

COMMITTEE OF ADJUSTMENT

MINUTES

NOVEMBER 26th, 2009

Present: Lee Redmayne, Acting Chair
Bob O'Brien, Member
Joan Truax, Member

Also Present: Bev Mansbridge, Planning Technician
Colleen Healey, Manager of Planning and Development

Lee Redmayne, Acting Chair called the meeting to order at 10:04 a.m. and explained the meeting process and the time frame for appeals to those persons present. She advised that all statements and evidence given before the Committee are of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

MINUTES:

The Minutes of October 22, 2009 were accepted by the Committee.

DISCLOSURE OF INTEREST:

There were no disclosures of interest.

APPLICATIONS:

B17/09	TURNBULL	
	305 Mill Street	Severance Conditions

Ms. Turnbull attended the meeting on behalf of the application. Colleen Healey supplied the Committee with an updated memorandum for their review. Colleen presented a written response for Committee's clarity regarding a recent question by the applicant and Colleen provided this response to Leesa Turnbull. Lee noted she understands that NVCA flood mapping is a professional study, adopted by the NVCA & MOE. Colleen also brought to the attention of Committee that a staff report had been presented to the Township's Committee of the Whole. Colleen then read her report to the Committee of the Whole. She commented that she was unsure whether this would affect Committee's decisions, but had apologized to Committee for this misunderstanding.

Leesa commented that she had understood that when the floodplain study was done, that this was to prevent individual developers so that individuals did not have to undertake their own study. Leesa commented that the Lidar mapping is not accurate. Leesa had spoken to 2 independent Engineers, who, she noted, did not consider the property floodplain, and added there has been no flooding, nor water on the property, and none during Hurricane Hazel. It

was noted that the Timmins Storm data is used as a storm model, not Hurricane Hazel. Leesa approached Committee with mapping for their review. Bob responded that he has seen no water on the property in 50 years. Lee asked when did Hurricane Hazel take place and 1954 was heard from the audience.

Bob asked whether Ms. Turnbull had requested this reconsideration of the added condition to Committee, or was this NVCA applying for reconsideration today? He would like to hear from the NVCA. The NVCA is asking for an additional condition to be added to Committee's decision, responded Colleen and noted this decision was up to Committee. Lee confirmed she wanted to hear what Leesa had to say. Leesa responded that she had just seen the NVCA's Executive Motion yesterday and has concern with the first line, noting the property "is subject to flooding". Leesa prepared response to NVCA requesting to remove this first line and stated that this property did not flood.

She noted further that the trees, removal of tree roots, and ground clearing has now been done. She added the LIDAR mapping is admittedly inaccurate. Ms. Turnbull indicated there is no way to go back and added that the No Frills store was built on the lowest portion of the property. Leesa stated that comments were heard from Glen Switzer of NVCA that a "simple cumulative impact study" was all that was required. It was noted that Skelton Brumwell had prepared this study months' ago. Ms. Turnbull questioned how we got here today, with new studies not being accurate, what will these accomplish? She reiterated she had spoken to two consultants who specialized in this matter, who commented that the requirements were over-restrictive, and that the Township Two-zone policy allows development to proceed.

Leesa asked Committee to recommend to Township staff to finalize the 4.7 ac severance (original requested severance), and ask the Township to issue a permit once all fees have been paid, and that Township staff request that the NVCA do the same.

Leesa noted she has recently become aware that a church in her community is relocating at the corner of 5th Line and County Road #90. Leesa confirmed she has lived in Angus for 43 years, and that the property on the 5th Line gets water/flooded. She further noted she understands that a site visit by NVCA on the 5th Line property has been given the go-ahead to build.

Acting Chair, Lee Redmayne noted we are here today at the request to add a condition to Committee's decision. She noted after one year has lapsed, Committee is here to review a decision granting another approval for another year. Ms. Redmayne continued that at last month's meeting, no NVCA comments or input were heard at that time and noted the Committee made a decision over again based on information given on that day and granted the consent for the severance. She went on further to explain that at the moment, the NVCA wishes to include a condition, and this is what is under consideration today. She explained that this is the justification to review the decision here again today. Lee then reviewed the information supplied by Leesa.

Discussion on the requested condition from NVCA was held and Colleen referenced a faxed letter requesting the condition from the NVCA had went missing and noted the fax has been attached to Colleen's memorandum to Committee today. Confirmation that the original

decision had input from the NVCA (in 2008) was heard, however no conditions were imposed at that time. Lee noted however, that essentially this is a new application, as the Committee doesn't grant extensions, at this time. It was noted that the decision at last month's meeting was made based on having not received anything in writing by NVCA, and thus believing that the NVCA had opted not to comment. It was suggested that perhaps the condition can be addressed through the site plan process. Acting Chair said that conditions satisfied the NVCA in 2008, but regardless, not all information was received at last month's meeting; thus not reflected in Committee's decision.

Bob commented that the NVCA had appealed to the OMB already and noted this appears to circumvent the Committee's decision. Lee added this does appear that NVCA was swift to appeal to OMB and noted that Committee does take the attitude of full cooperation with NVCA and that their authority is not taken lightly. Lee would like to hear comments from NVCA and then open to further comments from Committee.

Chris Hibberd, Director of Planning and Tim Salkeld, Resource Planner with the NVCA, introduced themselves. It was confirmed that Tim Salkeld had signed the NVCA letter which was faxed in.

Bob asked about the first original consent application (2008) and why no objections to the severance at that time, and if unhappy with Committee decision, why did NVCA not appeal then? Chris Hibberd then responded that the original 2008 comments were based on information and floodline mapping done for Angus and that this was done on a community basis. He added that the NVCA did not have site specific information at that time, although they had requested a deferral at that time. Mr. Hibberd noted he understood that the Committee of Adjustment felt comfortable moving forward with the 2008 decision at that time. He added that since that time, the NVCA has spent a considerable amount of time with the applicant and Canadian Tire, and information provided by Canadian Tire's consultant confirms that the property lies in the Regional Storm floodplain and may be in the floodway. He added that terms and policies on development are found in Township's Official Plan. Lee noted that Committee was familiar with terms. It was noted that a Two- zone approach had been applied in Angus, however, when application was originally presented a deferral had been requested but now that the NVCA has more information available the NVCA has adjusted their commenting letter accordingly. The NVCA noted the importance to protecting the applicant, the community, etc. and that this is a difficult site due to the floodplain. Chris noted they are working with the applicant and Canadian Tire towards this goal and have been working together. He added that new information has come up through geodetic surveys through Canadian Tire's consultants. Leesa indicated she was not aware of this. The NVCA noted they assumed the applicant and Canadian Tire were both aware of this information. It was suggested that the grades may have changed on this site. It was asked what recent works may have occurred and the NVCA indicated that the applicant has removed the trees from the site. Mr. Hibberd added the NVCA then adjusted their letter accordingly, since 2008, based new information provided by the developer and an updated condition was provided to the Township staff and to Committee.

Lee understands that new information is new information but does not like including new provisions for NVCA. She informed that what Committee calls an extension, in actuality is

being reconsidered as a new application. She added that decisions are relatively the same when this is viewed by Committee again. The Committee shares a spirit of cooperation, same spirit as Committee views the NVCA, and is in full support of protecting the environment. Lee added she can see the matter resolved without application to the OMB. She added neither consent to sever, nor sale of property, affects the topography. Ms. Redmayne commented that with ongoing development of the property, the onus is on the developer and as well to NVCA, to come to amicable and a safe solution to this particular process. Discussion on development of No Frills which has seen no change to the property in the last couple of years, was had. The Committee requested viewing of the NVCA's mapping if available. Colleen obtained the Township's series of 2005 Floodplain maps for viewing by the Committee. The NVCA approached Committee to view the mapping. Lee would like to see if done in 2005, and view the surrounding area (No Frills) when they developed in 2005. It appeared that pockets were seen on the maps, not full coverage of water, and Committee commented that the map appears to be an aerial topographic map. Committee asked what is the NVCA referring to for these elevations and Leesa made available mapping she had brought along as well. Chris responded that when looking at site specific properties, the NVCA must look for more detailed information, and that the mapping was done on a community basis. The NVCA was not involved in time of approvals for No Frills, confirmed Mr. Hibberd but that mapping was done at approximately same time as No Frills development.

Lee asked that Chris come forward to point out the site on the mapping. Chris approached and heard comments that Canadian Tire is being stopped because of these two fingers, representing a depth of 2 cm. Chris responded that the NVCA's Engineer may like to attend to explain mapping further. Leesa asked question of Colleen. Chris reviewed mapping and explained what red and blue lines are and where areas are going to be higher and lower. Discussion on the map was held, and a reminder that all discussion should be before audience (some started discussions of their own).

Questions were asked on the mapping and the site was pointed out, as was No Frills, and the 100 year flood line was pointed out.

At this time, Leesa noted that she was told, the NVCA has taken the 1:100 year line, and extended this line into the 1:500 year floodline. Chris from NVCA noted this did not come from him and Leesa said yes it did.

Lee, as Acting Chair, asked all to sit down and noted she is willing to review this mapping as sited and asked the NVCA and Ms. Turnbull would be interested in original condition "that NVCA be satisfied" then would this be agreeable to both parties. The NVCA noted their NVCA Executive felt comfortable with the new condition being added, as new information is now available. Lee noted this does not mean the mapping is right or wrong but noted the Committee must satisfy the condition requested of NVCA. It was discussed why the actual person applying for the severance must satisfy this condition, and why is the developer not being required to satisfy the condition? Chris Hibberd noted if the lot is created but can not be developed, this is the reason for satisfying the NVCA's condition, prior to the lot being permitted, if the lot is not developable. He explained that if Committee is not ready to come to an agreement, not ready to change condition to include both the applicant and developer, then they must proceed with following the planning process in this matter, through the OMB

process. Chris commented that the NVCA would not want to exclude the applicant from the development process.

Lee then asked Leesa, if the original decision included the statement “satisfactory to the NVCA” would this be agreeable to her? This suggestion would see the NVCA noted on the new decision. Leesa indicated she had not been aware of the new NVCA condition requested. Colleen was asked to supply Leesa with the correspondence outlining the new condition. Chris noted the condition was found in their response letter. Colleen also noted the condition in the NVCA letter and informed Committee that the package was supplied to Leesa yesterday. The Chair then asked Chris if the NVCA would consider the former condition about satisfying the NVCA, and he responded that the decision from NVCA’s Executive, was to include this new condition as requested. Bob then asked if this had already gone to the NVCA’s Executive and Chris confirmed yes. Lee asked if this new condition is included, then will the OMB appeal be dropped and Chris noted this is the direction to staff. Leesa then asked for a deferral. Bob was in favour of the deferral. Lee and Joan agreed to a deferral.

Lee noted that Committee was recommending a deferral to Chris Hibberd and he responded that this is up to Committee and whatever decision the Committee feels comfortable making. Lee announced a deferral on this decision, and advised the NVCA to bring along their Engineer for the next scheduled meeting, including alternatives to the wording of the condition, so that the Committee can get a cooperative spirit going, get the matter resolved, and hopefully not go to OMB. Bob asked why this new decision was not recommended last year, and why hang this OMB appeal over the applicant’s head, when not enough time to study? Chris questioned what is the discomfort with this particular condition? Lee announced that a good decision was already made on the consent to sever. She further noted that all concerns are taken care of in the development process, through the site plan process, whether to go forward with a project or not, and that a consent to sever is what this Committee decides. It was noted that the proposal is located in a good spot, some heresay of residents heard that the property does not appear dangerous, appears no reasons not to erect this structure, past development, etc. and this is the reason for original decision and what this Committee is comfortable with. Discussion on concerns for development of the property, and that there is no imaginary line, nor has any topography changed, no hydraulics have changed from a year ago, but uncomfortable in including the new condition this year. It was also noted that the NVCA is supposed to be an advisory authority, a cooperative authority, and that the Committee also does not want to see flood or environmental damage. Lee says this usually is dealt with at site planning level and believes that they will deal with NVCA’s expertise at time of site plan approval. It was reiterated that Committee is most comfortable with its original decision. As a deferral is already made, it seems everyone has to be satisfied before anything can be done. It does seem that wording of the condition means that without approval cannot move in any direction.

Discussion on the severance and if the severance cannot be granted, then it appears that the cart is placed before the horse. Bob stated that with an OMB appeal, this stalls the process. Chris noted perhaps the severance is premature and not in the public’s interest. Lee suggested that as Committee has already agreed to a deferral, in the spirit of cooperation and Township willingness, and with due respect to the NVCA that it deserves, to have NVCA staff please discuss and obtain new direction from the NVCA’s Executive concerning the condition and/or

wording. Chris then added that to Bob's comments pertaining to the OMB, that this is the planning process set before us from the Planning Act (time frames), when concerns with any particular site, and whether the site can proceed or not. It was noted that perhaps the developer is afforded more opportunity to deal with these requirements in this case. Chris noted this new information puts this development in doubt. Discussion on the NVCA advising the Township and Committee with these developments was held, and particularly when considering new information. Chris noted the planning policies are entrenched in the Township Official Plan which includes severances, the Provincial Policy Statement talks of this, and that no new development is to proceed in the floodplain. He explained that a Two Zone study was provided in this community. Lee noted the Committee takes all information into account, including new information they have obtained.

Chris noted the reason for the NVCA appeal is being the extent of flooding on the property, and that they are following the Planning Act process with an OMB appeal. He added they still want to move forward and try to overcome hurdles, as a considerable amount of time has been spent with the applicant and developer, however, they must deal with own Board or at the OMB level. He noted they may not be able to deal/resolve this at a staff level. He added he hoped this answers why and how they are here today.

Bob noted that an EDC decision was passed last evening supporting the development 100%. Lee understands why this would be supported as jobs/dollars/tax revenues, would thrive/increase? Lee has every confidence that in deferring, all parties would have ways and means to bring this project to fruition and that this is not an insolvable problem. It was noted that the deferral may allow time to sit down and work with people. Lee announced deferral of the decision and noted that the Committee gives the Conservation Authority every respect it deserves.

The Chair announced a deferral to the discussion of an added condition.

B 10/09 – B15/09 SUNNIDALE CUSTOM HOMES
A10/09 17 Tree Top Street

Bill Forsyth introduced himself as agent for the application from Homelife Emerald Realty, who represents the owners of the property. Colleen then read the staff Planning Report.

Colleen highlighted two letters from neighbours, the first being Jacqlyn Prieur of 28 Summerset, recommending a pathway be included on the subject property for children/student use. She read a second letter from Ernie Pecore, who had assumed the severance was already granted as he attached a real estate listing for the parcels.

The Chair then asked the agent for comments and Bill Forsyth noted that the Director of Planning has said it all, and added that opportunity for planning an infilling lot(s) in the area was permitted, and that when one looks at the street numbering, that along the south side of Summerset, the numbering jumps from 12 and then 20. He added it seems the Township allowed for the missing #'s 14, 16, and 18 which would be the middle properties and perhaps the Township was planning for this growth. Mr. Forsyth added that the parcel is zoned Residential (R1) and that his client is taking the property forward to fruition of what was

planned all along. Lee originally had asked about the request of the first letter, in terms of the pathway and Bill commented he/his client does not feel should have to address this. He commented that "No Trespassing" signs are posted here by other owners, as they felt they could not police this. Audience member Terry Frankum noted that the church did put up signs, and the reasons were that neighbour children were throwing papers/refuse on the lot. Mr. Frankum noted that Mr. Pecore was also aware that the Church put these signs up in hopes to stop this dumping. He added that kids go through this property. Discussion on disadvantages of a walkway was held. Committee Member Bob O'Brien commented he would like to see single detached homes similar to the neighbourhood and wants to make sure they are in keeping with the style of this neighbourhood. Bill confirmed that single detached dwellings were being planned. Lee asked the agent whether he was in agreement with the suggestions of the Manager of Public Works pertaining to lot grading, drainage, tree replacement along boulevard, as these were cut without knowledge of the Township, etc. and Bill indicated yes. It was noted that this neighbourhood has tree lined streets, and well landscaped lots and Lee would like to see this carried through and Bill indicated yes. The audience was then asked for comment. Anna LeClair asked that whether the builder or owner or real estate was dealing with the property? It was noted that the real estate is the agent for the developer. Anna stated her annoyance that the property was cut before passing, and she had understood that the real estate was selling the lots. Lee confirmed that this would be a conditional sale if lots were sold, and advertising was used to excite interest and added that any sale does not mean anything unless these severances are granted. Ms. LeClair added she lived there over 40 years, and felt that a nursing home would have gone up. It was noted that the "No dumping, and No trespassing" signs were only up in the last 2 years. Bill indicated that the property was owned by others up until November 1st and that the No Trespassing signs were posted.

Audience member, Robert Parsons noted that the reason for signs posted by the church was that parties and extra dumping was occurring. He has taken pictures of people dumping on the property and was aware that fights had occurred in this area. He also noted his kids had crossed the property to school. Chair Lee noted that the issue of a walkway was not issue of the Committee, and added that most private property owners are not comfortable with people crossing their property for liability reasons. She noted to the audience that she believes in good neighbours and to talk with the owners and put any concerns to the owners, and discuss with the new owners.

Ernie Pecore then asked Bill what the "retained" portion on property would be, as this is an 85' lot (on Summerset). Bill commented that it will be used for a home. Mr. Pecore noted that the applicant was asking for a variance of 5', on the lots facing Summerset, however, there appears ample room for two 60' lots and one 80' lot on Summerset. Bill noted that the 55' lots match the Tree Top Street lots and are trying to keep as close as possible to the same size. The remaining 67' and 85' lot owners want larger lots and that these owners will retain for their own homes (owners). It was noted that these equal sized lots are keeping in conformity with others in this area. Ernie asked if the owners have the rights to do this and Bill said yes. Ernie commented only if the Committee passes the severances. Terry Frankem, asked about drainage and the buffer that was going to be put on the property. It was noted that these reports are not within clear review of this Committee but with the Township's Planning and Public Works Departments. Geb Tomay commented that he had been told that this property could never be sold, at time that he purchased his property. He was given the feeling of

isolation, less traffic noise, more privacy, and now there is no privacy at all anymore. It was commented that this echos everyone's complaints heard today. It was noted that the site conditions had deteriorated and that the OPP pulled cars from the site in the past, and that the church hired help to clear downed trees due to storms, and that the signs went up after.

Chair Lee noted the Committee is informed to encourage growth in settlement communities, to allow for easier access for garbage and other services, school, conveniences, etc. She added there is nothing that contravenes the by-laws of the Township in this regard, and whatever you were told when you bought the house, cannot be changed. She suggested to always checking with the Township on such matters, as the Township knows what designation or how this property can be developed. The agent then noted the same concerns as one of the owners who lives across the road from the development for the past 30 years, and at that time, no homes were developed and they had viewed only a forested property on a pristine street. Bill noted that the developer, Mr. Biffis, had the trees cut with the development of a subdivision and the thoroughfare (road) came through. These owners knew and accepted that when they bought on a dead-end street, that progress may occur and did go through for subdivision development.

Colleen addressed that when Township staff are approached for the lot grading and drainage plan, that the report has not yet been prepared nor provided to the Township. Colleen noted further the Township does not employ an Engineer, but the Township's Engineer will be reviewing this plan and will ensure there is no impact to neighbouring lots, and that no drainage will affect properties in the neighbourhood. Colleen noted that the report will assure that drainage and lot grading plans are followed through, but not looking at buffering the property, as this requirement is not within the Township's power, only through the Committee, if they wish to have the property buffered.

Colleen reiterated that the lot grading and drainage plan may be viewed, once provided to the Township.

The Committee then voted and Bob was in favour of conditions by the Manager of Public Works but not in favour of any buffering. He commented that none of the houses in this area are buffered from each other, so why buffer these. Joan is in favour with all conditions. Lee noted she was in favour, and would like to see buffering by original housing and the trees put back, on the edge of property. It was commented that unsure whether the houses need to be buffered from each other or just along streets and sides, but that this buffering plan would be good for future neighbours.

Lee announced the application was approved with buffering along the sides of existing houses and streets. The Committee agreed to buffering the lots and the conditions of the Public Works Manager.

The Committee Members then approved the severance application with conditions, as well the minor variance was approved.

B 18/09

**KONRAD/HOUNSOME
5979 10th Line**

Wesley Hounscome attended as having an interest in these lands. Colleen noted some concerns of the neighbours and offered cooperation. Mr. Gary Dermott was present as an interested party, she confirmed and Colleen would support some of his comments. Colleen then presented the Planning Report. She indicated the diagram provided with the Notice. Mr. Murphy, Manager of Public Works, noted condition of agreement with a local drainage agreement, Colleen can provide the applicant with a copy of the drainage agreement. Colleen explained the clean out of drains occurs approximately once every 20 years, on an average, but typically once every 20 years. She continued that if a call for cleanout is requested/received, that this initiates a drainage clean out where the Township cleans out the drain. She further explained that should the cost to clean the drains be approximately \$5000, then everyone within the drainage assessment area contributes to costs of the drain cleanup. This cost is dependent on lot size for costs shared with any drain clean outs. The Public may request clearing out of the drains and the Township has the right to assess these cleanouts. This Drainage Agreement is a standard requirement, and the Manager of Public Works prefers that the applicant acknowledge the agreement and be made aware of costs involved at time of cleanouts. Lee noted that when this condition is being added to a severance, that this is something that Committee is duty bound to add.

Neighbour, Gary Dermott from Lot 9, Conc. 10, commented he is here to save farmland, to grow food, and that this is agricultural land which should not be processed. He noted it seems like Mr. Konrad had obtained a severance application, and is now cutting the Morgan farm into another piece, and that this should have been left as a whole parcel. He asked why the applicant is asking for a 2.35 acre addition and why add this chunk of land behind? He noted if the applicant wanted 100 feet added to his lot he could see that but he is against an addition this big, and based on fact that this is agricultural land. Another neighbor, Keith Thomas of 5054 10th Line resides along the 10th Line. He wondered if Mr. Konrad had this planned at first and questioned the Konrad south lot line. He understands that the lot line is being added to and indicated this appears extremely close, but wonders why a 1/2 ac lot is now made 5 times bigger and is maintained as a residential lot. He asked what is Mr. Hounsomes' intended usage, as this is a large residential lot, taking in prime farmland. He understands the reasons for making lot bigger, but this is an extremely large lot addition. Lee asked Colleen about the surplus severance for Konrad and Colleen confirmed that Committee's decision was made on June 25th. Lee asked whether the surplus lot included the farm itself and lot line was behind the existing buildings and Colleen confirmed yes. It was noted perhaps some local knowledge can confirm and shed light on inclusion of barns on property, etc. It was noted it appears there is a fence marking the rear lot line. Colleen will pull out the sketch in this regard.

Lee then asked why such a large lot and Mr. Hounscome confirmed that the original lot line to the rear (west) boundary line, was intended to make an even lot line across the back of both the properties, even with the severed lot. His neighbor to the north, he added, was interested in buying lands from him sometime in the future. The Committee noted this is dog legging property in behind of his neighbor to the north and he indicated yes, and that this may be secured by his neighbour in the future. Committee asked if the land was needed for any particular reason and the applicant noted he has a large family of 8, who are home schooled, and he would like a greater sized parcel to raise his family. Colleen offered the sketch to be viewed by Committee and viewed the barn in back, 45 feet from the rear property line. Mr. Hounscome noted he had approached Mr. Konrad but that there was no previous agenda. Lee

asked the applicant would you want to cut down the size and whether any fence exists between the properties, and Mr. Hounsome indicated there was no fence. Lee confirmed a fence exists on the north lot line and it was confirmed there is a line fence. The neighbours noted that farmers deal with a tighter turn around then this on some corners of fields and that the other neighbour seems not as interested if he has not attended the meeting today. The Committee voted all in favour to the size requested.

The Committee Members then approved the severance application with conditions.

Acting Chair, Lee Redmayne then announced the application has been passed. It was noted that the Committee decision will be mailed out tomorrow.

OTHER COMMENTS:

Lee thanked Colleen for the information on Heritage buildings.

Committee member Bob O'Brien asked to send a card to Roy Perry, regular Chair of the Committee, who was ill.

OTHER BUSINESS:

No other business was heard or discussed.

ADJOURNMENT:

The meeting adjourned at 11:30 a.m.

Lee Redmayne, Acting Chair

Bev Mansbridge, Secretary-Treasurer