

## **STAFF REPORT TO COUNCIL**

**Report No: BP-2021-26**

**October 12, 2021**

From: Jacob Rheume – Chief Building Official / Director of Building, By-law & Planning

RE: Stopping up, Closing and Selling a portion of the Road Allowance of Lakeshore Road for lots additions to existing residential parcels of lands.

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### **Recommended Motion:**

**THAT** the Council of the Township of North Glengarry receives Staff Report No. BP-2021-26

**AND THAT** the Council of the Township of North Glengarry accepts the proposal and passes By-law 41-2021 for Stopping up, Closing and Selling a portion of the Road Allowance of Lakeshore Road for lots additions to existing residential parcels of lands

**AND THAT** By-law 41-2021 be read a first, second, third time and enacted in Open Council this 12th day of October, 2021.

### **Background / Analysis:**

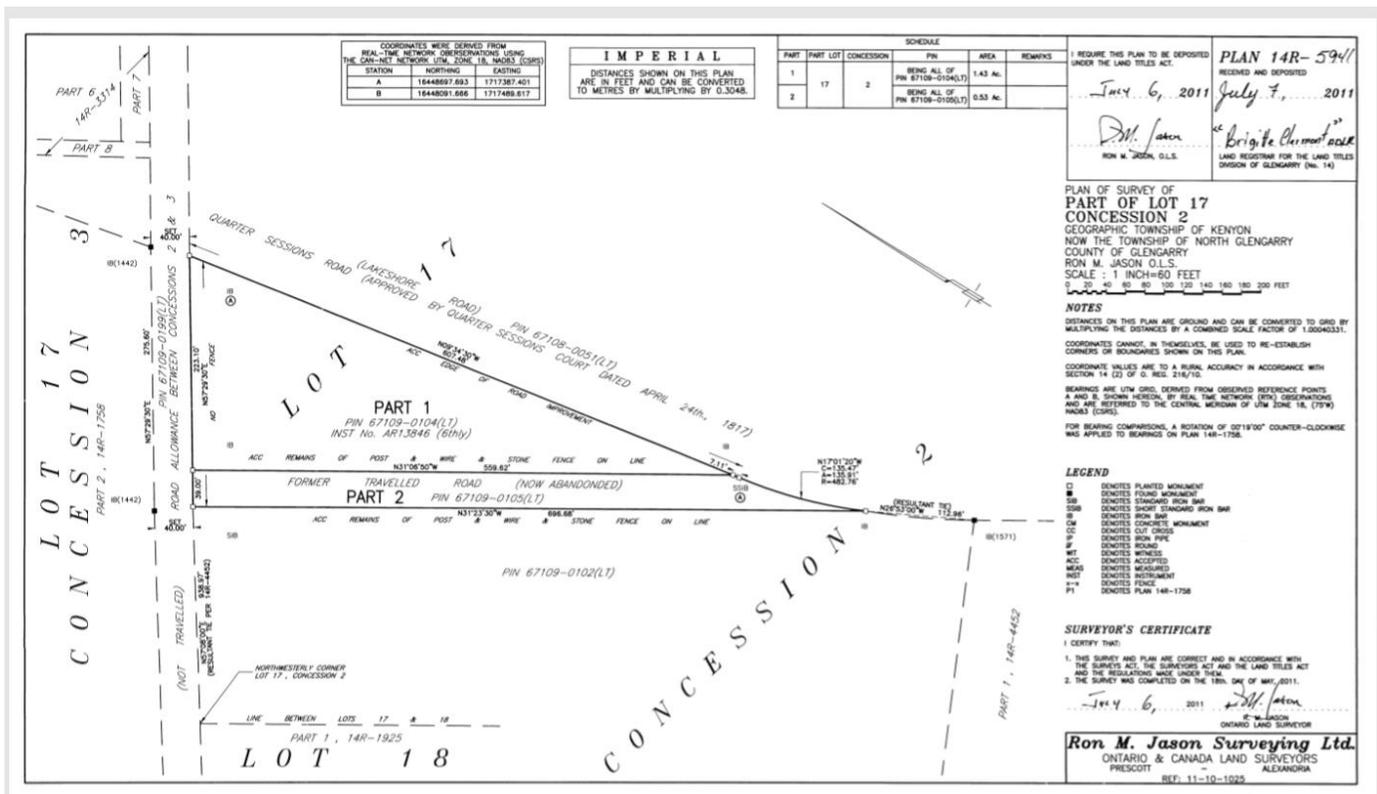
As discussed on the February 19, 2020 Committee of the Whole meeting, the Township of North Glengarry has received a request to purchase a section of an abandoned part of Lakeshore Road. The request was made by the owners of the property, Denis Tousignant & Josee Goulet. The existing lot, which was purchased by the owners in 2019, is of an irregular shape. It is currently large enough to build a Single Family Dwelling, a septic system, etc. all as per our Zoning By-law and Ontario Building Code, but the owners are requesting to buy the land to extend the property lines and then own a larger property to have more options on the location of the Singles Family Dwelling, septic system, well, future accessory storage building and the entrance.

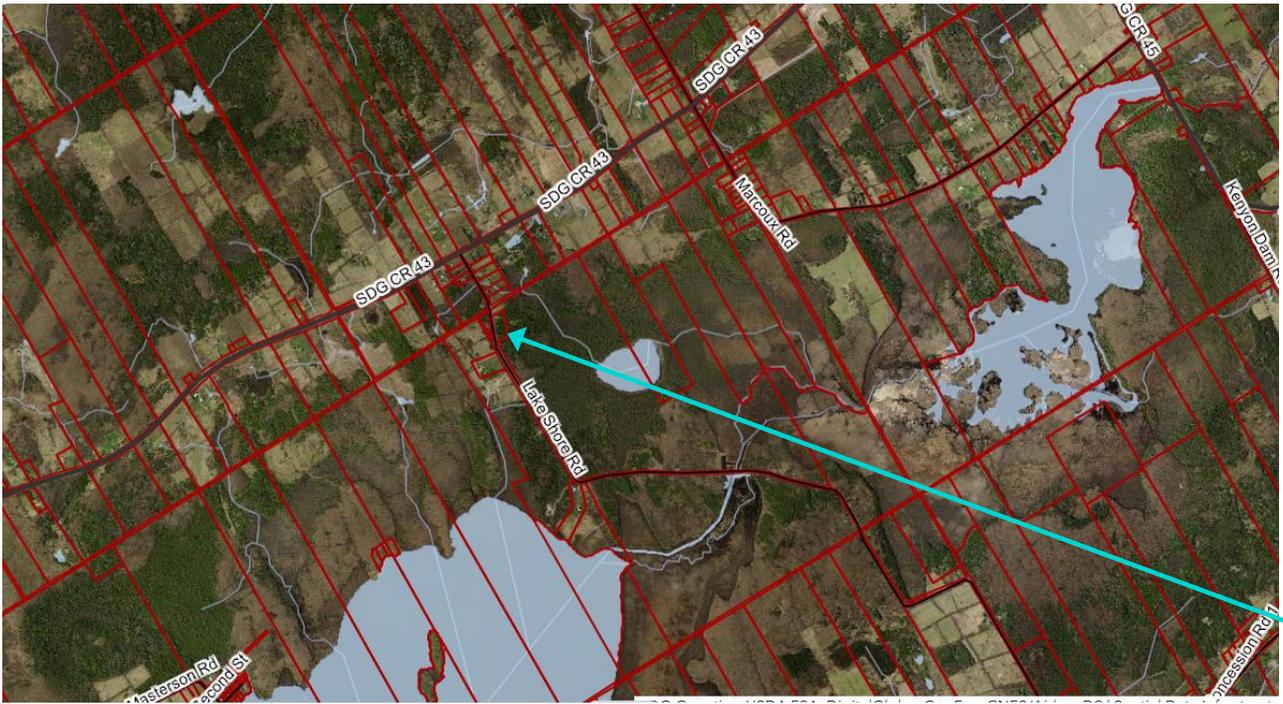
The Municipal Act provides that a Council of a Municipality may pass by-laws for stopping up all or part of a highway and for selling the same. A highway includes any road under the municipality's jurisdiction.

The Township would consider requests to stop-up, close and sell Township owned road allowances provided:

- The unopened road allowance is deemed to be not required for current or future municipal use;
- All costs (survey costs, legal fees, etc.) are borne by the applicant and/or to those persons whom the lands are to be sold;
  - o There shall be no expense to the municipality
- Section 34(7) of the Municipal Act, 2001 c.25, provides that a By-law which has the effect of permanently closing or altering a highway is not valid if the result is a person having no motor vehicle access to and from the person's land over any highway, unless the person agrees to such by-law;
  - o The Township should not create a "landlock" property by selling the land.
- Generally, the Township should only consider applications for road allowance closings from abutting landowners.
- Section 11 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a lower-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public.
- Council will consider applications to stop up, close, and convey road allowances and shore road allowances on a case-by-case basis.

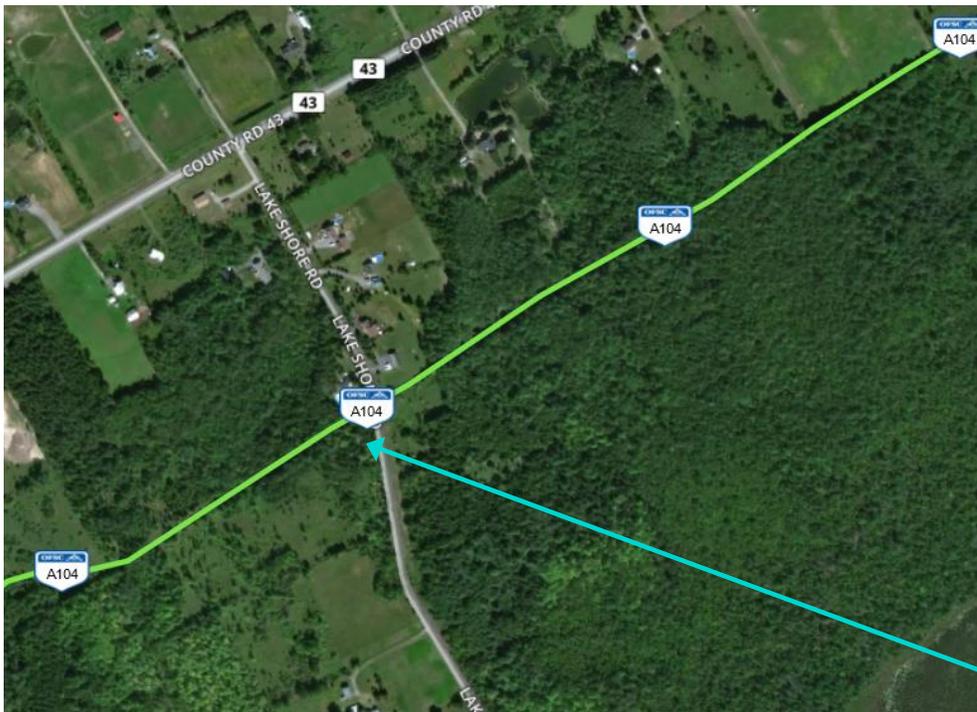
The exact location of the property is Kenyon Concession 2, East Part Lot 17; RP 14R5941 Part 1





On the February 19, 2020 meeting, it was brought up as a concern for some of the Committee of the Whole members that the discussed road allowance is a snowmobile trail. According the Eastern Ontario Snowmobile Club Trail and the Ontario Federation of Snowmobile Clubs, the road allowance is not a snowmobile-maintained trail.

The land being an unmaintained municipal road allowance, it is possible some people did use it, but if/when it becomes private property, the owners would be allowed to prevent the passage as it would be considered trespassing a private property. The road allowance between Kenyon concession 2 & 3 is snowmobile trail A104 as shown on the map below.



As per the Municipal Act, the Planning Act and standard normal procedures from neighboring Townships, the usual process for closing and selling parts or sections of a municipally owned road is the following;

- *We are currently at the last step of the process, No. 7.*

**1. WRITTEN REQUEST – SUBMISSION REQUIREMENTS**

- a. For Council to review the request, the applicant shall submit the following information:
  - i. A letter of Request to stop-up and close a road allowance which shall include an accurate description of the portion of the road allowance requesting to be closed, and a legal description of the applicant's lands.
  - ii. The Letter shall also contain reasons requesting the closure of the road allowance.
  - iii. A map of the proposed road allowance to be stopped up and closed, including the identification of adjacent lands, including the location of buildings.

**2. COMMITTEE OF THE WHOLE ACCEPTANCE OR REJECTION OF APPLICATION**

- a. If the Committee of the Whole wishes to proceed with the closing and sale of the municipal road allowance;
  - i. A resolution shall be prepared declaring the land surplus and available for sale;

- ii. The Township will also circulate to all departments for comments.
- b. If the recommendation is to reject the application, the applicant(s) will be notified of the decision and the process stops.

**3. CIRCULATION TO ADJACENT LANDOWNERS**

- a. The Township will conduct a detailed search to ascertain the proper names and addresses of all owners of lands abutting the portion of the unopened road allowance proposed to be closed and sold.
- b. Notice shall be circulated to all owners of lands abutting the portion of the unopened road allowance proposed to be closed and sold to all required agencies, the property owner and/or owner's agent(s), and any parties who have expressed written interest in receiving notice
- c. Adjacent landowners will be afforded a minimum of three (3) weeks to respond to the letter.
- d. Should there be no interest shown in the purchase of the portion of the unopened road allowance, the applicant(s) will be given the opportunity to purchase the portions of such land.

**4. NOTICE TO PUBLIC**

- a. Prior to selling any municipal road allowance the Township shall give notice to the public of the proposed closing and sale of the Township road allowance and hold a minimum of one public meeting.
- b. An advertisement shall be placed in at least one newspaper having general circulation within the local area for a one-week period advising the date, time and location of the public meeting.
- c. Copies will also be posted in the immediate vicinity of the portion of the unopened road allowance proposed to be closed and sold.
- d. The Notice shall include a brief description of the road allowance and a sketch as well as the date, time and location of the public meeting.
- e. After public consultation, a report will be submitted to Council at the next regular meeting for further consideration with respect to final decision to close road and at this time a Council resolution is required to proceed to next steps.

**5. ROAD ALLOWANCE APPRAISAL**

- a. The Township is allowed obtain an appraisal of the fair market value of the unopened road allowance from a person/company certified by the Appraisal Institute of Canada.
- b. Should the applicant(s) decide to not proceed with the acquisition, the applicant(s) would be responsible for costs associated with advertising and appraisal.
- c. Council has the right to adjust any appraisal if extenuating circumstances become apparent.

**6. REFERENCE PLAN (SURVEY) OF ROAD ALLOWANCE**

- a. The applicant(s) shall obtain a reference plan (survey), prepared by an Ontario Land Surveyor, of the area proposed for closing and sale and submit such to the municipality prior to the commencing of any legal work concerning the road closing.

**7. CLOSING AND SALE OF MUNICIPAL ROAD ALLOWANCE BY-LAW**

- a. Once a reference plan has been submitted to the Township, the applicant(s) solicitor shall proceed with the preparation of the legal work concerning the road closing.
- b. The Closing and Sale of Municipal Road Allowance By-law will be brought to Council for formal approval.



**Financial Implications:**

No financial implications. All costs (survey costs, legal fees, etc.) are borne by the applicant and/or to those persons whom the lands are to be sold.

**Attachments & Relevant Legislation:**

- Reference Plan No. 6604
- By-law No. 41-2021

**Others consulted:**

Sarah Huskinson, CAO/Clerk

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Reviewed and Approved by:  
Sarah Huskinson, CAO/Clerk