

Planners | Surveyors | Biologists | Engineers

MUNICIPALITY OF EAST FERRIS

MAR 26 2024

RECEIVED

Date: March 26, 2024

To: Greg Kirton (Director of Community Services)

From: MacKenzie Van Horn, Planner (Tulloch) & Steve McArthur, Senior Planner and Project Manager (Tulloch)

Subject: Minor Variance Application – 789 Highway 94

Dear Greg Kirton,

This letter has been prepared to provide context and background information for the minor variance request at 789 Highway 94. Please feel free to circulate this letter to any agencies, members of the public, or committee members that inquire about the nature of the application.

We also ask that this letter be included in the agenda package for it to be considered by the Committee of Adjustment at the next available meeting. The subject land has the civic address 789 Highway 94 and is shown outlined in red in Figure 1. The land is vacant and 88.560 acres in size, with 32.670 metres of frontage on Highway 94.

This minor variance application seeks relief from the frontage requirement for an existing lot. This is a unique request as the Municipality of East Ferris Zoning By-Law 2021-60 provides the following provision for existing lots having less than the lot frontage required:

Where a lot having a lesser lot frontage or lot area than required by the by-law exists prior to the passing of this by-law, the lot shall be deemed to conform to the lot frontage and lot area requirements of this by-law.

This application is technical in nature and is required because of a previous consent decision. In 2003, three lots were severed from this parcel, as shown in a green outline in Figure 1. The retained lot, which is how the lot exists now, was proposed with a frontage of 32.67. This frontage did not meet the requirement of 45m in the 2003 version of the Municipality of East Ferris Zoning By-Law. As a condition of consent, the Committee of Adjustment required the retained lot be merged with an abutting lot (787 Highway 94), shown outlined in blue in Figure 1. This would have the effect of combining both parcels into one lot and would satisfy the frontage requirement.

It was not possible for this condition to be fulfilled as 787 Highway 94 was created by consent. Lots created by consent cannot merge with other parcels either intentionally or by inadvertence. Because this condition could not be fulfilled, the property owner and Municipality entered into a restrictive covenant registered on title that the two parcels of land would not be transferred, mortgaged, or otherwise dealt with without consent in writing of the Committee of Adjustment of the Township of East Ferris. This agreement was requested in good faith by the Municipality to address the deficient frontage. However, the condition imposed on the retained lot was not valid and the restrictive covenant should not have been used to address the frontage deficiency. The best practice is to request the minor variance before the lots are created. The property owner is now in a situation where he has two existing parcels that cannot be transferred separately due to the restrictive covenant in place.

The property owner made a delegation at the Regular Council Meeting on March 12th, 2024, to ask the Council for the Municipality of East Ferris to approve the removal of the restrictive covenant registered on title for 789 Highway 94. Council agreed to remove the covenant if the property owner makes a minor variance application to the Committee for the deficient frontage.

It should be noted that the frontage requirement today is 60m, which is the requirement that this application seeks relief from. That said, we ask the Committee to recognize that the requirement was only 45m when this lot was created. Either way, the application meets the four tests of a minor variance. The deficiency will have no impact on a future building envelope as the lands are over 88 acres in size. Further, the frontage is comparable to other lots in the vicinity along Highway 94 that have less than 60 metres of frontage.

The condition placed on the consent applications in 2003 contravened legislation, and the restrictive covenant was the incorrect tool to address the frontage deficiency. It is our opinion that a Minor Variance is not necessary as explained above, but in the interest of moving forward we will acquiesce to the direction of Council. As you are aware there is a sale in place pending the removal of the restrictive covenant. We understand that Council is requesting this minor variance out of an abundance of caution, and in good faith to allow the public an opportunity to review and comment on the deficient frontage. That said, we respectfully ask that the committee regard this as a technical variance and approve it which will allow the property owner to sell the two lots separately.

Respectfully submitted,

MacKenzie Van Horn

MacKenzie Van Horn, M.P.L.
Planner
(705) 474-1210
mackenzie.vanhorn@tulloch.ca



Steve McArthur, MCIP., RPP.
Senior Planner | Project Manager.
(705) 474-1210 x.561
steve.mcarthur@tulloch.ca

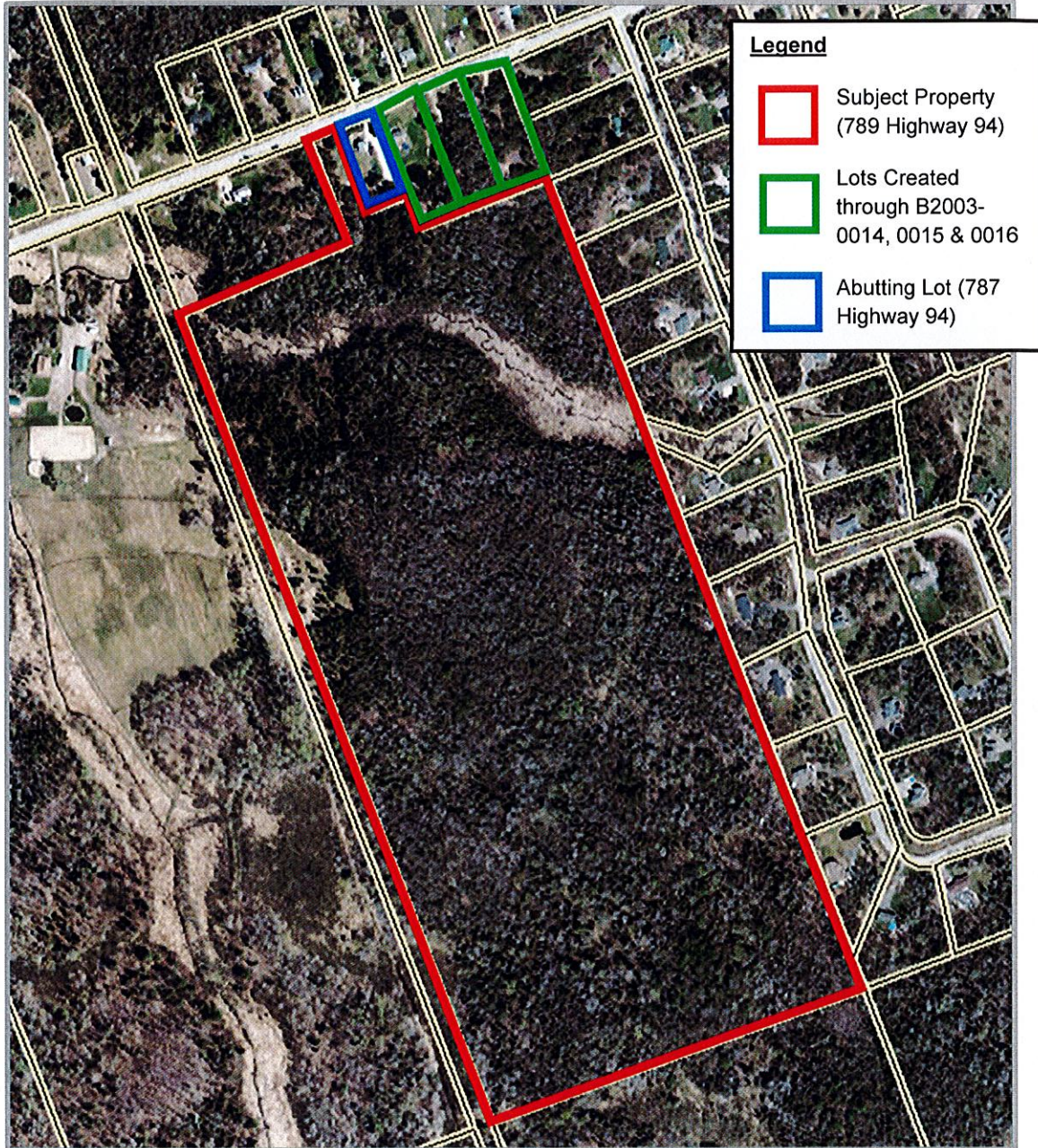


Figure 1. Aerial View of Subject Land and Abutting Properties