMENDATION:**

**THAT,**

The Planning and Development Department recommends that Consent Applications **2017-B-02 & 2017-B-03** be granted provisional approval subject to the following conditions being imposed on the Committee's decision:

1. That the Township receive cash in lieu of parkland dedication of 5% of the appraised value of the area of the severed lands. The value of the land to be determined as of the day before the granting of provisional consent. The appraiser to be determined by the Township at the expense of the owner, with the appraisal fee paid in advance;
2. That a preliminary Lot Grading and Drainage Plan designed by a Professional Engineer, or a Landscape Architect, or an Ontario Land Surveyor, be prepared for the severed lot to the approval of the Township's Public Works Department, to demonstrate the viability of developing the lots with respect to lot grading and drainage;
3. That a copy of a registered reference plan for the subject land indicating the severed and retained parcels be prepared by an Ontario Land Surveyor and submitted to the Secretary-Treasurer;
4. That the applicant's solicitor prepare and submit a copy of the proposed conveyances for the severed parcels, for review by the Township;
5. That all municipal taxes be paid in full to the Township of Tay;

6. That the minimum lot area of the severed parcel Part "1" be not lesser than approximately 676 square metres and a minimum lot frontage of approximately 19.1 metres;
7. That the minimum lot area of the severed parcel Part "2" be not lesser than approximately 746.8 square metres and a minimum lot frontage of approximately 19.1 metres;
8. That the minimum lot area of the retained parcel Part "3" be not lesser than approximately 800.8 square metres and a minimum lot frontage of approximately 19.1 metres;
9. That the applicant submit to the Planning Department a tree planting plan, which shows a landscaped buffer along the north lot line adjacent to the Tay Shore Trail;
10. That the applicant apply for and obtain approval from the Committee of Adjustment for a 3.0 metre wide drainage easement along the west lot line and for the existing fire hydrant;
11. That the conditions of consent imposed by the Committee be fulfilled within one year from the date of giving of the notice.

### **INTRODUCTION/BACKGROUND:**

The purpose of Consent Applications **2017-B-02** & **2017-B-03** is to sever the subject lands to create two new residential lots within the Victoria Harbour settlement area. Both the severed and retained lands are currently vacant and would support the future development of a single detached dwelling.

The subject property is designated as Village Residential in the Township's Official Plan and is zoned Village Residential (R2) in the General Zoning By-Law. A sketch of the proposed severance is provided as **Attachment 1**.

The applicant is requesting consent which would result in three parcels as follows:

Lot (Consent Application)	Frontage (metres) (John Street)	Lot Area (square metres)
Retained Parcel - Part "3"	19.1 m	800.8 m <sup>2</sup>
Severed Parcel - Part "2" (2017-B-03)	19.1 m	746.8 m <sup>2</sup>
Severed Parcel - Part "1" (2017-B-02)	19.2 m	676 m <sup>2</sup>

## **ANALYSIS:**

### **Provincial Policy Statement 2014 (PPS):**

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. This includes lot creation, provided the proposal efficiently uses lands and its resources such as existing infrastructure. The proposal for the lot addition does not anticipate any negative affects with the future construction of a detached garage.

The PPS focuses new growth and development towards settlement areas and encourage efficient land use patterns by utilizing existing infrastructure to avoid the need for their unjustified and/or uneconomical expansion. As stated in Section 1.1.3.1 of the PPS, "Settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted". Further, it recommends that local planning authorities examine existing built up areas that have the ability to accommodate intensification and promote those areas first. As the proposed consent has frontage onto an existing road that complies to municipal standards, there is no extension of municipal infrastructure that is required.

It is the opinion of the Planning staff that the proposed consent would be consistent with the policies as outlined in the PPS.

### **Growth Plan for the Greater Golden Horseshoe:**

The Growth Plan speaks to managing growth through *intensification* which is defined as: The development of a property, site or area at a higher density than currently exists through:

1. Redevelopment, including the reuse of brownfield sites;
  2. The development of vacant and/or underutilized lots within previously developed areas;
  3. Infill development; or
  4. The expansion or conversation of existing buildings.
- (Section 7, Growth Plan).

*Intensification* according to the Growth Plan shall be directed to *Settlement Areas* as defined by the PPS. Therefore, the proposed applications would appear to conform to the Growth Plan as the proposed lots will be within the Settlement Area of Victoria Harbour and are considered infill development.

It is the opinion of the Planning staff that the proposed consent would be consistent with the policies as outlined in the PPS.

**County of Simcoe Official Plan:**

The County of Simcoe Official Plan permits the creation of residential lots either by way of subdivision or consent provided that the land use is permitted and that it maintains the intent of the Official Plan.

The County of Simcoe Official Plan designates Victoria Harbour as a "Designated Settlement Area." The objectives and policies of the County Plan reflect the Provincial Policy documents by allowing development to occur within built up areas that utilize existing infrastructure. It is the opinion of the Planning staff that the application maintains the intent of the County of Simcoe Official Plan.

**Township of Tay Official Plan:**

The subject property is designated "Village Residential" in the Township's Official Plan. The Official Plan permits a variety of residential uses. The Official Plan permits consents subject to meeting the consent policies of the Official Plan. The consent applications would be subject to conditions requested by Planning staff and represents a suitable opportunity for infill residential development in the Victoria Harbour Settlement Area.

Planning staff has reviewed the consent policies listed in Section 3.11 of the Official Plan and are satisfied that the consent applications are consistent with the intent and direction of the Township's Official Plan.

**Zoning By-law 2000-57, as amended:**

Both the severed and retained lands are zoned as Village Residential "R2". The proposed severed and retained lots would have frontage on John Street, and would comply with the standards of the Zoning By-law.

While there is no requirement under the Zoning By-law for a landscaping strips in the R2 zone, Planning staff are recommending that a planting be provided to show how the lands will be screened from the Tay Shore Trail. This will also prevent any illegal access from the severed lands directly to the trail without the appropriate encroachment agreement in place with the Township.

On the basis of the above, the proposed creation of the two new lots for residential purposes maintains the intent and is consistent with the permitted uses of the Zoning By-law 2000-57, as amended.

**Outside Agency, Internal Department and Public Comments:**

**County of Simcoe** – No comments received to date

**Newmarket-Tay Power Distribution Ltd.** - No comments received to date.

**Chief Administrative Officer** – No issues or concerns.

**Clerk**- No concerns.

**Director of Finance** – No concerns.

**Director of Public Works** – Township will require an easement for the Fire Hydrant or applicant to pay for relocation.

-Township will require a drainage easement along the South-West limits for existing drainage, and re-grade at the applicants cost.

**Water/ Sanitary Wastewater Superintendent** – “Municipal water available. Sanitary services available.”

**Manager of Roads and Fleet** – “The Township has an existing asphalt gutter outlet at this location and will require a 3.0 metre drainage easement along the property line for 210 John Street and the retained parcel”

**Chief Building Official**- No concerns.

**Fire Chief** – No concerns.

**SEVERN SOUND SUSTAINABILITY PLAN:**

There are no impacts under the Sustainability Plan.

**FINANCIAL BUDGET IMPACT:**

There are no budgetary impacts to this report.

**CONCLUSION:**

In summary, the consent applications which propose to create two (2) new lots and one (1) retained lot has been justified for a number of reasons. Planning Staff are satisfied that the consent applications are consistent with the Provincial, County and Township policies. It is the recommendation of the Planning and Development Department, that Consent Applications **2017-B-02** & **2017-B-03** be granted provisional approval.

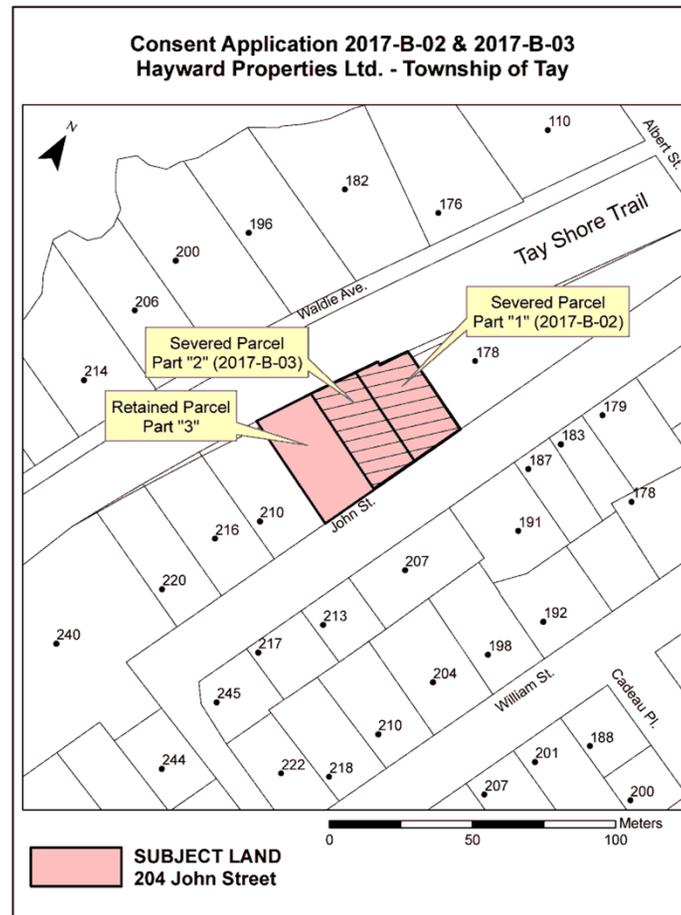
Prepared and Recommended by;

Steven Farquharson, BURPI., MCIP. RPP  
Director of Planning and Development



# TAY TOWNSHIP

## 2017-B-02 & 2017-B-03 (Hayward Properties Ltd. (Kim Seeley)



# TAY TOWNSHIP

## 2017-B-02 & 2017-B-03 (Hayward Properties Ltd. (Kim Seeley)



# TAY TOWNSHIP

## 2017-B-02 & 2017-B-03 (Hayward Properties Ltd. (Kim Seeley))



Severed Parcel  
Part "2" (2017-B-03)

# TAY TOWNSHIP

## 2017-B-02 & 2017-B-03 (Hayward Properties Ltd. (Kim Seeley))



Retained Parcel  
Part "3"

01/13/2017



## Corporation of the Township of Tay

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VICTORIA HARBOUR  
ONTARIO L0K 2A0

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### PLANNING & DEVELOPMENT DEPARTMENT Staff Report

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<b><u>Department/Function:</u></b>	Committee of Adjustment
<b><u>Chair:</u></b>	Andy Ott
<b><u>Meeting Date:</u></b>	January 18, 2017
<b><u>Subject:</u></b>	Variance Application 2017-A-02 Jeremy Shaw and Ashley Antonio
<b><u>Location:</u></b>	Plan 555, Lots 291, 292 and 293 (Triple Bay Road)

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#### **RECOMMENDATION:**

##### **THAT,**

The Planning and Development Department recommends that Variance Application **2017-A-02** be denied.

#### **INTRODUCTION/BACKGROUND:**

The purpose of Variance Application **2017-A-02** is to construct a single detached dwelling on the lands legally described as Plan 555, Lots 291, 292 and 293, with frontage on Triple Bay Road. The applicants are proposing a reduced interior side yard setback on both sides of the proposed dwelling from the required 6.0 metres in the Rural (RU) zone to 3.8 metres, which represents a reduction of 2.2 metres.

The property was subject to a holding provision due to its proximity to a closed waste disposal site. However, the applicant provided the required supporting material to Council, By-law 2016-90 was passed and the H provision was removed.

#### **ANALYSIS:**

The subject application has been reviewed against the Provincial Policy Statement (PPS) and the Places to Grow (Growth Plan) and it appears to be consistent with these documents.

The subject property is designated "Rural" in the Township's Official Plan and zoned Rural (RU) zone in the Township's General Zoning By-law. The use of the property for a single detached residential dwelling, along with accessory buildings is permitted by the Official Plan and by the General Zoning By-law.

The "RU" zone is characterized by those lots outside of the settlement area which are typically larger and provide sufficient distance to the surrounding properties and preserve a rural character. It is acknowledged that the lot is part of a former plan of subdivision and is significantly smaller than what the "RU" zone requires. The existing lot area is 714m<sup>2</sup> with a lot frontage of 22.8 metres, whereas the zoning by-law requires a minimum lot area and lot frontage of 2000m<sup>2</sup> and 35 metres.

Under the Zoning By-law, the intent and purpose of a minimum 6 metre interior side yard setback is to provide sufficient separation distance with adjacent properties and to ensure there is adequate access to the rear of the property. The applicant is proposing a dwelling with a gross floor area of 325.7m<sup>2</sup>, with a lot coverage of 22.7%, which is below the maximum of 30%. However, Staff of the opinion that the legal non-conforming lot could accommodate a smaller or reconfigured dwelling, which would meet the requirements of the "RU" zone. If a reduction in the 6.0 metre interior side yard setback to 3.8 is granted, this could change the character of those Rural lots that are adjacent to the settlement areas.

Based on the above, staff are of the opinion that the proposed variance for a reduced interior side yard setback does not meet the intent of the Zoning By-law, development of the lot is not appropriate and is not minor in nature.

### **Outside Agency, Internal Department and Public Comments:**

**Newmarket-Tay Power Distribution Ltd.** - No comments received to date

**Chief Administrative Officer** – No issues or concerns

**Clerk**- No Objection

**Director of Finance** – Property currently assessed as non-buildable lot

**Director of Public Works** – No PW issues

**Water/ Sanitary Wastewater Superintendent** – "Municipal water available

**Manager of Roads and Fleet** – Lot Grading Plan may need to be required

**Chief Building Official**- No concerns

**Fire Chief** – No concerns

### **FINANCIAL BUDGET IMPACT:**

There are no budgetary impacts to this report

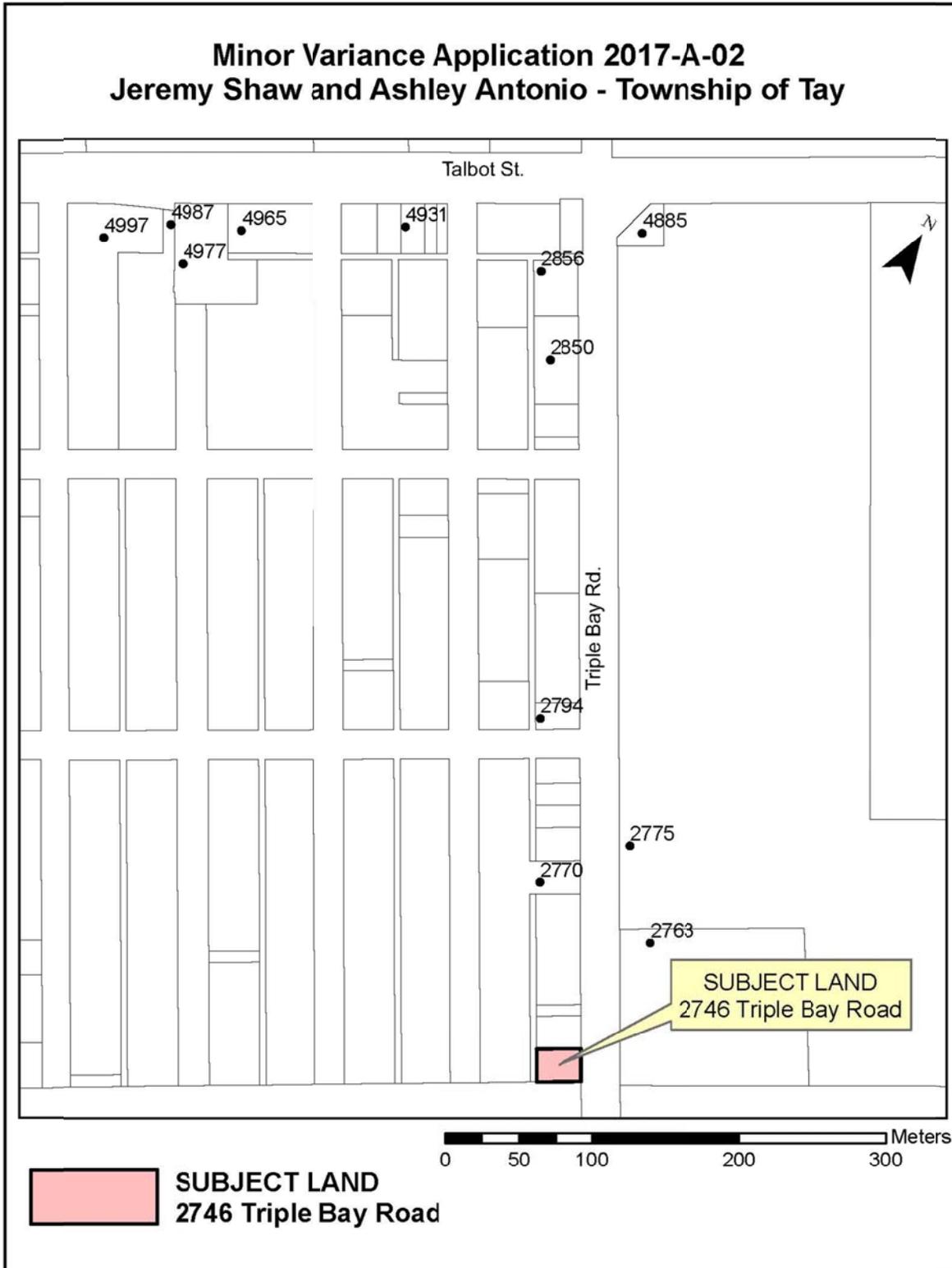
**CONCLUSION:**

The application has been found not to meet the criteria for authorizing a Minor Variance pursuant to Section 45(1) of the Planning Act.

Prepared and Recommended by;

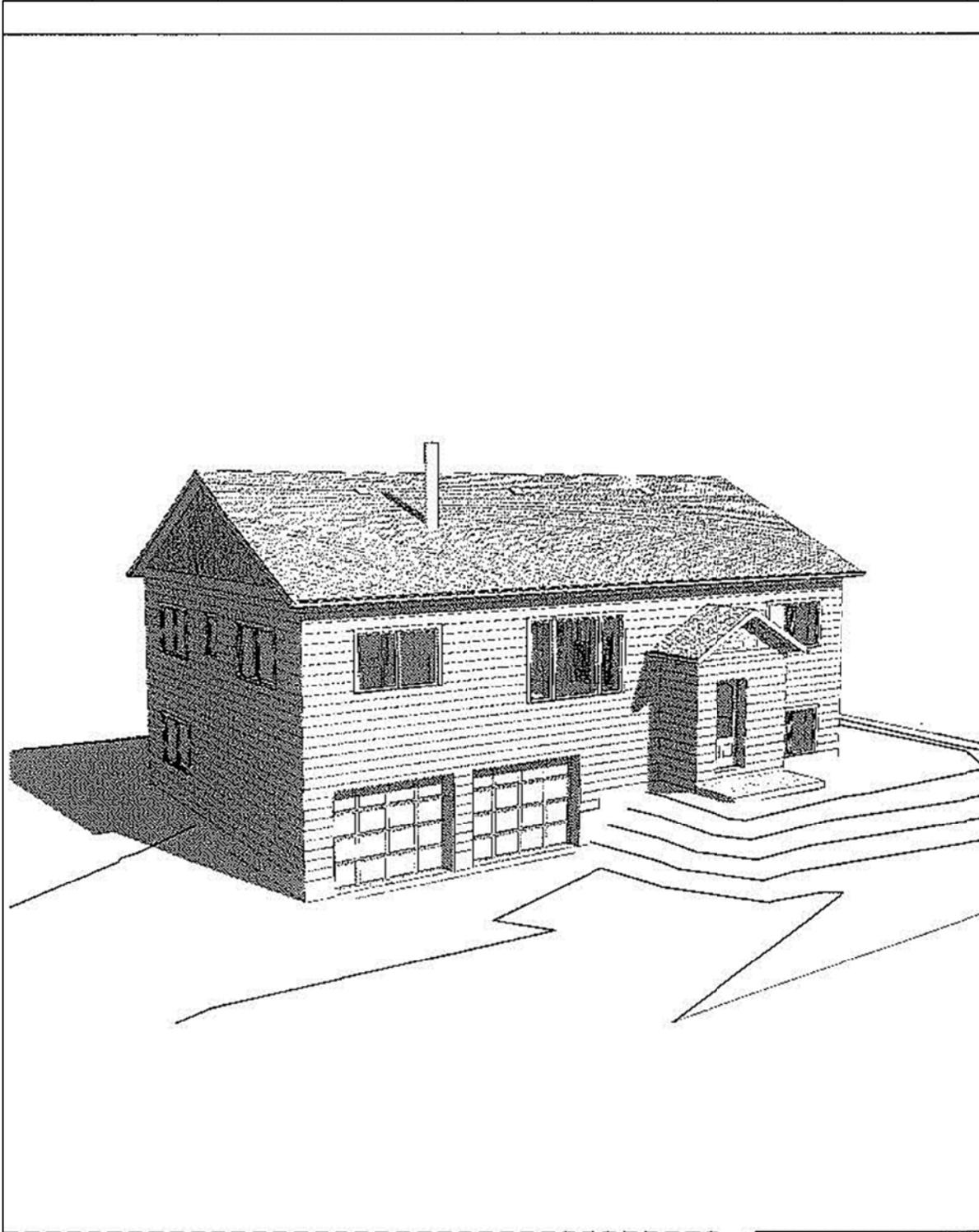
Steven Farquharson, BURPL., MCIP. RPP  
Director of Planning and Development

**Attachment 1: Key Map**





**Attachment 3: Proposed Building Elevation**



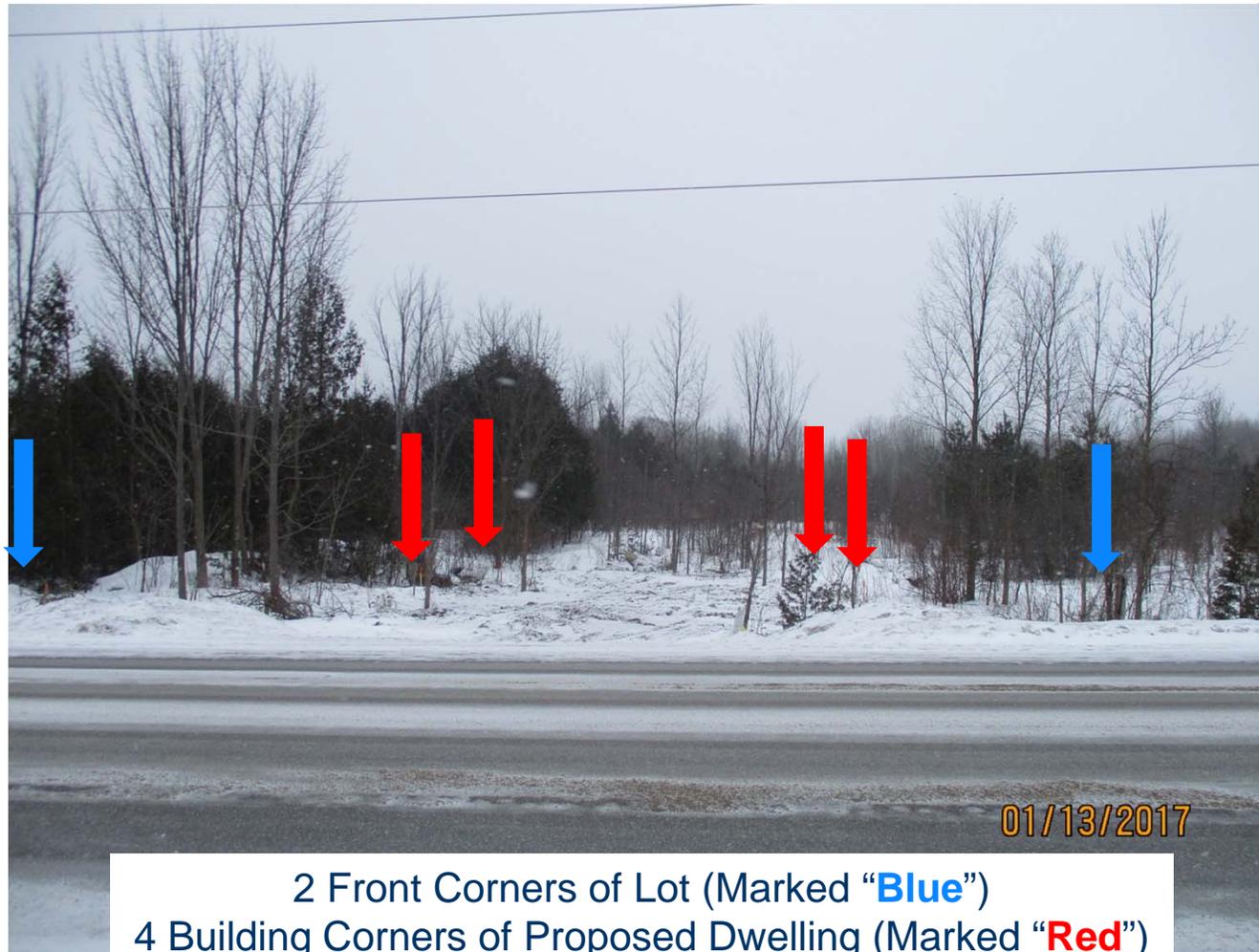
# TAY TOWNSHIP

## 2017-A-02 Jeremy Shaw and Ashley Antonio



# TAY TOWNSHIP

2017-A-02 Jeremy Shaw and Ashley Antonio



2 Front Corners of Lot (Marked "Blue")  
4 Building Corners of Proposed Dwelling (Marked "Red")



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### PLANNING & DEVELOPMENT DEPARTMENT Staff Report

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<b><u>Department/Function:</u></b>	Committee of Adjustment
<b><u>Chair:</u></b>	Andy Ott
<b><u>Meeting Date:</u></b>	January 11, 2017
<b><u>Subject:</u></b>	Validation Application 2017-B-04 Lawrence & Debora Horton
<b><u>Location:</u></b>	420 William Street Part Lots 6, 7 and 8, Plan 475, being Part 2, Plan 51R-18086, subject to RO1158320

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#### **RECOMMENDATION:**

**THAT,**

The Planning and Development Department recommends that Validation Application **2017-B-04** be granted.

#### **FOR THE FOLLOWING REASONS,**

The Application for Validation conforms with the prescribed criteria, namely:

1. The certificate will conform with the Official Plan of the Township of Tay;
2. The certificate will conform with the Zoning By-law of the Township of Tay.

#### **INTRODUCTION/BACKGROUND:**

The purpose of Validation Application **2017-B-04** is to obtain a Certificate of Validation to validate title to the subject parcel of land and correct a prior transfer of the applicant's property that may have breached the Planning Act and that thereby may not have create a legal interest in the transferred land.

The pertinent title history of the subject Horton property has been provide by Horton's solicitor Peter Deacon (Deacon Taws) and is summarized as follows:

The Blanche Prentice Estate and its predecessors owned lots 6, 7 and 8 on Plan 475. The 1985 conveyance from the Blanche Prentice Estate to the Hortons reconfirmed the boundary line between the railway lands to the west and Plan 475 to the east. Plan 51R-13792 (attached) and subsequent Plan 51R-18086 (attached), both prepared by James W. Nicholson, OLS, recognized the ownership boundary between the railway lands to the west and Plan 475 to the east as being the line between Part 1 and Part 2 on Plan 51R-13792. The Deed registered from the Prentice Estate to the Hortons was consistent with the legal descriptions which had been used historically, namely that the line between the railway lands as recognized by Nicholson and Plan 475 as directly abutting those lands to the east, constituted the proper boundary line between the railway lands and the lands owned by the Prentice Estate.

When the Registry Office converted the land registration system into a computerized format, the subject property was not converted to the Land Titles Qualified System because the surveys of Nicholson showed evidence of an old fence line as a line of occupation and Nicholson felt it shifted the boundary from the original position between the railway lands and Plan 475 to a more westerly position about twenty feet (20') into the railway lands. The Registry Office records indicate that this has created the possibility of there having been a violation of the Planning Act because the Prentice family retained abutting lands (Part 2, Plan 51R-13792) to the west of the Horton lands (Part 1, Plan 51R-13792).

In summary, because the subdivision control provisions under the Planning Act prohibit a person from transferring a parcel of land while retaining title to abutting land that is not a whole lot on a plan of subdivision, the conveyance from Prentice to Horton may have contravened the Planning Act rendering the transfer void since Prentice may still have owned Part 2 on Plan 51R-13792 when they sold Part 1 to Horton.

### **ANALYSIS:**

Under Section 57(7) of the Planning Act the Committee of Adjustment must find that the land conforms with "prescribed criteria". The prescribed criteria are set out in Ontario Regulation 144/95, amended by Ontario Regulation 435/96 and provide as follows:

1. (1) In considering whether to issue a certificate under section 57 of the Act,

council shall have regard to the matters described under subsection 51 (24) of the Act.

(2) No certificate under section 57 of the Act shall be issued by a council unless the certificate conforms with,

- (a) any official plan in effect in the municipality;
- (b) the zoning by-law of the municipality, if any; and
- (c) any Minister's zoning order under clause 47(1)(a) of the Act.

Subsection (1) is very general and seldom applicable to validation applications; it requires that regard be given to matters of health, safety, convenience and welfare of the present and future inhabitants of the local municipality and to certain itemized considerations. Subsection (2), however, requires that the land described in the certificate conforms to the official plan and the zoning by-law of the municipality.

**Township of Tay Official Plan:**

The subject property is designated "Village Residential" in the Township's Official Plan, wherein the Official Plan permits a variety of residential uses. Planning staff have reviewed the subject property under the various provisions of the Official Plan and are satisfied that a Certificate of Validation will conform with the Township's Official Plan.

**Township of Tay Zoning By-law:**

The subject property located at 420 William Street is zoned as Village Residential "R2" and satisfies the minimum lot area and minimum frontage requirements in compliance with Zoning By-law 2000-57 as amended. Planning staff are satisfied that a Certificate of Validation will conform with the Township's Zoning By-law.

**FINANCIAL BUDGET IMPACT:**

There are no budgetary impacts to this report.

**CONCLUSION:**

In summary, staff are satisfied that the validation application which proposes to validate title to the subject parcel of land and correct a possible prior Planning Act contravention conforms with the prescribed criteria under the regulations of the Planning Act.

It is the opinion of the Planning and Development Department, that Validation Application **2017-B-04** be granted approval.

Date: January 12, 2017

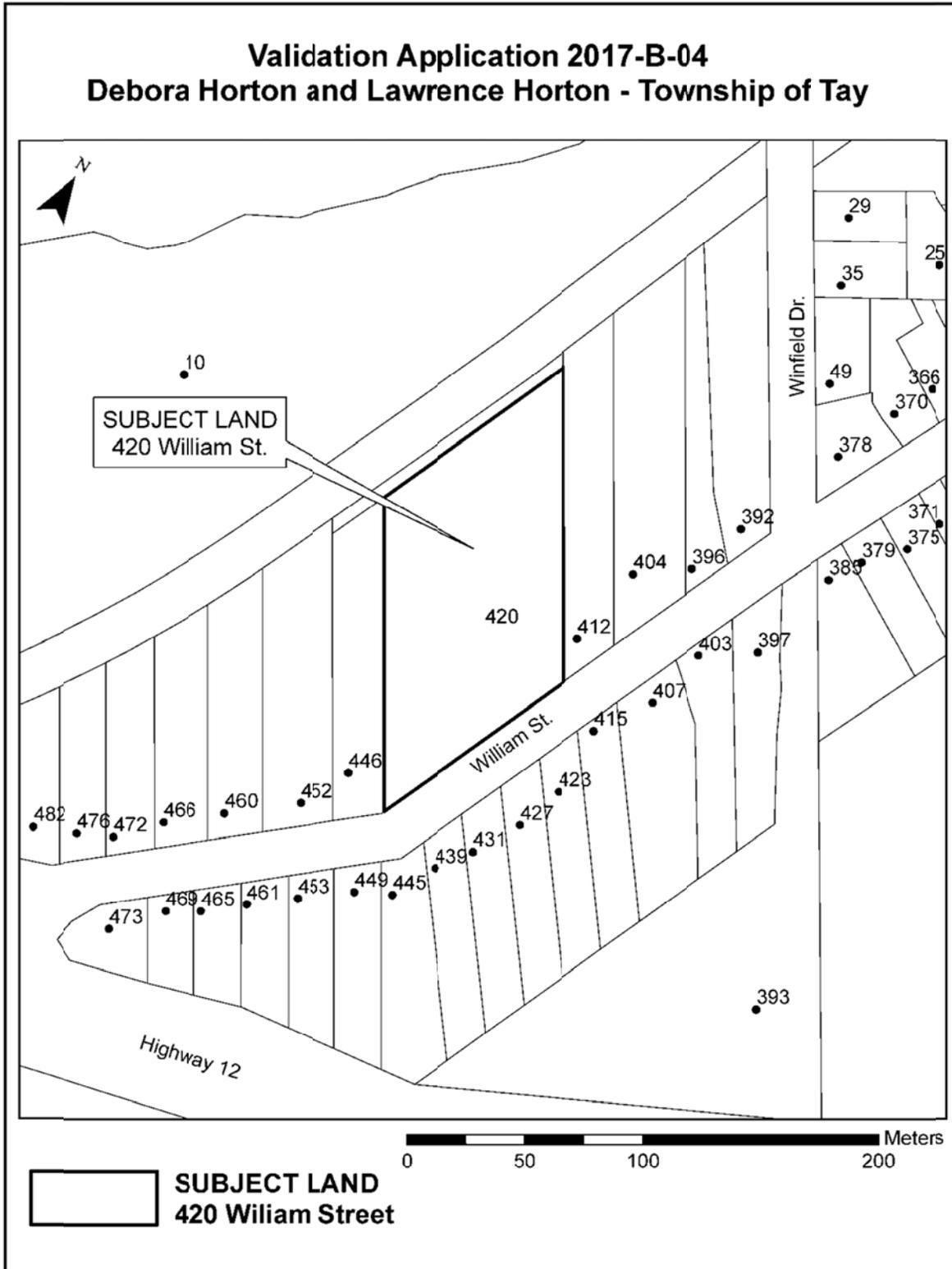
Prepared by;

Recommended By;

Tony Huguenin, BTech., CPT  
Planning Technician

Steve Farquharson, BURPI., MCIP. RPP  
Director of Planning and Development

Attachments:      1 - Key Map  
                         2 – Reference Plan 51R-13792  
                         3 – Reference Plan 51R-18086

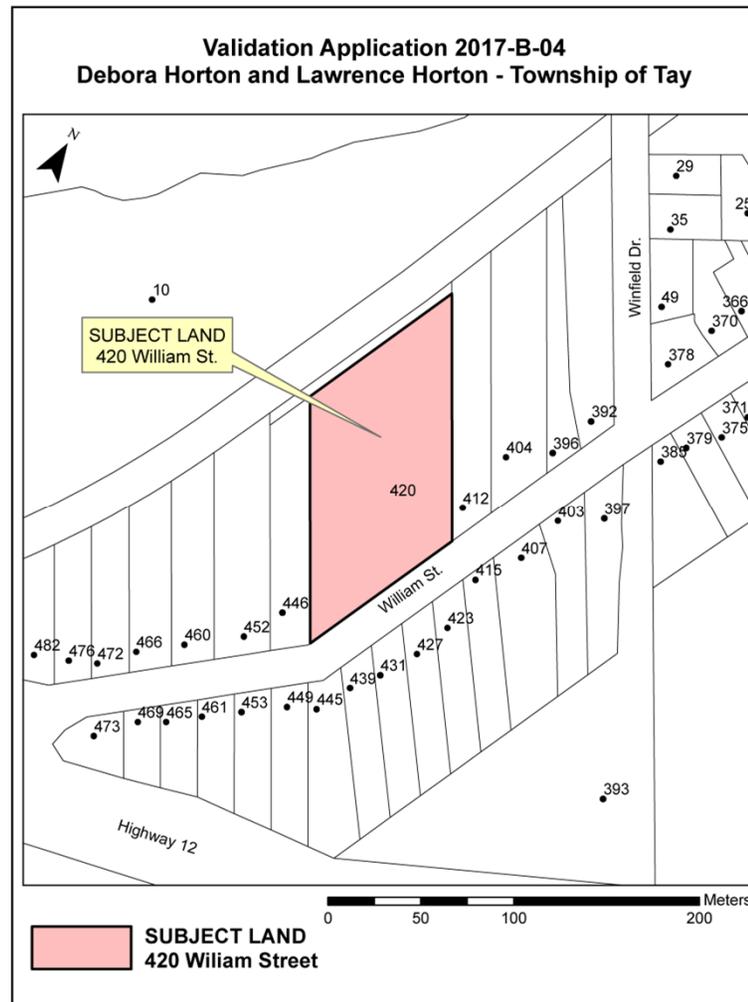






# TAY TOWNSHIP

## 2017-B-04 Lawrence and Deborah Horton



# TAY TOWNSHIP

## 2017-B-04 Lawrence and Deborah Horton



Front of Lot - 420 William Street