



**MINUTES  
LAND DIVISION COMMITTEE**

The Land Division Committee met in special session on Thursday, June 11, 2009 at 1:00 p.m. at the Mississippi Mills Administration Building, 3131 Old Perth Road, Almonte, Ontario.

Members Present: R. Strachan, C. Tyson and D. Murphy

Staff Present: M. Kirkham, Secretary-Treasurer

**LAND DIVISION COMMITTEE**

**Chair:** R. Strachan

**1. CALL TO ORDER**

A quorum was present.

**2. DISCLOSURE OF PECUNIARY INTEREST**

None.

**3. PURPOSE**

The Special Meeting was been called by the Committee Chair to deal with Consent Application B08/176 Kirkland draft conditions.

**4. REPORTS**

4.1 Applications Previously Heard and Awaiting a Approval of the Provisional Conditions.

4.1.1 **B08/176 – Beverly Kirkland** – easement  
Pt Lot 34 Plan 6262 Town of Almonte (Mitcheson Street)

**5. PUBLIC HEARING:**

The hearing was called to order at 1:05 p.m. for the purpose of conducting the public hearing. The Land Division Committee made the following decisions at the hearing:

**MOTION #LD-2009-014**

**MOVED BY:** D. Murphy  
**SECONDED BY:** C. Tyson

**“THAT**, the Draft Provision Consent Conditions as presented and reviewed June 11, 2009 for Consent Application B08/176, Kirkland be approved;  
**AND THAT** the Secretary-Treasurer circulated the Provision Consent Conditions as required in accordance with the Planning Act.” **ADOPTED**

**6. ADJOURNMENT**

The meeting adjourned at 1:40 p.m.

**Mary Kirkham**  
**Secretary-Treasurer**

**PUBLIC  
HEARING  
REPORTS**

**LAND DIVISION STAFF REPORT  
APPLICATION FOR CONSENT**

**Owner:** Beverly Kirkland

**1<sup>st</sup> Hearing Date:** March 23, 2009

**2<sup>nd</sup> Hearing Date:** April 27, 2009

**3<sup>rd</sup> Hearing Date:** May 26, 2009

**4<sup>th</sup> Hearing Date:** June 11, 2009

**Agent:** Lisa Giffin

**LDC File #:** B08/176

**Municipality:** Town of Mississippi Mills

**Geographic Township:** Town of Almonte

**Lot:** 34      **Concession:** Plan 6262

**Roll No.** 0931 010 010 14300

**Consent Type:** Easement

**Purpose and Effect:**

To sever an easement / r-o-w to Lot 33 Plan 6262 – lands owned by Jeffrey Allan Dowdall and Beverley Victoria Kodybka.

<b>DETAILS OF PROPOSAL</b>	<b>Land to be Severed</b>	<b>Land to be Retained</b>
<b>Existing Use</b>	Driveway	Vacant Land
<b>Proposed Use</b>	Driveway	Vacant Land
<b>Area</b>	0.012-ha	1869.6 m <sup>2</sup>
<b>Frontage</b>	4.51 m	27.43 m
<b>Depth</b>	33.17 m	68.16 m
<b>Road - Access to</b>	Mitcheson Street	Mitcheson Street
<b>Water Supply</b>	n/a	Municipal available
<b>Sewage Disposal</b>	n/a	Sewer System available
<b>Official Plan Designation -Conformity?</b>	Residential Yes	
<b>Zoning Category</b>	Residential 1	Residential 1
<b>-Area Required (min.)</b>	n/a	460 m <sup>2</sup>
<b>-Compliance?</b>		Yes
<b>-Frontage Required (min.)</b>		18 m
<b>-Compliance?</b>		Yes
<b>-Depth Required (min.)</b>		n/a
<b>-Compliance?</b>		

**(a) APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

**1.1 Settlement Areas**

Section 1.1.3.1 Settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Section 1.1.3.5 Planning authorities shall establish and implement minimum targets for intensification and redevelopment within built-up areas.

Official Plan – Section 2.5.3 Growth and Settlement Strategy, section 3.6 Residential Policies, Section 4 General Policies, Section 5.3.11 Consent to Sever.

Zoning By-law - Section 6 General Provisions, Section 10 – Residential Type 1 (R1) Zone

**(b) AGENCY REVIEW**

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Town of Mississippi Mills – **does not** support the application. There is sufficient room to accommodate a relocated driveway on the lot with the house, thus freeing up any requirement for an easement across the other property.

Almonte Hydro – No comments were received.

**(c) PLANNING REVIEW**

The applicant proposes to sever a 0.012-ha parcel of land from Lot 34 as an easement / r-o-w to Lot 33 Complied Plan 6262 for the purpose of a driveway.

There were objections raised by the Town of Mississippi Mills regarding this proposal. In light of the foregoing, this office is NOT satisfied that the applicant's proposal maintains the general intent and purpose of the PPS and Official Plan for the Town of Almonte and should not be given favourable consideration.

**(d) PUBLIC INPUT**

No written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended.

**(e) MINUTES – March 23, 2009**

Lisa Giffin, agent, attended the hearing and gave evidence under oath. Ms. Giffin advised that the two lots have been owned by a family member for many, many years, and that the laneway has been in existence for more than 20 year. Also that the laneway has been asphalted and does not impact the vacant lot for building purposes. No discussions had been undertaken with the Town of Mississippi Mills.

Decision was deferred to allow the applicant / agent time to review the application with the Town of Mississippi Mills.

(f) **MINUTES – April 27, 2009**

Lisa Giffin, agent and Evelyn Wheeler, solicitor for the applicant and agent, attended the hearing. Ms. Giffin was reminded that she was still under oath from the previous hearing, and Ms. Wheeler by virtue of her oath to the crown was under oath for the purpose of this hearing.

Ms. Wheeler provided background information on the proposal, noting that the 'driveway issue' was a condition of sale of the developed lot and therefore her client required the access through the consent process to be resolved in a timely manner.

Ms. Wheeler entered the following into evidence:

- pictures of the location of the driveway in relation to the building, the vacant lot and the street;
- Section 6.44.11 of the Town's Zoning By-law which described the condition etc of a driveway;
- Section 4.3.1 of the Town's Official Plan which outlined the Goals and Objectives for development;
- Advised that both parts on the reference plan #2 and #3 would be the subject of the easement;
- And cross examined Ms. Giffin as the authenticity of the photos, the construction of the driveway and the location of off-street parking.

Ms. Wheeler requested if Steve Stirling, Planner for the Town of Mississippi Mills, had submitted further information regarding their meeting with the Town to reconsider the application.

M. Kirkham, Secretary-Treasurer for the LDC, presented the following e-mail:

*"Regarding the easement for 205 Mitcheson Street, in an effort to have the municipality reconsider the consent application, the applicant requested that the municipality visit the site a second time and see if there was any opportunity accommodate the easement. After that site visit, the Town's believes that there is more than enough room to accommodate the driveway on the property supporting the residential dwelling without negatively impacting the existing tree. With this in mind, the Town's position remains and does not support the consent application."* Signed- Stephen Stirling, Town Planner.

Ms. Wheeler, requested, that given the evidence provided by herself and her client that the Committee give consideration to approving the application for consent.

Moved by D. Murphy

Seconded by C. Tyson

**THAT** Application for Consent B08/176 Kirkland, be given "Provisional Consent";  
**AND THAT** the Secretary-Treasurer draft appropriate "Provisional Consent Conditions" for review and approval by the Committee. **ADOPTED**

**(g) MINUTES – May 26, 2009**

No persons attended the hearing.

Correspondence was received from the Town of Mississippi Mills, as follows:



**CORPORATION OF THE TOWN OF MISSISSIPPI MILLS**

3131 OLD PERTH ROAD • PO BOX 400 • RR2 • ALMONTE ON • K0A 1A0

PHONE: 613-256-2064

FAX: 613-256-4887

WEBSITE: [www.mississippimills.ca](http://www.mississippimills.ca)

May 22, 2009

Mary Kirkham, Secretary Treasurer  
Lanark County Land Division  
P.O. Box 37  
Perth, Ontario  
K7H 3E2

Dear Madam:

RE: Consent Files B08/176  
Pt Lot 34 Malloch Section Plan 6262, Almonte Ward  
Town of Mississippi Mills (Kirkland)

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The Planning and Development Committee reviewed the proposed conditions for the consent application B08/176 on Thursday May 21<sup>st</sup>, 2009 during the Planning and Development Committee Meeting. The Planning and Development Committee does not support the approval of the consent application and has requested that the Land Division Committee reconsider its decision. With the municipality not supporting this application, it is unclear why this application was approved when the municipality had raised a number of concerns in its report that was submitted to the Land Division Committee on Thursday February 19<sup>th</sup>, 2009, which included:

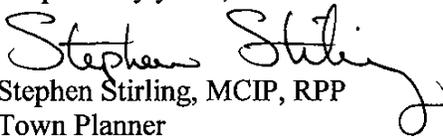
1. As the site sits today, there is ample room to relocate the driveway on to the property that it services, without impacting the existing mature tree located on the lot line.
2. This would be a precedent decision, as currently there are no shared driveways within the urban boundary of Almonte Ward.
3. The Community Official Plan permits shared driveways when it is need to provide a safe point of ingress/egress to a parcel of land.
4. The Town's street parking by-law currently prohibits on street parking during the winter. By creating the access easement, neither party will be allowed to utilize the driveway to stack vehicles.
5. The functioning of the shared driveway/access easement. The shared driveway would require both parties to work well together regarding the use and maintenance of the easement. This tends to become a much bigger issue when both parties don't get along and it is time to repair or replace the driveway and deal with issues of snow removal during the winter.
6. This would be the only lot on the street with a shared driveway.
7. The intent of a shared driveway in the municipality is to address issues in the rural area where a safe access point to a lot is required, not in the urban areas, especially where the driveway can be accommodated on the property to which it serves.

Considering the aforesaid concerns and as the municipality does not support the application, it is unclear to the municipality why this application has been approved. Furthermore any fallout resulting from this decision in the future could potentially require the municipality to help resolve or result in legal cost to the home owners.

With all of this in mind, the Town of Mississippi Planning and Development Committee has requested the Land Division Committee for the County of Lanark, provide the rational as to why this application was approved.

Should you have any questions regarding this issue, please do not hesitate to contact me.

Respectfully yours,

  
Stephen Stirling, MCIP, RPP  
Town Planner

Cc Planning and Development Committee  
Diane Smithson, Mississippi Mills CAO

The "Draft" Provisional Consent Conditions, as follows, were reviewed by the Committee:

**"DRAFT" CONDITIONS:**

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement within a period of one year after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The deed of land required by condition #1 above shall recognize any rights-of-way that currently exist over Part 2 and 3 Reference Plan 27R-9440.
3. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Town of Mississippi Mills.
4. The applicant shall provide the Town of Mississippi Mills with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
5. The applicant shall provide the Town of Mississippi Mills with a digital copy of the registered reference plan in a .DWG file format.

6. The solicitor for the applicant shall prepare “Joint Use and Maintenance Agreement” to be registered on title of the lot described as Part Lot 1 and 4 on Reference Plan 27R-9440, and binding upon the owner and all subsequent owners in title. The wording of the agreement shall be acceptable to the Town of Mississippi Mills and shall address their concerns for future ongoing maintenance and repair of the joint driveway (access).
7. Satisfactory evidence shall be provided to the Town of Mississippi Mills confirming that the driveway / access / parking complies with the pertinent provisions of the Zoning By-law. In the event of non-compliance, appropriate relief shall be obtained either by way of a minor variance or a zoning by-law amendment.
8. A letter shall be received from the Town of Mississippi Mills stating that conditions #3 through #7 have been fulfilled to their satisfaction.

Given that Ms. Giffin was not available to review the draft conditions, the following action was taken.

Moved by C. Tyson

Seconded by D. Murphy

**THAT** the “Draft” Provisions Consent Conditions as presented for Consent B08/176 Kirkland, be forwarded to Ms. Giffin;

**THAT** Ms. Giffin be requested to advise the Secretary-Treasurer if she has any concerns or questions with the ‘draft’ conditions;

**THAT** a copy of the letter from the Town of Mississippi Mills, dated May 22, 2009 be forwarded to Ms. Giffin;

**AND THAT** the Committee consider Ms. Giffin’s comments at the next Land Division Committee Meeting.

**ADOPTED**

The Secretary-Treasurer was requested to outline the rationale for Provisional Consent for review and approval by the Committee.

#### **(h) MINUTES – June 11, 2009**

Evelyn Wheeler, solicitor for the agent, Al Lunney, Mayor (Town of Mississippi Mills) and Stephen Stirling, Planner (Town of Mississippi Mills) were in attendance.

Mr. Lunney and Mr. Stirling gave evidence by affirmation.

Chairman Strachan reviewed the purpose of the hearing, the previous hearing minutes of March 23, 2009 and the reconvened hearing (at the request of Evelyn Wheeler) of April 27, 2009.

Mr. Strachan advised that it was the opinion of the Committee that the easement/R-O-W provided less disruption to the building envelope and that the Town’s Zoning By-law did not

prevent the easement/R-O-W. The purpose of the hearing today, was to review the draft conditions with the applicant and Town representatives, noting that the conditions were developed in an attempt to address the concerns of the Town and strike a balance in order to proceed.

Ms. Wheeler verbally submitted a number of concerns regarding the process. (Ms. Wheeler was requested to submit these concerns in writing).

Mr. Stirling expressed his concerns for the future development of Lot 34, and any future purchaser needs to be aware of the easement/R-O-W or any conditions upfront.

**(i) DECISION & CONDITIONS**

**DECISION:** PROVISIONAL CONSENT IS GRANTED

**REASONS:** Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

**CONDITIONS:**

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement within a period of one year after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The deed of land required by condition #1 above shall recognize any rights-of-way that currently exist over Part 2 and 3 Reference Plan 27R-9440.
3. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Town of Mississippi Mills.
4. The applicant shall provide the Town of Mississippi Mills with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
5. The applicant shall provide the Town of Mississippi Mills with a digital copy of the registered reference plan in a .DWG file format.
6. The solicitor for the applicant shall prepare "Joint Use and Maintenance Agreement" to be registered on title of the lot described as Part Lot 1 and 4 on Reference Plan 27R-9440, and binding upon the owner and all subsequent owners in title. The wording of the agreement shall be acceptable to the Town of Mississippi Mills and shall address their concerns for future ongoing maintenance and repair of the joint driveway (access).

7. Satisfactory evidence shall be provided to the Town of Mississippi Mills confirming that the driveway / access / parking complies with the pertinent provisions of the Zoning By-law. In the event of non-compliance, appropriate relief shall be obtained either by way of a minor variance or a zoning by-law amendment.
8. A letter shall be received from the Town of Mississippi Mills stating that conditions #3 through #7 have been fulfilled to their satisfaction.