

THE CORPORATION OF THE TOWNSHIP OF HORTON

Committee of Adjustment - Public Meeting
July 17, 2012 – 4:00 p.m.

Minor Variance Application A16-12 – John and Leslie Shier

There was a public meeting of the Committee of Adjustment to hear Minor Variance Application No. A16-12 (John & Leslie Shier). Present were Chair Bob Kingsbury, Councillor Glen Campbell, Councillor Jamey Larone and Councillor Margaret Whyte. Also present were Committee Members Jim Ferguson, Mae Craig, David Brown and John Wilson. Staff present was Mackie McLaren, CAO/Clerk and Rose Curley, Administrative Assistant. Absent: Mayor Don Eady and Committee Members Bob Lockwood, and John Berkhout.

1. CALL TO ORDER

Chair Kingsbury called the meeting to order at 4:01 p.m.

2. DECLARATION OF PECUNIARY INTEREST

There was no declaration of pecuniary interest by Committee members or staff.

John & Leslie Shier - Application A16-12

3. PURPOSE OF PUBLIC MEETING

Chair Kingsbury informed the Committee that 152 Payne Lane is zoned Limited Service Residential. Under the Township of Horton Comprehensive Zoning By-law 2010-14 – Section 3.15.2(a) states “Notwithstanding the provisions of paragraph 3.15.1 of this subsection, a limited service dwelling may be erected or used on a lot in a Limited Service Residential (LSR) Zone provided such lot fronts along a private road which the subject lot and use are legally entitled to use for access. Section 2.167 requires that the right of way must be registered. This property does not have a registered right of way but the owners have provided a legal opinion that demonstrates a legal right of access exists.

The Minor Variance Application is to exempt the property from Section 3.15.2(a) and Section 2.167 of Horton Township Comprehensive Zoning By-law 2010-14 with respect to the requirement that the right of way be registered and to accept a legal right of access in its place.

4. METHOD OF NOTICE

The CAO/Clerk reported that as required by the Planning Act all property owners within 200 feet (60 metres) were mailed notice of this Public Meeting. This resulted in four property owners receiving notice and in addition two agencies were also sent notice for their comments.

5. PERSONS REQUESTING NOTICE OF DECISION ARE TO SPEAK TO SECRETARY

The CAO/Clerk informed the Committee that anyone wishing to receive Notice of the Decision should make a request to him.

6. PUBLIC PARTICIPATION:

a) Questions

There were no questions.

b) Comments in Support

The CAO/Clerk read a legal opinion submitted by the applicant's lawyer which states that the applicant(s) has a legal right of access to said lands from the public travelled road, being Renfrew County Road 653. This opinion is based on the *Real Property Limitations Act*, R.S.O. 1990, c.L.15 and cases decided under that act, as applied to the facts relating to the use of existing roads now known as Garden lake Trail, and Payne Lane.

c) Comments in Opposition

There were no comments in opposition.

7. QUESTIONS BY COMMITTEE MEMBERS

John Wilson, Committee member inquired as to why the owner didn't have a registered right-of-way. Mackie McLaren, CAO/Clerk referred to previous minor variances that have been given to property owners in the Catherine/Garden Lake area due to an ongoing road issue. He explained that we had received a legal opinion from our lawyer Janet Bradley that residents in this area could seek a minor variance from section 3.15 and section 2.167 with respect to the requirement that the right of way be registered. The owner is required to provide a legal opinion to demonstrate a legal right of access existed even though not on a registered right of way. These applications should be on a case by case basis. Further, the owner would register notice on title that they have entered into an agreement with the Township which states that the Township has relied on this legal opinion in issuing a permit and wherein the owner releases the Township from any liability as a result of its reliance.

8. DECISION

Moved by Dave Brown, Seconded by Jim Ferguson

That Application A16-12 be approved to exempt the property from Section 3.15.2(a) and Section 2.167 of Horton Township Comprehensive Zoning By-law 2010-14 with respect to the requirement that the right of way be registered and to accept a legal right of access in its place.

Carried.

9. Chair Kingsbury closed this public meeting at 4:06 p.m.

Chair

Secretary