



THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES

1 BAILEY STREET, P.O. BOX 129, PORT CARLING, ONTARIO P0B 1J0

APPLICATION FOR CONSENT under Section 53 of the *Planning Act* **GUIDE TO LAND SEVERANCE PROCEDURES**

THE BASIC CRITERIA

To apply for a severance, the attached application forms and associated drawings must be completed and returned to Planning staff in the Development Services and Environmental Sustainability Department. Planning staff are available to assist applicants throughout the process. They will not, however, complete application forms or maps for you.

Official plans are land use planning documents adopted by Municipal Councils and approved by the Province (or other related authorities). They reflect provincial and local planning issues and among other things, establish policies for lot creation. The Planning Act requires that any proposed severance must conform to the requirements of the Official Plan and be consistent with the Provincial Policy Statement. In the Township of Muskoka Lakes, lands are subject to both a local Official Plan and a District Official Plan.

All lands are also subject to a Comprehensive Zoning By-Law, which sets out specific requirements for new development (e.g. minimum lot size, frontage, setbacks, etc.). All proposed lots must comply with the relevant Zoning By-Law, or else the By-Law must be amended to bring the lands into compliance. The Zoning By-law is available [here](#) and if needed planning staff at the Township of Muskoka Lakes office can assist you in determining the rules and specific lot size requirements, which are applicable to your property. Information regarding the Official Plan can also be obtained from Township Planning staff.

Please be advised that an application once deemed complete will be circulated to all property owners within 400 feet of the subject property. It is highly recommended that you contact your neighbouring property owners in advance of this circulation to discuss your proposal.

SOME TYPICAL QUESTIONS

QUESTION: WHEN DO I NEED A SEVERANCE TO CONVEY LAND?

If you own, or have an interest in any land abutting the lot you wish to convey, Section 50(3) and (5) of the Planning Act requires that a “consent” or land severance be obtained before you can convey that lot. Similar circumstances apply to grants of right-of-way.

QUESTION: DO SEPARATE DEEDS OR SEPARATE TAX ASSESSMENTS DIVIDE LAND?

NO - if the lands are abutting and in the same name, a Consent is likely required under the Planning Act, unless those lots were previously created by an approval authority under a Consent application or a Plan of Subdivision.

Please Note that as of January 1, 2022, a joint tenant’s death no longer creates an automatic merger with any abutting lands owned by the surviving tenant. The separate status of the property remains the same whether or not abutting properties are owned jointly.

QUESTION: HOW DO I DECIDE WHICH WILL BE THE SEVERED LOT IN THE APPLICATION?

Generally, the severed lot is the one that you want to convey and the retained lot is the one you will keep. In some circumstances, it is possible to create three parcels by severing only the middle lot, if after the middle lot is conveyed, the two outside lots would be isolated and you own no other abutting lands. However, you may wish to apply for a Consent for all three of these lots so that any one lot could be conveyed at any time without having to consider the order of conveyancing. As of January 1, 2022, a Certificate of Consent can be issued for both the Retained and Severed Lots.

To receive a Certificate for the retained lands, you must indicate this on the application as well as provide a statement from a lawyer confirming that the land abutting the subject land is not also owned by the owner of the subject land other than land that could be conveyed without contravening section 50 of the Planning Act.

If you wish to receive a Certificate for more than one severed lot, a separate application must be submitted for each severed lot.

QUESTION: WHAT IS THE PROCEDURE IF A ZONING EXEMPTION / AMENDMENT IS REQUIRED?

In some cases, the proposed lot(s) do not meet the requirements of the Zoning By-law. An application to amend the Zoning By-law (or provide relief through a Minor Variance) must be submitted. To save time and cost, this can be done concurrently (at the same time) with the Consent Application. The fee is reduced to half of what is normally required and the Public Meeting can be held on the same day as the hearing for the severance. Please note that where a concurrent Zoning By-law Amendment Application is submitted, the Public Meeting is held before the Planning Committee and decision made by Council, as opposed to the Committee of Adjustment.

QUESTION: CAN A PURCHASER APPLY FOR A CONSENT?

Purchasers or their appointed agents can apply for consent to sever land. Purchasers or their appointed agents must provide an agreement of purchase and sale.

QUESTION: CAN A CONSENT BE CANCELLED?

As of January 1st, 2022, a property owner can request a Certificate of Cancellation of consent.

Once the consent is cancelled, it is no longer considered land that has been previously conveyed, and owners should seek legal counsel to ensure there are no unintended consequences with abutting owned properties.

To request a Certificate of Cancellation of consent, the Township requires a written request please provide, an explanation for why the cancellation is needed, evidence of the current consent, and the applicable fee.

FILLING OUT THE APPLICATION FORM

SECTION 2:

The Municipality refers to the general area (e.g., Township of Muskoka Lakes) while the Geographic Township refers to the old Township name (e.g., Medora, Monck, etc.)

SECTION 3.1:

If a right of way is to be included in the deed along with the severed lot, it must also be included in this section.

SECTION 3.3:

If a Certificate for Retained Lands is to be included with the Certificate of Consent for the severed lot, this section must be checked and a statement from a lawyer confirming that the abutting lands will not merge.

SECTIONS 4.1 and 4.2:

All dimensions must be stated, even if the application is only for a right of way, in order for your application to be deemed complete. In such instances, the dimensions of the right-of-way should be shown under "severed lot". Dimensions can be stated in either imperial or metric measurement, or both.

SECTIONS 4.1(a) & 4.2(a) - Use of Lands:

Existing **use** refers to the actual use you would see if a site visit were made, **not** the zoning or use permitted in the Zoning By-Law. In the case of an addition to abutting lands, the dimensions, use and type of buildings on that abutting property must also be indicated somewhere on the application or on the plan.

SECTION 5 - Access:

If access is by **private road** over someone else's property, a copy of your Deed showing that you have a registered right-of-way over that road should accompany the application. If a driveway is to be shared, this should be indicated, since a right-of-way will have to be established for that purpose.

If access is by **water**, we will require information regarding your parking and docking facilities. Please note a Consent Agreement may be imposed as a condition of consent prohibiting use of public docking and parking and confirming long term satisfactory access is secured.

SECTION 9 - Sketches:

10 copies of a plan similar to that shown on the sample attached must be submitted showing all the information contained in Section 9. The plan should be colour coded as follows: -

- RED** - Severed lot(s) (unless the severed "lot" is a right of way or easement only)
- GREEN** - Retained lot(s)
- YELLOW** - Rights-of-Way – all new rights-of-ways or easements should be shown in **yellow only**, even if it also represents the severed "lot"
- BLUE** - i) in rights-of-way - the lands to which a right-of-way is being granted.
- ii) in lot additions - the lands to which the severed or retained lot are being joined.

In cases of multiple applications, one set of 10 plans is all that is required. Individual applications can be shown by numbering the lots. Any drawings exceeding 11" x 17" or Studies / Reports are required to be submitted in digital format in addition to hard copy.

NOTE: IF YOU DO NOT HAVE AN EXISTING SURVEY PLAN, A HAND DRAWN SKETCH TO SCALE IS USUALLY SUFFICIENT. HOWEVER, ONCE CONSENT IS GRANTED, A SURVEY WILL BE REQUIRED IN ORDER FOR YOUR SOLICITOR TO DESCRIBE THE SEVERED LOT IN THE DEED. IT IS, THEREFORE, VERY IMPORTANT THAT DIMENSIONS SHOWN ON THE SKETCH AND IN THE APPLICATION ARE ACCURATE, SINCE IF THE FINAL SURVEY DIFFERS FROM THE SKETCH, YOU MAY BE REQUIRED TO SUBMIT A NEW APPLICATION SHOWING THE CORRECT DIMENSIONS. IF YOU ARE UNABLE TO OBTAIN ACCURATE MEASUREMENTS, YOU SHOULD CONSIDER ENGAGING A SURVEYOR TO EITHER PREPARE THE SKETCH, OR TO MAKE SOME PRELIMINARY CALCULATIONS FOR YOU.

DIRECTIONS:

Written directions on how to locate the site must accompany the application. This is to facilitate site inspections by the reporting agencies and should include distances from intersections, names of all roads, distinctive land marks, mailboxes, etc., as well as your 911 address.

LOT POSTING:

After your application is submitted, this office will supply you with an 11" X 17" notice posting, which must be placed on the severed lot in a location, which is clearly visible. The purpose of the sign is to assist the reporting agencies in locating your property when they conduct a site inspection. This sign is also required as a form of Public Notice under Provincial Regulations. Accordingly, failure to comply with the posting of the sign will mean proper notice was not given and any approval given by the Committee of Adjustment under those circumstances can be challenged and it may be necessary to recirculate your application. In order to ensure compliance with this requirement, you must also sign a Posting of Notice Declaration that is supplied by this office.

FLAGGING OF PROPERTY:

LOT CORNERS AND LOT LINES SHOULD BE CLEARLY MARKED (i.e. COLOURED TAPE, PAINTED STAKES, ETC.) TO SHOW THE LOT BOUNDARIES AND THE DIVIDING LINE BETWEEN THE SEVERED AND RETAINED PARCELS. THIS WILL ENSURE THE CORRECT AREA IS BEING INSPECTED. A MARKER ON ANY KNOWN SEPTIC SYSTEM LOCATIONS WILL ALSO BE OF ASSISTANCE.

IF LOT LINES ARE NOT APPROPRIATELY IDENTIFIED, IT MAY RESULT IN A DELAY FOR APPROVALS AS THE PROPOSAL MUST BE CLEAR.

SEPTIC APPROVALS:

Approvals previously given by the Ministry of the Environment and Energy for private sewage disposal systems have now been delegated by the Province to the local municipalities. In order to determine the capability of the lands to support on-site sewage systems, or the impact of the severance on any existing systems or usable area for a system, a report from the septic approval authority is required. This does not apply to applications on municipal sewer systems. This report will be provided by the Building Inspector (Sewage Systems) who charges a fee for this service. Approval for severance purposes is not the same as septic approval for a building permit. Due to location of bedrock in the Township, the criteria used for Severance is a standard Class 4 Primary Septic System. Please contact Building staff for further information if required. Fees for the Township septic report are required to **be submitted along with your application.**

The fees are as follows: -

- a) \$200.00 for each lot, including the retained lot (e.g., if 1 severed and 1 retained – the fee will be \$400.00)
- b) A flat fee of \$100.00 for all applications that don't create a lot (e.g., rights-of-way, lot additions, etc.)

WHAT HAPPENS NEXT?

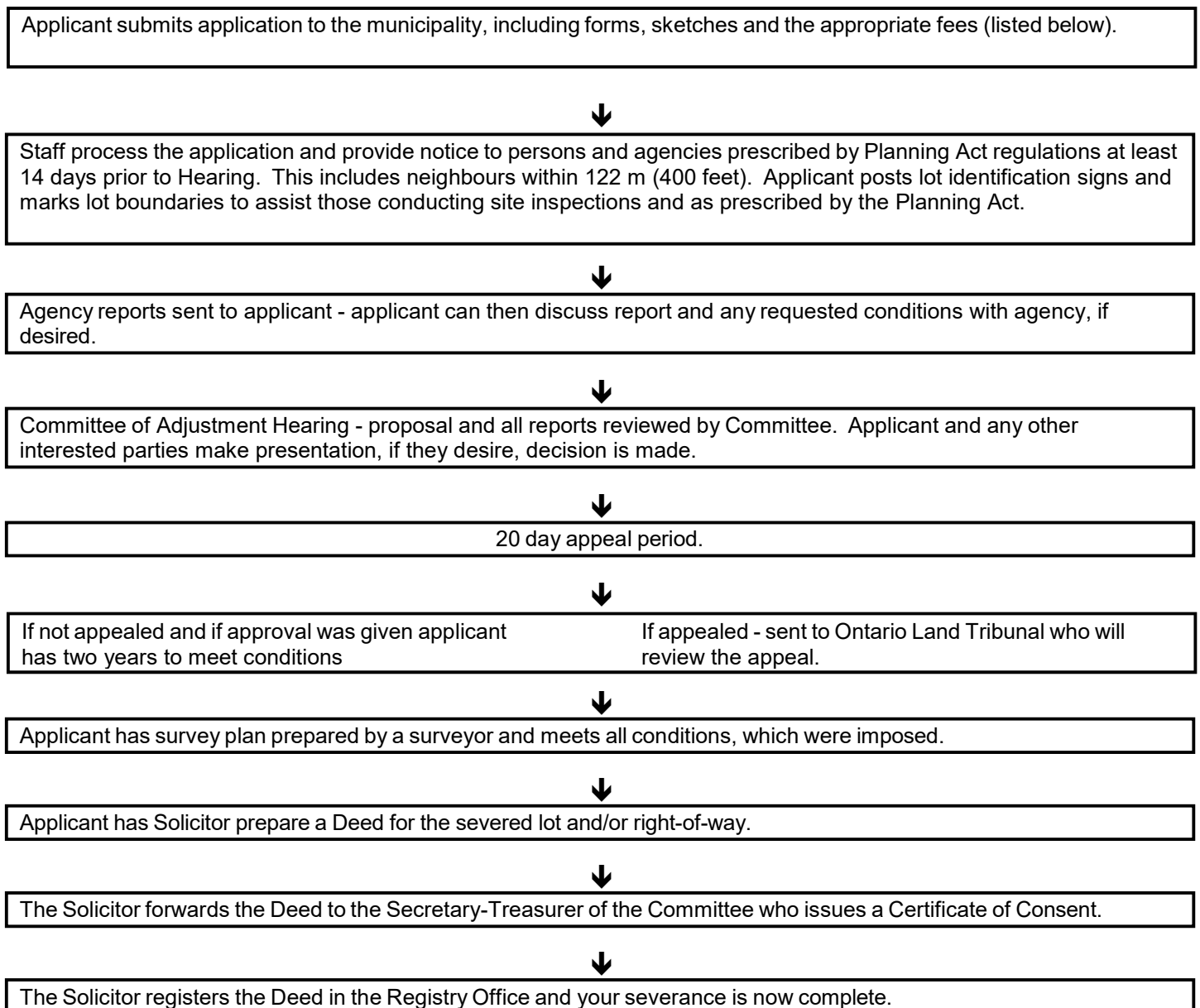
Once your application is submitted, staff are required by the Planning Act to circulate notice of your proposal to persons and agencies prescribed by Regulation who may have an interest in the proposed consent. These agencies include other municipal Departments, the District of Muskoka, and if applicable, Ministry of Natural Resources, Ministry of Transportation, TransCanada Pipelines, any Railways, the Chief of every First Nation Council, etc. All agencies may submit a written report, which will be considered by the Committee of Adjustment at a public Hearing.

An official Notice of that Hearing will be mailed to the owner, solicitor and/or agent, reporting agencies and to all neighbours within 122 metres (400 feet) at least 14 days prior to the Hearing.

Generally, the Hearing will be held and a decision given within 60 days of receipt of a completed application. If a decision has not been reached within Planning Act guidelines, the applicant has the right to appeal to the Ontario Land Tribunal. Before filing such an appeal, however, the applicant should determine the status of the file to see if a decision will be reached within a reasonable time. If all needed information is provided at the time the application is submitted, delays in processing can be avoided.

Once a decision is given, there is a 20-day appeal period from the date the Notice of Decision is circulated, when the decision of the Committee may be appealed to the Ontario Land Tribunal. After the appeal period has expired, the decision is final and binding and the applicant may proceed to finalize the application by meeting all conditions of severance, including typically having a survey plan prepared showing the severed lands and having a Deed drawn up by a Solicitor. The Deed for the severed lot should then be submitted to the Secretary- Treasurer of the Committee who endorses it with a Certificate of Consent. It is necessary that the lands described in the Deed be identical to the severed lot described in the application. The Planning Act requires that all conditions imposed must be fulfilled within **two years** from the date of the sending out of the decision. **If conditions are not met within that time limit, the conditional consent expires and a new application must be submitted.**

THE VARIOUS STEPS IN THE PROCESS:



COSTS INVOLVED

(For multiple applications fees made payable to the Township of Muskoka Lakes can be

combined into one cheque)

Application Fee(s): \$1600.00 per severed lot / right-of-way; \$750.00 for each subsequent right-of-way; made payable to the Township of Muskoka Lakes.

Septic Approval Authority Fee: \$200.00 for each septic inspection for new lots; \$100.00 for each lot addition / right-of-way; made payable to the Township of Muskoka Lakes.

Concurrent Zoning By-law Amendment (Rezoning or Exemption) / Minor Variance Fee: If your request requires a change in the zoning designation or if a lot is undersized for the present zoning, an application must be made to the Township for a rezoning, by-law exemption or minor variance. This is called a "concurrent" application. The fees are as follows: \$1050.00 for a concurrent rezoning application; \$900.00 for a concurrent by-law exemption application, and \$700.00 for a concurrent minor variance application.

Certificate for Retained Lands Fee: \$200.00

Certificate of Cancellation for Consent Fee: \$300.00

Consent Agreement Fee: \$350.00

Change of Condition Fee: \$300.00

Development Charges: All local Area Municipalities and the District Municipality require the payment of a development charge on new lot creation, however, the charges are payable at the building permit stage and will not become a condition of consent approval.

Parkland Dedication Fee: The Township typically requires a cash payment in lieu of a parkland dedication when new lots are created. The Planning Act permits a charge of up to 5% of the value of the land and this will likely become a condition of consent approval for newly created vacant lots. Payment must be made prior to finalization of the consent.

Survey Plans: In order to prepare a Deed for the severed lot, your Solicitor will require a registerable description. This usually involves a new survey plan.

Legal Fees: For the preparation of the legal documents by your Solicitor and subsequent registration of those documents, etc.

These guidelines are intended to provide general information on land severance procedures and the costs involved in dividing or severing your land.

For additional information, contact the Township of Muskoka Lakes, 1 Bailey Street, P.O. Box 129, Port Carling, Ontario, P0B 1J0, or telephone (705) 765-3156 or Fax (705)765-6755

CHECK LIST:

Have you enclosed the following: -

PLEASE NOTE: A pre-consultation is highly recommended before submitting a Minor Variance Application. Please visit our Planning page on [our site here](#) to schedule a pre-consultation.

- 1 copy of the sketch and a digital copy of the sketch sent via email to planning@muskokalakes.ca. The sketch should be properly colour coded and showing all buildings, septic systems, and the remaining information required in Section 9.
- The filing fee of \$1600.00 per severance / right-of-way application, made payable to the Township of Muskoka Lakes. (For multiple applications fees can be combined into one cheque.)
- If it is a "concurrent" application, the filing fee for rezoning (\$1050.00), by-law exemption (\$900.00), or minor variance (\$700.00). (For multiple applications fees can be combined into one cheque.)
- A cheque made payable to the Township of Muskoka Lakes for a septic approval review as noted above.
- 1 copy of the application form completed in full for each severed lot. **Please print clearly with dark ink to facilitate photocopying/scanning.**
- 1 copy of the signature page signed and the affidavit sworn before a Commissioner of Oaths for each application. (Commissioners are available at the Township Office, any Solicitor's Office or City / Municipal Office)
- Written authorization from the owner(s) or purchaser(s), if the application is submitted by anyone

other than the registered owner(s) or purchaser(s), and a copy of the purchase and sale agreement if applicable.

- Written directions to help locate the site for all agencies conducting site inspections.
- A parking and docking letter from a marina, if your lot is accessible by water only.
- A copy of your Deed showing you have a registered right-of-way, if access to your property is over a private road crossing neighbouring lands owned by someone else.
- Please remember to mark the lot lines on site.

Mail the application to: Secretary-Treasurer,
Committee of Adjustment,
Township of Muskoka
Lakes, 1 Bailey Street,
P.O. Box 129,
Port Carling, Ontario P0B 1J0

Or deliver the application to Planning staff at the Township Office at the corner of Joseph and Bailey Street, Port Carling, Ontario. Or Email to planning@muskokalakes.ca.

ANY FURTHER QUESTIONS MAY BE DIRECTED TO THE PLANNING STAFF AT THE TOWNSHIP OFFICE AT (705) 765-3156. LONG DISTANCE CALLS WITHIN THE TOWNSHIP (EXCHANGE NUMBER 687, 684, 732) WILL BE ACCEPTED AS COLLECT CALLS. YOU MAY ALSO CONTACT THE OFFICE BY WAY OF ITS WEBSITE www.muskokalakes.ca.

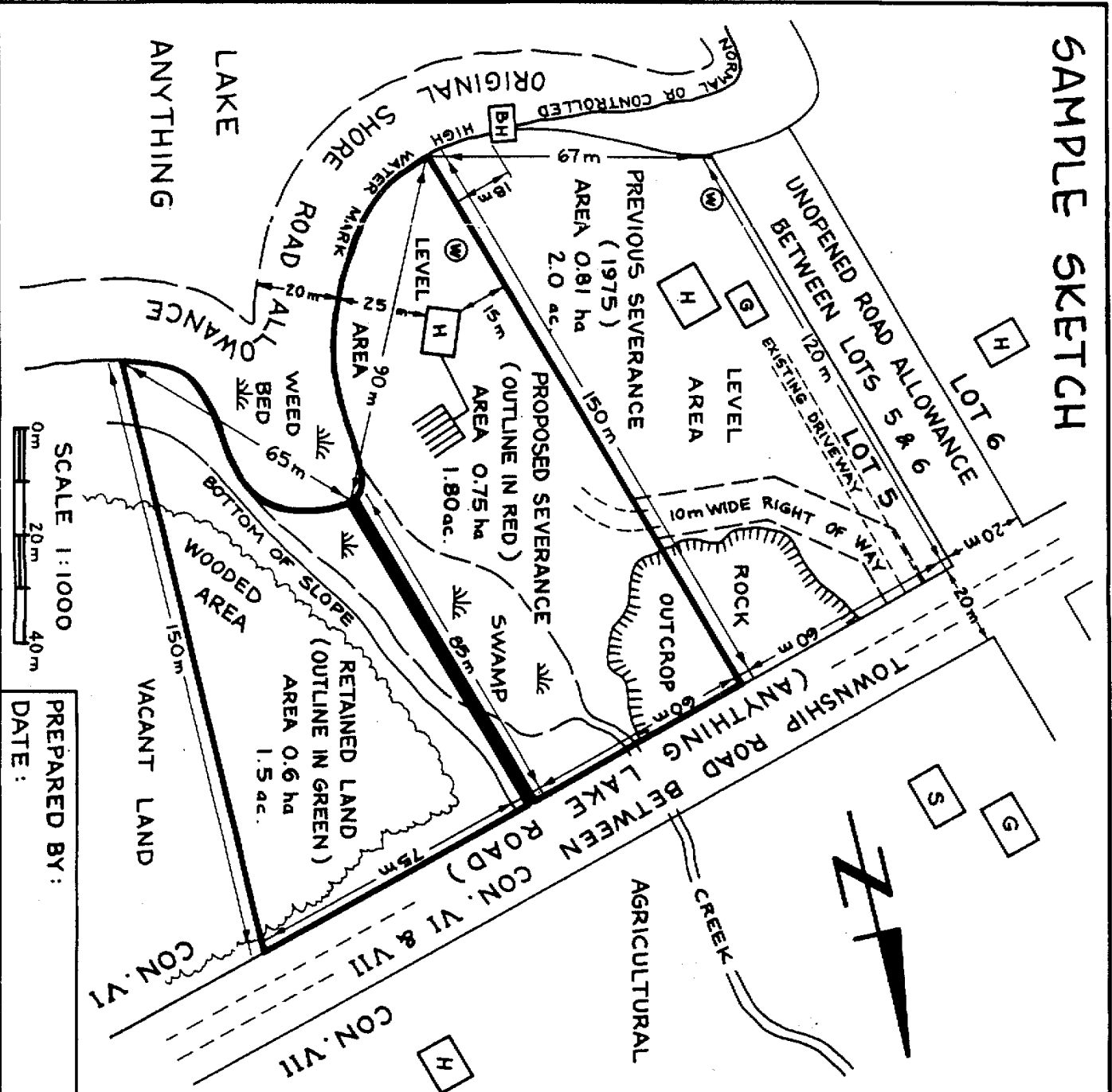
A COPY OF THE NOTICE OF HEARING WILL BE FORWARDED TO YOU ONCE YOUR APPLICATION IS PROCESSED. THE LOT IDENTIFICATION CARD (PINK SIGN) WILL BE PREPARED FOR YOU AND SHOULD BE POSTED ON THE SEVERED LOT AND BOUNDARIES SHOULD BE FLAGGED AT THAT TIME. THE PINK SIGN MUST BE POSTED MINIMUM OF 14 DAYS PRIOR TO THE HEARING. THE PINK SIGN CAN BE REMOVED AFTER THE HEARING.

METRIC CONVERSION

<u>To convert</u>	<u>Multiply by</u>	<u>To Find</u>
feet	0.3048	metres (m)
acres	0.404	hectares (ha)
square feet	0.0929	square metres (m)

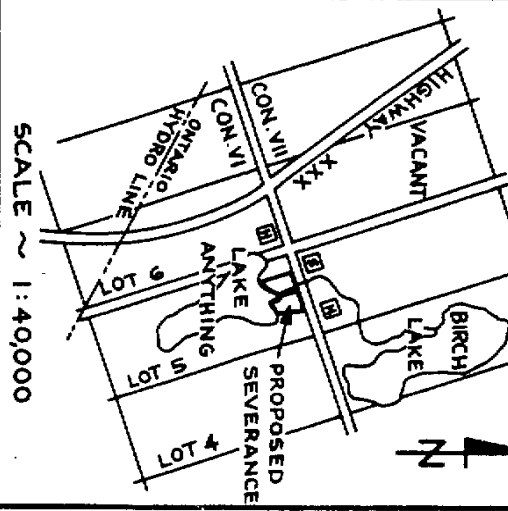
Applications may be submitted in either linear or metric measurement, however if you need to make any conversions the above table may assist you.

SAMPLE SKETCH



PROPOSED SEVERANCE
 LOT 5, CON. VI
 XXXX WARD
 TOWN(SHIP) XXXX

KEY PLAN



LEGEND:

- [H] HOUSE
- [G] GARAGE
- [BH] BOAT HOUSE
- [S] STORE
- [W] WELL
- [T] TILE FIELD

SITE DESCRIPTION:

The lot is located on Anything Lake Road, 0.5 km from its intersection with Hwy. XXX. The house is the third one on the right and is red brick. There is a yellow mail box at the end of the driveway.