

Date: May 19, 2021

Report To: Committee of Adjustment

From: Cody Vangel, Chief Building Official & Municipal Planner

Re: A6-2021: Application for Consent – Island G734

Application Purpose

An application for consent (lot creation) File A6-2021 has been submitted by authorized agent Edward Holbik on behalf of Canadian National Railway Company. The application proposes to sever an irregular shaped parcel (Part 1 on Ref Plan 48R-3592) and Parts 3, 4 & 5 on Ref Plan 48R-3592.

Part 1 on Ref Plan 48R-3592 will be transferred and is anticipated to be utilized for the construction of a cabin.

Parts 3, 4 & 5 on Ref Plan 48R-3592 will continue to be held by Canadian National Railway Company.

It should be noted for the Committee that Part 2 on Ref Plan 48R-3592 was approved by the Committee of Adjustment to be severed and transferred in 1996.

Property History

The Canadian National Railway Company currently uses Part 5 as a railway corridor.

Part 1, 3 and 4 are all vacant.

The Official Plan

Due to the current ownership by the CN Railway, the property is currently designated as an Employment Area, even though the Part 1 in question is vacant. Prior to issuing a permit for the construction of a seasonal cabin, and Official Plan amendment would be required to change the land use designation to a Living Area.

Zoning By-Law

Current zoning for the Part 1 in question is Seasonal Residential (SR). The following outlines the general provisions for the Seasonal Residential Zone.

4.7 SEASONAL RESIDENTIAL (SR) ZONE

No **person** shall within a Seasonal Residential (SR) **Zone**, **use** any land or erect, alter or **use** any **building** or **structure** except in accordance with the following:

4.7.1 Permitted Uses

- a) Single Detached Dwelling
- b) Sleep Cabin
- c) Home occupation¹

4.7.2 Regulations for Permitted Use

- | | |
|---|--------------------------------|
| a) Minimum Lot Area | 1 ha |
| b) Maximum Lot Coverage | 10% |
| c) Minimum Front Yard and
Exterior Side Yard | 30 metres from high water mark |
| d) Minimum Interior Side Yard | 3 m |
| e) Minimum Rear Yard | 8 m |
| f) Minimum Floor Area for a Dwelling | 56 m ² |
| g) Maximum Height for a Dwelling | 12 m |

Part 1 on Ref Plan 48R-3592 (proposed lot creation) has a lot area of 0.9ha, which falls short of the required 1.0ha. The applicant has submitted a subsequent Minor Variance application to request relief from Section 4.7.2.a for reduction in lot area from 1.0ha to 0.9ha.

The applicant has also submitted the following relief requests within the subsequent minor variance application:

- 4.7.2.c - requires minimum front yard of 30m. Proposed application request reduction to 25m
- 3.2 - requires main use (cabin) prior to accessory buildings. Proposed application requests outhouse and sauna prior to constructing main cabin.

Provincial Policy Statements

The proposed severed portion of land including the proposed use appears to not conflict the [Provincial Policy Statement 2020](#).

Divisional Comments

Fort Frances Power Corporation: No comments received.

Fort Frances Fire Rescue: No comments received.

Fort Frances Operations & Facilities: No concerns noted.

Fort Frances Planning & Development:

- Minor variance subsequent to this application to be considered for lot size reduction and additional relief requests
- Official Plan amendment required prior to issuing building permit
- Health unit approval for septic required

Other

If the Committee of Adjustment wish to impose conditions on the consent, Subsection 53(41) of The Planning Act states the following:

A. Conditions not fulfilled

(41) If conditions have been imposed and the applicant has not, within a period of one year after notice was given under subsection (17) or (24), whichever is later, fulfilled the conditions, the application for consent shall be deemed to be refused but, if there is an appeal under subsection (14), (19) or (27), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of one year from the date of the order of the Tribunal issued in respect of the appeal or from the date of a notice issued by the Tribunal under subsection (29) or (33). 2017, c. 23, Sched. 5, s. 100 (6).

Additionally, applicants shall be aware of the following regarding consent application in Subsection 53(43) of The Planning Act:

B. Lapse of consent

(43) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent. 1994, c. 23, s. 32.

Sample Conditions

The Committee of Adjustment may wish to impose conditions on the consent including but not limited to the following:

- Payment of the balance of any outstanding taxes and accounts payable, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Municipality.
- That the Municipal Planner be provided with the legal description of the severed property for the issuance of the Certificate of Official.
- That an application to amend the Official Plan designation from an Employment Area to a Living Area for the subject land is received and approved by Town Council
 - o This may be completed as a condition, or afterwards prior to construction.

Summary

Administration acts as an advisory body to the Committee of Adjustment. Comments received are provided in the form of information to assist the Committee.

The Planning Act sets the standard to which provincial interests, provincial and local policies and goals are implemented. Accordingly, review of the application to consider the following:

- Conform to Subsection 51(24) as required by Subsection 53(12) of The Planning Act.
- Conform to the Town of Fort Frances Official Plan.

- Conform to the Provincial Policy Statements as required by Subsection 3(1) of The Planning Act.

Should the Committee of Adjustment find it appropriate to approve this application, the previously noted conditions have been recommended.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Cody Vangel', with a stylized, flowing script.

Cody Vangel
Chief Building Official & Municipal Planner