



7 Third Avenue
Whitney, Ontario

**COMMITTEE OF ADJUSTMENT MEETING &
PUBLIC HEARINGS**

AGENDA

April 12, 2023 9:00 a.m.

IN PERSON & ZOOM MEETING

Live Streamed to YouTube Channel: South Algonquin Council

Open Meeting/Call to order-9:00 a.m.

Land Acknowledgement

We acknowledge that we are gathered on the unceded Traditional Territory of the Algonquin Anishinaabeg people, specifically the Matouweskarini (people of the Madawaska River). We further acknowledge that the Algonquin People have been stewards of this land since time immemorial and we strive to treat the land along with the flora and fauna it supports, the people, their customs and traditions, with honour and respect. Today, this area is home to people of all walks of life, and we acknowledge the shared opportunities and responsibilities to live, work and survive within this beautiful territory. Chi-miigwetch, All my relations

1. Additions / Amendments to the Agenda
2. Adoption of the Agenda
3. Disclosure of Pecuniary Interest
4. Adoption of Minutes
That the Minutes of the February 15, 2023 Committee of Adjustment Meeting be approved as submitted.
5. Public Hearing
- 5.1 Consider Consent Application (Severance)-C.2023-01
Staff Report: Anthony Hommik, MCIP, RPP
Legal Description: PLAN M345 PT LOT A PT;RD ALLOW RP 36R7103 PART 2;RP 36R11116 PART 4 REM PCL;17135 PT PCL 29266 NIP and PLAN M345 PT LOT A PT;RD ALLOW RP 36R7103 PART 1;RP 36R11116 PART 3 REM PCL;17135 PT PCL 29266 NIP
Civic Address: 29 Windmill Point Lane
6. Other
7. Next meeting will be scheduled when required.

Adjournment

NOTE: Submissions received from the public, either orally or in writing, may become part of the public record.

There may be limited capacity in the Council Chambers.

**THE CORPORATION OF THE TOWNSHIP OF SOUTH ALGONQUIN
COMMITTEE OF ADJUSTMENT**

PUBLIC MEETING IN-PERSON & ZOOM – February 15, 2023 –9:00 a.m.

There was an in-person and Zoom public meeting of the Committee of Adjustment to hear Consent Applications No. C.2022-07 and Minor Variance Application No. M.V. 2023-01. Present were Committee Members: Committee Chair Councillor Kuiack, Mayor LaValley, Councillor Collins, Councillor Florent, Councillor Pigeon, Councillor Rodnick, Councillor Siydock.

Staff: Tracy Cannon, Secretary Treasurer, Committee of Adjustment
Michael Anderson, Chief Building Office/By-Law Enforcement Officer

Applicants/Agents: Debbie Avery – C.2022-07
Neil & Linda Malcolm - M.V.2023-01

Councillor Kuiack called the public meeting to order at 9:00 a.m.

LAND ACKNOWLEDGEMENT

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1. **ADDITIONS/AMENDMENTS TO THE AGENDA:** None

2. **ADOPTION OF THE AGENDA**

Moved by: Councillor Florent

Seconded by: Councillor Siydock

To adopt the agenda as prepared for the Committee of Adjustment meeting of Wednesday, February 15, 2023 as circulated.

-Carried-

3. **DECLARATION OF PECUNIARY INTEREST:** None

4. **ADOPTION OF MINUTES**

Moved by: Councillor Florent

Seconded by: Councillor Collins

To adopt the minutes of Wednesday, September 21, 2022 Committee of Adjustment meeting as circulated.

-Carried-

5. **PUBLIC HEARING**

Chair, Councillor Kuiack opened the Public Hearing portion of the meeting and turned it over to T. Cannon, Secretary Treasurer of the Committee of Adjustment.

5.1 **CONSIDER CONSENT APPLICATION – C. 2022-07**

This portion of the Committee of Adjustment meeting is to consider a Consent under Section 53 of the Planning Act for lands described as AIRY CON 5 PT PART LOT 7;PCL 19108, locally known as 40 Kenny Road. Debbie Avery, owner of the benefitting lands was in attendance via Zoom.

Application # C.2022-07 requests municipal consent for a lot addition to sever a portion of the existing property (40 Kenny Road) and add these lands to the property municipally known as 19 Avery Lane. According to Township records, the lot area of the existing property at 40 Kenny Road is approximately 2.3 hectares (5.65 acres) and the property at 19 Avery Lane is 1.02 hectares (2.53 acres). The area of the land proposed to be added to 19 Avery Lane, according to the applicant's submission, is approximately 0.45 hectares (1.11 acres). With the addition, the new lot area of 19 Avery Lane would be approximately 1.47 hectares (3.63 acres) while the area of 40 Kenny Road would be approximately 1.82 hectares (4.5 acres).

A survey prepared by an Ontario Land Surveyor would identify the exact lot area.

Existing on Severed lands is fuel tanks, storage shed.

Existing on the lands Being Added to (19 Avery Lane) is a dwelling, garage, shed.

Existing on Retained lands (40 Kenny Road) is a dwelling, mobile home, icehouse, shed.

REQUIREMENTS FOR NOTICE

The requirement to hold this meeting is there must be at least 14 days' notice as prescribed by Section 53 (5) of the Planning Act. Notice signs were posted on the property on January 16th and mailed to property owners within the required 60 metres of the subject property on January 30th.

COMMENTS FROM THE PLANNER:

Comments from Anthony Hommik, Planner Jp2g Consultant Inc were provided in the circulated planner's report.

PUBLIC/AGENCY COMMENT ON APPLICATION: None

COMMENTS FROM THE COMMITTEE/APPLICANT:

Mayor LaValley: Felt the proposal was straight forward-no concerns.

Debbie Avery: No comment

MOTION:

Moved by: Mayor LaValley

Seconded by: Councillor Florent

That Committee of Adjustment approve the recommendation outlined in the Planner's Report prepared by Anthony Hommik, Senior Planner of Jp2g Consultants; and that Consent Application No.2022-07 be subject to the following conditions;

1. That the applicant provide the Township with:
 - a. The original executed transfer (deed), a duplicate original and one photocopy;
 - b. A copy of the Reference Plan to be deposited in the Land Registry Office that is substantially in compliance with the application sketch; and
 - c. A schedule describing the severed lot and naming the grantor and grantee attached to the transfer for approval purposes.
2. Payment of all municipal legal and planning fees associated with the processing of the application.
3. If applicable, that the applicant meet all financial requirements of the Township, including payment of the balance of any outstanding taxes, including penalties and interest.

Discussion/Comment on Conditions: None

-CARRIED-

5.2 CONSIDER MINOR VARIANCE APPLICATION – M.V. 2023-01

This portion of the meeting is to consider one application for a Minor Variance under Section 45 of the Planning Act for lands described as PLAN M382 LOT 23 PT;SHORE RD ALLOW AND RP;36R12466 PART 4, geographic township of Lyell and locally known as 123B Woodland Lane.

Owners Linda & Neil Malcolm were in attendance via Zoom.

The subject property has frontage on Lyell Lake also known as Cross Lake. Lyell Lake is what it will be referred as for the purpose of this meeting.

The property is zoned Shoreline Resident (SR) in the Comprehensive Zoning By-Law.

The application proposes to construct a two-storey detached garage with habitable space on the second floor. The property is currently improved with an existing dwelling and storage shed.

The proposed detached garage would be located between the existing dwelling and Woodland Lane at a distance of approximately 34 metres from the shoreline of Lyell Lake.

Section 4.1.10 of the Zoning By-Law states the use of any accessory building or structure for a habitable room is not permitted except in the case of a guest cabin or a one- and one-half storey detached garage. Occupancy of any accessory structures shall not be permitted until an occupancy permit has been issued by the Township.

A variance is required to permit a two-storey detached garage.

Section 4.1.11 Only one guest cabin or one-, one- and one-half storey detached garage shall be permitted per lot.

A variance is required to permit a two-storey detached garage.

Lyell Lake is identified in the Official Plan as a lake trout lake, “not at capacity”.

T. Cannon read how the application meets the four tests to grant a minor variance per Section 45(1) of the Planning Act.

COMMENTS FROM THE COMMITTEE:

Councillor Florent: Directed to Michael Anderson, CBO-Questioned if the existing septic system could accommodate washroom facilities if in the future the owners or future owners want to install a washroom, realizing washroom facilities are not proposed. Councillor Florent also expressed concerns that the property was not accessible in the winter months for the site visit.

M. Anderson: Septic would need to be looked at to ensure if the design can accept additional daily sewage flow.

Neil & Linda Malcolm: No plan for water or washroom facilities. Need additional sleeping quarters only.

Councillor Collins: Inquired if an outdoor privy would be possible.

M. Anderson: Recommended to look at the existing system, as it is probably adequate size.

Councillor Florent: Prepared to vote in favour of the application if there was a condition that the septic is adequate.

Neil & Linda Malcolm: Will provide information on the septic system.

Mayor LaValley: To confirm that the proposed development is not going to be used as an Airbnb?

Neil & Linda Malcolm: Confirmed will not be used as an Airbnb. Personal use only.

REQUIREMENTS FOR NOTICE

T. Cannon reported, the notice sign was posted adjacent to Lyell Lake Landing Road as the property is not accessible in the winter months on January 30th and mailed to property owners within the required 60 metres of the subject property on January 31st.

PUBLIC/AGENCY COMMENT ON APPLICATION:

T. Cannon received one comment from the owners of 141A Woodland Lane. They were not disputing the project, however wanted to ensure the dimensions for the side yard setback was from the actual property line and not the hydro line. After research it was determined there was a discrepancy between the site plan submitted and RPlan 36R-12466. The site plan has been revised to reflect this adjustment. With this adjustment the proposed structure is over 12 metres from the property line where the minimum side yard setback is 5 metres. The owners of 141A Woodland Lane have been provided a copy of the site plan and the RPlan to show where the dimensions were taken from. No further comments have been received.

COMMENTS FROM THE PLANNER:

Comments from Anthony Hommik, Planner Jp2g Consultant Inc were provided in the circulated planner's report. Additional comments were received in respect to the setbacks revisions and recommended the condition in the planning report be revised to read. "That the approved development be constructed substantially in accordance with the plans prepared by Colin Darling Architectural Design, dated December 19, 2022, with the exception of the Site Plan Sketch (SP-1) that is dated February 12, 2023, attached hereto as Appendix 1"

DECISION AND CONDITIONS OF THE MINOR VARIANCE APPLICATION

Moved by: Councillor Kuiack

Seconded by: Councillor Collins

In making the decision upon the application, the committee has considered whether or not the variance requested was minor and desirable for the appropriate development and that the general intent of and purpose of the zoning by-law and the official plan will be maintained.

THEREFORE, the Committee of Adjustment approve the request for Minor Variance Application No. M.V.2023-01 subject to the recommended conditions.

- 1) That the approved development be constructed substantially in accordance with the plans prepared by Colin Darling Architectural Design, dated December 19, 2022, with the exception of the Site Plan Sketch (SP-1) that is dated February 12, 2023, attached hereto as Appendix 1
- 2) Payment of all municipal legal and planning fees associated with the processing of the application.
- 3) That the applicant provides verification of the septic size and location and that the septic meets Ontario Building Code standards.

Discussion/Comment on Conditions: None

-Carried-

5.3 CONSENT APPLICATION (LOT ADDITION) C.2022-06

Discussion on the written report provided by T. Cannon regarding the recommendation to revise Condition #1 for a Deeming By-Law instead of a Part Lot Control Lift By-Law as originally included in Condition#1. The Committee of Adjustment approved the recommendation to revise the condition.

Councillor Rodnick exited meeting.

6 OTHER: None

7 Next Committee of Adjustment meeting tentatively scheduled for Wednesday, March 15, 2023

ADJOURNMENT

Moved by: Councillor Pigeon

Seconded by: Councillor Florent

The Committee adjourned the Committee of Adjustment meeting at 9:43 a.m.

-Carried-

Committee Chair, Councillor Kuiack

Secretary/Treasurer, Tracy Cannon

DRAFT

PLANNING REPORT



Meeting Date: April 12, 2023
Agency: Township of South Algonquin
Staff Contact: Tracy Cannon, Planning & Building Administrator
Agenda Title: C.2023-01 – Baker, 39 Windmill Point Lane, Sabine Ward
Agenda Action: Approve with Conditions

Recommendation

That the Committee of Adjustment approve consent application No. C.2023-01 for the lands described as PLAN M345 PT LOT A PT;RD ALLOW RP 36R7103 PART 2;RP 36R11116 PART 4 REM PCL;17135 PT PCL 29266 NIP (locally known as 39 Windmill Point Lane) and PLAN M345 PT LOT A PT;RD ALLOW RP 36R7103 PART 1;RP 36R11116 PART 3 REM PCL;17135 PT PCL 29266 NIP with the conditions recommended in this report.

Background

The Township has received a consent application on behalf of the owners of the subject lands that would have the effect of severing a privately-owned shore road allowance (SRA) into two separate parcels. The SRA in question is shown as Parts 3 and 4 on Plan 36R-11116 (see Appendix 1). The two parts have merged together on title and this application would re-establish the two separate parts.

The SRA is owned together with two separate lots (Parts 1 and 2), being two distinct parts of Lot A, Plan M-345. These Parts 1 and 2 are separate lots within a registered plan of subdivision and, despite being in the same ownership, remain individually conveyable. This is perhaps best illustrated on Appendix 2, which is the Property Index Map provided by the applicant. PINs 49228-0296 and -0297 are the two individually conveyable lots and PIN 49228-0302 is the SRA in front of these lots.

PINs -0296 and -0297 are currently being used together as one landholding that is improved with a cottage and a sleep cabin (bunkie). The cottage is located on PIN -0297 and partially on Part 4, Plan 36R-11116, whereas the sleep cabin is located entirely within Part 3, Plan 36R-11116. Parts 3 and 4, Plan 36R-11116 have areas of approximately 0.35 acres (1,416 square metres) and 0.66 acres (2,671 square metres), respectively.

It is understood that once severed, the ultimate intention is to have the two separate SRA pieces added to the existing lots of record as follows:

- Part 3, Plan 36R-11116 to be added to PIN -0296
- Part 4, Plan 36R-11116 to be added to PIN -0297

Since PINs -0296 and -0297 are separate lots in a plan of subdivision and the SRA is located outside said plan of subdivision, once created, the two new SRA parts cannot simply merge with the existing lots due to the protections afforded plans of subdivision under the *Planning Act*. In order to effect the additions noted above, a deeming by-law or lifting of Part Lot Control will be required. A condition to this effect is included in the recommendations of this report.

Provincial Policy Statement, 2020

The Provincial Policy Statement, 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning to provide for appropriate development, while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. All planning decisions must be consistent with the PPS.

The subject property is considered *rural lands* by the PPS definition. Section 1.1.5 of the PPS sets out the policies for rural lands in municipalities. Policy 1.1.5.2 states that on rural lands located in municipalities, permitted uses are: c) residential development, including lot creation, that is locally appropriate. Policy 1.1.5.4 states that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. Policy 1.1.5.5 states that development shall be appropriate to the infrastructure which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this infrastructure.

South Algonquin Official Plan

The Township of South Algonquin Official Plan designates the subject property “Waterfront”. Section 5 of the Official Plan contains the policies applicable to lands designated “Waterfront Areas”. The Official Plan recognizes that the “Township’s Waterfront lands have played, and will continue to play, an important role in the municipality’s physical development.” Section 5.2 permits single-detached dwellings located on individual lots along the shoreline.

Section 5.4 sets out the policies specific to residential development on lands designated Waterfront. The Official Plan generally requires a minimum lot area of one hectare (2.47 acres).

South Algonquin Zoning By-law No. 2017-527

The subject property is zoned “Shoreline Residential (SR)” under South Algonquin Zoning By-law No. 2017-527. The SR zone permits cottages/dwellings and associated accessory structures.

Planning Analysis

The purpose of this application is sever an existing, privately-owned SRA into two distinct parts for the eventual purpose of adding the two new shore road allowance parts to their respective adjacent lots. No new development is proposed at this time.

It is understood that the applicants wish to sell the two lots, each with their respective SRA pieces, separately. Without adding the SRA pieces to the existing lots, the two new parts of the SRA could be sold to separate owners individually. Were this to occur the Township would be faced with two significantly undersized lots of record, entirely within the 30-metre setback required from the shoreline by the Official Plan. In order to protect against this possibility, the two new SRA parts will need to be added to the existing abutting lots. This would ensure that the two lots would have building areas outside of the 30-metre setback required in the Official Plan.

The ultimate goal is complicated somewhat by the fact that, as lots in a registered plan of subdivision, PINs -0296 and -0297 are not simply able to be added to. If the lots were not protected by their status as lots within a subdivision, the SRA and the existing lot would be able to merge on title if ownership of adjoining parcels were to be transferred into the same name or names. Rather in this case, there are two options. The first option involves a deeming by-law, whereby Council would pass a by-law that would remove the lots in question from the subdivision (Plan M-345). The second option is to pass a part lot control by-law under Section 50(5) of the *Planning Act*. Under Section 50(5), all lands within plans of subdivision are subject to Part Lot Control. Municipalities have the authority to 'lift' part lot control by way of by-law. The Part Lot Control by-law has the effect of deeming Part Lot Control to not apply to the subdivision lands in question and allows individual parcels of land that are held in the same ownership to merge. As noted in the recommendations below, the submission of a request for a deeming by-law or a request to lift Part Lot Control is proposed to be required as a condition of consent approval.

If the SRA, once severed into two parcels, is added to the respective lots, it can be concluded that the consent application is consistent with the PPS, conforms to the applicable policies contained in the Official Plan and complies with the Zoning By-law, by virtue of the fact that the lots being added to are existing lots of record and the existing structures are considered legal non-conforming.

Conclusion and Recommendation

The application is consistent with the PPS, conforms to the relevant Official Plan policies and complies with Zoning By-law No. 2017-527. Based on the above analysis, it is recommended that the Committee of Adjustment approve the application subject to the following conditions:

1. The applicant submit a request to the Township to enact a deeming by-law or to lift Part Lot Control to effect the merging of the shore road allowance (Parts 3 and 4 on Plan 36R-11116) with PINs 49228-0296 and 49228-0297, respectively.
2. That the applicant provide the Township with:
 - a. The original executed transfer (deed), a duplicate original and one photocopy;
 - b. A copy of the Reference Plan to be deposited in the Land Registry Office that is substantially in compliance with the application sketch; and
 - c. A schedule describing the severed lot and naming the grantor and grantee attached to the transfer for approval purposes.
3. Payment of all municipal legal and planning fees associated with the processing of the application.
4. If applicable, that the applicant meet all financial requirements of the Township, including payment of the balance of any outstanding taxes, including penalties and interest.

Respectfully,

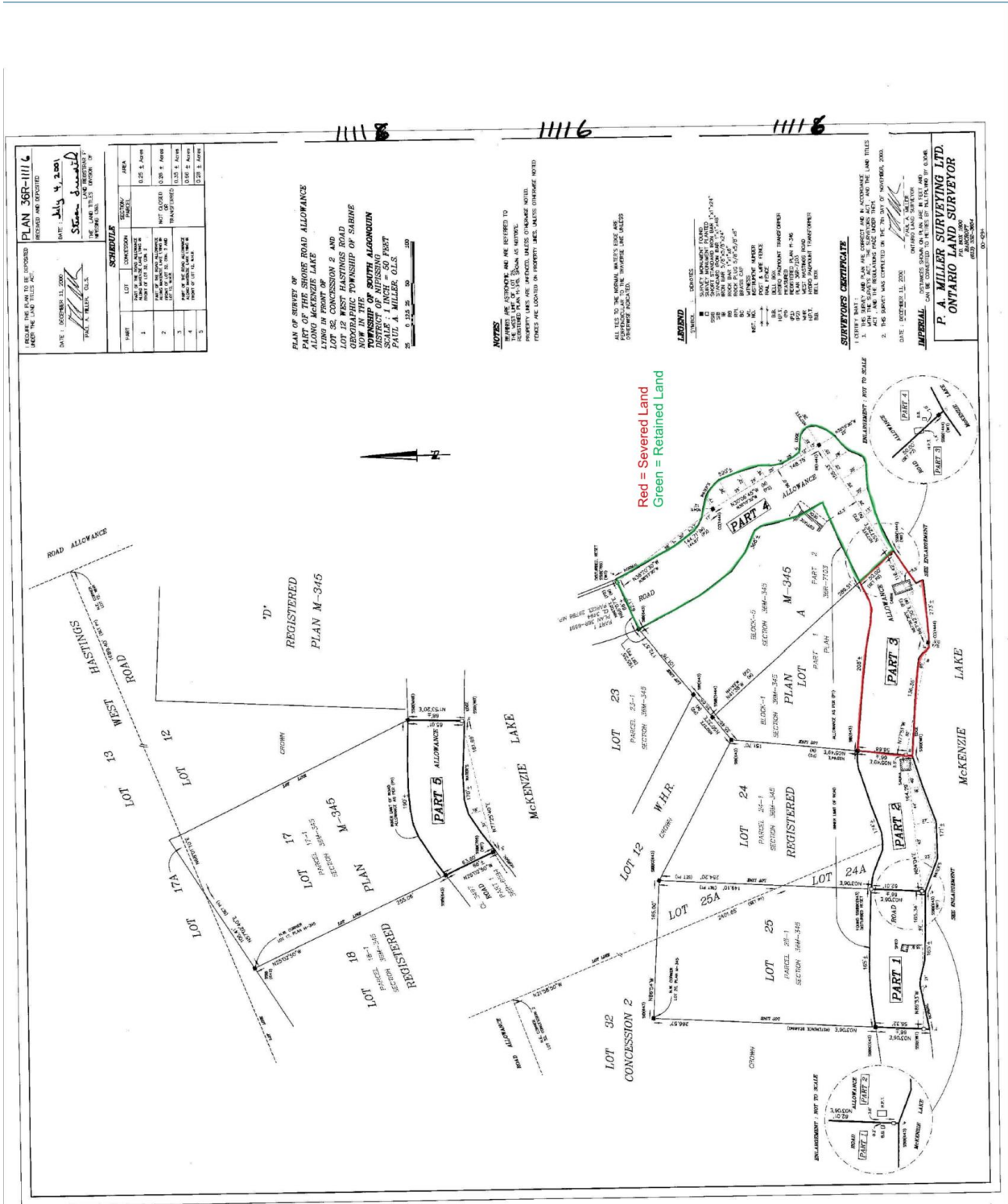
Jp2g Consultants Inc.
Engineers • Planners • Project Managers

Prepared By:

A handwritten signature in black ink, appearing to read 'A Hommik', written in a cursive style.

Anthony Hommik, MCIP, RPP
Manager | Planning Services

Appendix 1 – Proposed Severed and Retained Lands (Applicant's Submitted Drawing)



Appendix 2 – Proposed Severed and Retained Lands (Applicant’s Submitted Drawing)

