



**Staff Report PLAN-2024-036**  
 Planning Committee  
 March 14, 2024

**TO:** Chair Bosomworth and Members of Planning Committee

**AUTHOR:** Kristin Darling, Planner

**SUBJECT:** B/08/09/24/ML, ZBA-09/24, (PAIN), Part of Lot 28, Concessions 10 and 11, Parts 1 and 3, Plan 35R-21253 (Medora), Civic Address: 1139 Morinus Road, Roll #: 4-15-009

**RECOMMENDATIONS**

**B/08/09/24/ML**

THAT a decision on Consent Applications B/08/09/24/ML and Zoning By-law Amendment Application ZBA-09/24 (PAIN) be DEFERRED in order to complete the study requirements outlined in Staff Report PLAN-2024-036.

**REPORT HIGHLIGHTS**

This report provides an overview and analysis of concurrent Consent Applications B/08/09/24/ML and Zoning By-law Amendment Application ZBA-09/24 (PAIN). Through policy analysis, a site visit, desktop review of available information, and receipt of comments at the time of writing, staff have recommended that the applications be deferred due to concerns about a wetland feature on Severed Lot #1 (B/08/24/ML).

**BACKGROUND**

The purpose and effect of the proposed concurrent Consent and Zoning By-law Amendment Applications is to create two new rural lots. A zoning exemption has been requested from the number of lots permitted to be created by consent. Technical details of each application are summarized in Tables 1 and 2 and Figure 1 below.

Table 1: Comparison of Existing and Resultant Lot Frontages and Areas

Lot	Property Characteristic	Existing	Resultant	By-law Requirements
<b>Severed Lot #1 (B/08/24/ML)</b>	Lot Frontage	N/A	± 557 ft.	RU2: 325 ft. & 2.5 ac.
	Lot Area	N/A	± 8.4 ac.	

<b>Severed Lot #2 (B/09/24/ML)</b>	Lot Frontage	N/A	± 557 ft.	
	Lot Area	N/A	± 8.4 ac.	
<b>Retained Lot</b>	Lot Frontage	± 1,127 ft.	± 570 ft.	
	Lot Area	± 81.5 ac.	± 65 ac.	

Table 2: Summary of Requested Exemption

<b>Exemption</b>	<b>ZBL 2014-14 Section(s)</b>	<b>Description</b>	<b>Permitted</b>	<b>Proposed</b>
A	6.1.4.1 a.	Number of Lots Permitted to be Created by Consent	1 New Lot as of October 13, 1992	3 New Lots as of October 13, 1992

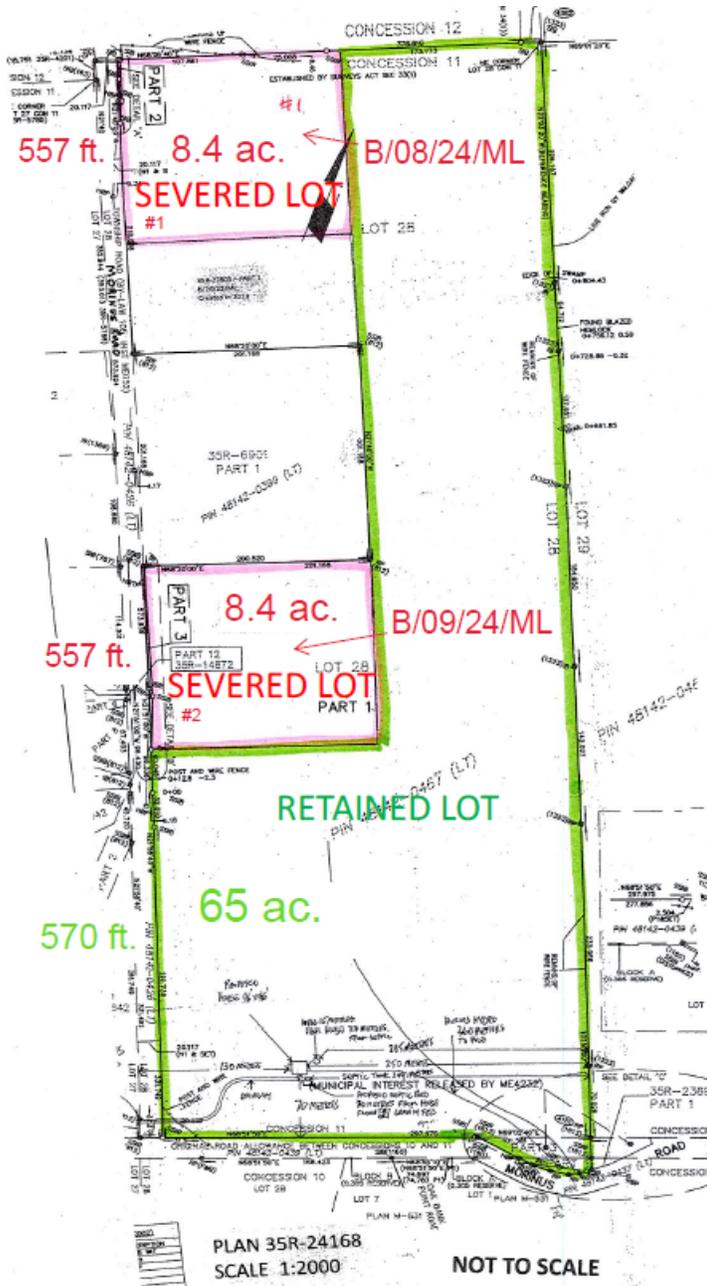


Figure 1: Consent Sketch.

## ANALYSIS

### Consent Applications B/08/09/24/ML

- Through staff site visits, it has been identified that Severed Lot #1 (B/08/24/ML) contains areas of standing water and a watercourse and through staff observations contains characteristics of what may be a wetland (Figure 2). The availability of and access to development envelopes outside of these areas on Severed Lot #1

appear limited. This includes the availability of an envelope for a private on-site sewage disposal system per comments by a Township Building Inspector. Policy D1.3.1 of the Township's Official Plan identifies that wetlands are important resources and identifies that development (including lot creation) or site alteration shall not be permitted within a non-Provincially significant wetland unless it has been demonstrated through an Environmental Impact Study that there will be no negative impacts on the natural features or their ecological functions. Due to the apparent presence of wetland features and related policy concerns, staff have recommended that the applications be deferred for the completion of a satisfactory Environmental Impact Study which can confirm the presence of a wetland on Severed Lot #1 and identify appropriate zoning, necessary restrictions, and suitable building locations, if any.

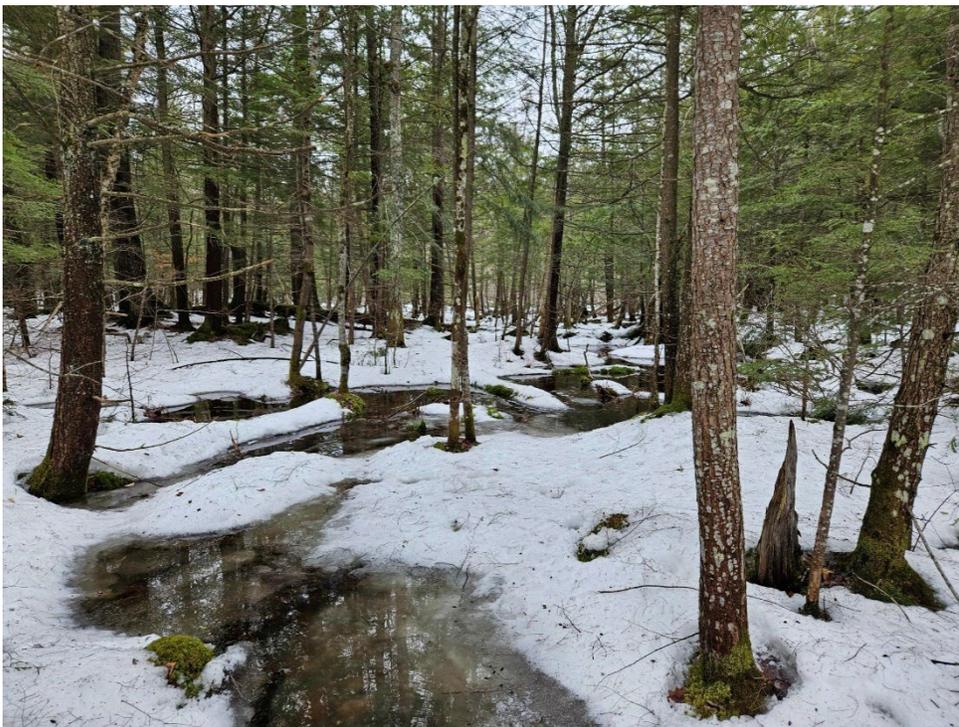


Figure 2: South east view of Severed Lot #1 taken during Site Visit on March 5, 2024

- Sections I2 of the District of Muskoka Official Plan and L4.2.6 of the Township's Official Plan outline policies pertaining to Natural Hazards. Severed Lot #1 (B/08/24/ML) and a portion of the Retained Lot are partially located within an area identified by a 'Needs Evaluation' Wildland Fire Risk Category. Staff understand that this Category is applied through a review of aerial imagery and where an on-site evaluation is required to accurately identify the wildland risk based on vegetation, development, and mitigation. As part of the recommended deferral, a Wildland Fire Risk Assessment pertaining to the development of Severed Lot #1 may be required, dependent on the location of suitable building locations identified in the Environmental Impact Study. It is noted that the Retained Lot is already developed with a dwelling.

Notwithstanding the recommended deferral, staff have also considered the following:

- The Township's Official Plan designates the subject lands as being within the Rural Area Designation. The Township's Official Plan and Comprehensive Zoning By-law stipulate minimum lot requirements for the Rural Area Designation (RU2) with the general intent and purpose of ensuring that rural zoned lots are of sufficient dimension and size (to accommodate permitted uses, buildings and structures, and private services within acceptable standards), to control density of development and protect rural areas. The Official Plan approved by District Council in November of 2023, removed the number of lots that could be created on a rural parcel and instead stipulated solely a minimum size (minimum lot frontage and area) that would be required for rural lots.
- The proposed consent/severances constitutes the creation of two new lots and the Township's Policy on Parkland Dedication (By-law 98-16) directs that cash-in-lieu of parkland can be required as a condition of consent. If Committee is considering recommending to Council that the applications be approved, staff recommend a related condition of consent.
- An accompanying Zoning By-law Amendment Application has been submitted to provide an exemption from rural lot creation requirements, being that one lot is permitted to be created by consent as of October 13, 1992 where the original lot (Parent Lot – i.e. the Severed Lots together with the Retained Lot) is less than 100 acres in size. The Township's Committee of Adjustment granted the applicants consent to create one new lot in October 2022 and the Parent Lot in the current application is less than 100 acres in size ( $\pm$  87 acres). The applicants are now proposing two additional lots, which will result in three total (see analysis of Exemption 'A' below).
- The subject lands are zoned Rural Area 2 (RU2) and all of the proposed Retained and Severed Lots meet the minimum lot frontage and lot area requirements of Comprehensive Zoning By-law 2014-14, being 325 feet and 2.5 acres, respectively. Section H2.1.2 b) of the Township's Official Plan, provides minimum lot requirements for rural lots, being a minimum lot frontage of 492 feet, and a minimum lot area of 4.9 acres. All of the Retained and Severed Lots exceed these minimum lot requirements.
- An objective of the Township's Official Plan in Section H2.1.2 f) is to ensure that access is generally provided to a standard appropriate to the situation. In the Rural Area Designation, frontage on and direct access from a public year-round municipally maintained road is required. In this case, the Retained and Severed Lots each have frontage on Morinus Road, a public year-round municipally maintained road. If Committee is considering recommending to Council that the

applications be approved, staff recommend that a standard condition of consent be imposed to ensure that an Entrance Permit is available for each of the lots.

### **Zoning By-law Amendment ZBA-09/24**

#### **Proposed Exemption A – Number of Lots Permitted to be Created by Consent**

Staff have no concerns with the approval of the requested exemption. In making this determination, staff have considered the following:

- In the 2013 Township Official Plan where a lot was zoned RU2 was an original landholding with at least 100 acres., up to 3 lots with 325 feet of lot frontage and 2.5 acres could be created as of October 13, 1992. In November 2023, District Council approved the Township of Muskoka Lakes Official Plan, which removed a restriction on the number of lots permitted to be created within the Rural designations. Instead, the newly approved Official Plan stipulates higher frontage and area requirements. Due to the Comprehensive Zoning By-law not being updated yet, the consent applications require an accompanying Zoning By-law Amendment application for the number of lots permitted to be created by consent.

### **Alternatives**

Should Committee and/or the applicants wish to proceed with Application B/09/24/ML only, for the creation of Severed Lot #2, , staff would recommend the following conditions:

THAT Consent Application B/09/24/ML - Amended (PAIN) be APPROVED, subject to the following conditions:

- That a satisfactory registrable description (deed) of the Severed Lot, together with any required rights-of-way or easements, be submitted to the Township along with a registered copy of the reference plan;
- That the availability of an Entrance Permit for the Severed and Retained Lots be confirmed by the Operational Services Department of the Township of Muskoka Lakes;
- That cash-in-lieu of parkland be dedicated to the Township in the amount of 5% of the assessed value of the Severed Lot, or the entire lands, whichever is less; and,
- That the lands be rezoned to permit an exemption from the maximum number of lots permitted to be created by consent in a Rural (RU2) Zone.

THAT Zoning By-law Amendment Application ZBA-09/24 - Amended (PAIN), be APPROVED, subject to a revision in the amending By-law stipulating that 2 versus 3 lots are permitted to be created by consent.

## General Analysis

Property details, site visit photos, constraints and past planning approvals, and especially relevant planning policies are included in an appendix to this report.

## PREPARATION

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## APPENDIX

### A1: Property Details, Constraints, and Background

Matter	Comment
Official Plan Designation (November 2023 Consolidation)	Rural Area
Zoning (ZBL 2014-14, as amended)	Rural (RU2)
Zoning Schedule	21
Access	Morinus Road – Township, Year-Round Maintained
Neighbouring Uses	Rural, Unopened Original Road Allowance
Species at Risk (SAR)	SAR may be encountered in the area. More information regarding SAR can be found at <a href="http://www.ontario.ca/SpeciesAtRisk">www.ontario.ca/SpeciesAtRisk</a> . Property owners should consult the Ministry of the Environment Conservation, and Parks (MECP) to ensure any proposed development will not have any adverse impacts on SAR or SAR habitat. Given the nature of the applications and the applicant's statutory obligations under the <i>Endangered Species Act, 2007</i> , an evaluation of potential habitat of endangered and threatened species and impacts has not completed, however, one can be requested by Committee if desired.

A2: Site Visit Photos, March 1, 2024



Figure 3: Existing dwelling on Retained Lot.



Figure 4: Storage structure on the Retained Lot.



Figure 5: East facing view of existing entrance onto Retained Lot.



Figure 6: South view of Severed Lot #1 frontage along Morinus Road.



Figure 7: Northeast view of forested area on Severed Lot #1.



Figure 8: South view of Severed Lot #2 frontage along Morinus Road.



Figure 9: East view of forested area on Severed Lot #2.

A3: Agency and Public Comments Submitted at Report Writing

Submission	No Objection	Objection	Comments
District Municipality of Muskoka	✓		
Township of Muskoka Lakes, Development Services Division	✓		
Township of Muskoka Lakes, Public Works			It is recommended that severance approval should be subject to confirmation from Operational Services Department of availability of an entrance permit for the severed lots.
Township of Muskoka Lakes, Emergency Services			
Township of Muskoka Lakes, Septic Inspector			<p>Severed Lot #1:</p> <ul style="list-style-type: none"> <li>• Unable to inspect entire lot due to snow melt/flooding/intermittent drainage feature. Potential footprint to SE and along southern property boundary where grade increases slightly.</li> </ul>

			<ul style="list-style-type: none"> <li>• Inspections during drier conditions should be conducted to confirm suitable area for dwelling and sewage system. Specifically, Lot #1 due to the amount of ponding/flooding observed – request EIS as condition. Drainage improvements are likely needed to permit access and develop lot.</li> </ul> <p>Severed Lot #2:</p> <ul style="list-style-type: none"> <li>• Preferred location to be upslope towards the center of the property in area with limited topographic relief. Footprint of system depends on proposed lot development. Tree removal necessary.</li> </ul> <p>Retained Lot:</p> <ul style="list-style-type: none"> <li>• Existing sewage system installed in accordance with BP2020-0991. No issues identified with respect to proposed lot severance.</li> <li>• Existing sewage system installed in accordance with BP2020-0991. No issues identified with respect to proposed lot severance.</li> </ul>
<b>Public Comments:</b>			

A5: Planning Policy

<b>Provincial Policy Statement</b>
The Provincial Policy Statement, 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The subject land is identified as Rural Lands in the PPS and further study is required to ensure all applications are consistent with it.
<b>District of Muskoka Official Plan</b>
The subject land is designated Rural Area in the District of Muskoka Official Plan. The District Municipality of Muskoka has delegated consent granting authority under the Planning Act to the Township and is a commenting agency in regard to Provincial and District interests. Comments were received from District staff stating no objection to the applications.
<b>Township of Muskoka Lakes Official Plan (Approved November 20, 2023)</b>

The Township's 2023 Official Plan designates the subject property as Rural Area and it is the opinion of staff that application B/08/24/ML does not conform to the Township's Official Plan.