



*A People Place, A Change of Pace*  
**SHELBURNE**  
ONTARIO, CANADA

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**Meeting Date:** Monday, May 31, 2021

**To:** Mayor Mills and Members of Council

**From:** **Steve Wever, MCIP, RPP, Town Planner**

**Report:** P2021-20

**Subject:** **Consent Agreement for Application  
B20/06 for a Residential Lot Severance  
at 302 First Avenue East, Shelburne**

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## Recommendation

Be it resolved that Council receive Report P2021-20 as information;

Be it resolved that By-law 32-2021, being a by-law to enter into a Consent Agreement with David and Kelly Montgomery for land located at 302 First Avenue East, substantially in the form attached to the by-law and initialled by the Clerk for identification, be read a first, second and third time and finally passed.

## Background

On February 08, 2021, provisional Consent was granted by the Committee of Adjustment to sever the existing lot at 302 First Avenue East to create one new residential lot (Application File No. B20/06). The property is 923 square metres in area and currently contains a single detached dwelling fronting onto First Avenue East. The severed lot will have an area of 345 square metres and 16.9 metres of frontage on James Street North. The retained lot will have an area of 578 square metres and will maintain 20.35 metres of frontage onto First Avenue East. The existing single-detached dwelling will be maintained and is proposed to be converted into three (3) separate dwellings units. There is an existing driveway within the front yard on First Avenue East that will

provide three (3) parking spaces in tandem as per Zoning By-law 04-2021. A single detached dwelling is proposed to be constructed on the severed lot with a new driveway off of James Street North.

## Analysis

The property is municipally known as 302 First Avenue East and is legally described as All of Lot 1, Part of Lot 2, Block 28, Plan 12A, Town of Shelburne, County of Dufferin. The property is owned by David and Kelly Montgomery and currently contains a single detached dwelling.

The property is located at the north-east corner of the intersection of First Avenue East and James Street North. The property is designated 'Low Density Residential' in the Official Plan and is located within the built boundary. The property is currently zoned Residential Type Two (R2) Zone. The retained lot is zoned Residential Type Two Exception Five (R2-5) and the new severed lot is zoned Residential Type Four (R4) Zone in Zoning By-law 38-2007, as amended by By-law 04-2021 passed by Council on February 08, 2021.

Condition 3 of the provisional Consent approval requires the property owner to enter into an agreement with the Town to establish the obligations of the owner for the servicing, grading and development of the severed and retained lots. The agreement also incorporates required external agency conditions, namely the school board conditions, as required.

A consent agreement has been prepared to establish these requirements and is ready for Council consideration.

The applicant is also required to satisfy the other conditions of the Consent approval through payment of the Secretary-Treasurer's fee, payment of cash-in-lieu of parkland, and by preparing and providing copies of the deposited reference plan before a Certificate of Official is issued for final Consent approval. The applicant has satisfied Condition 4 of the provisional Consent by obtaining approval of a Zoning By-law Amendment (Application File No. Z20/03). Council enacted By-law 04-2020 on February 08, 2021, which re-zones the retained lot to R2-5 to recognize the existing yards of the existing dwelling and garage, to permit up to three (3) dwelling units within the existing dwelling, to permit tandem parking in the front yard to satisfy the parking requirements, and to re-zone the severed lot to R4.

The property is located within the Stage 1 area on the Development Staging Plan in the Official Plan, and servicing capacity for two (2) units was previously allocated at the time of the Consent approval.

## Financial Impact

The conditions of the Consent approval require payment of cash-in-lieu of parkland dedication for the new lot. The payment of development charges will be required for the new dwelling proposed on the severed lot prior to Municipal Approval of a building permit. The applicant is also responsible for the cost of removing one existing tree and for planting a replacement tree, and all related works within the Town rights-of-way for establishing the new driveways and parking areas, grading, drainage and service connections.

## Policies & Implications (if any) Affecting Proposal

Town of Shelburne Official Plan  
Town of Shelburne Zoning By-law 38-2007

## Consultation and Communications

The notification and consultation requirements for the Consent and related Zoning Application have been completed in accordance with the Planning Act. There are no further notification or consultation requirements associated with the approval of the Consent Agreement.

## Council Strategic Priorities

Council's Strategic Priorities has three Goals - Sustainable, Engaged and Livable. There are a total of 12 targets with the three Goals.

This report aligns with the Sustainable Goals within the Target:

- T4 Promote balanced growth

## Supporting Documentation

Approved Consent Sketch  
By-law #32-2021 and Consent Agreement dated May 31, 2021

Respectfully Submitted:

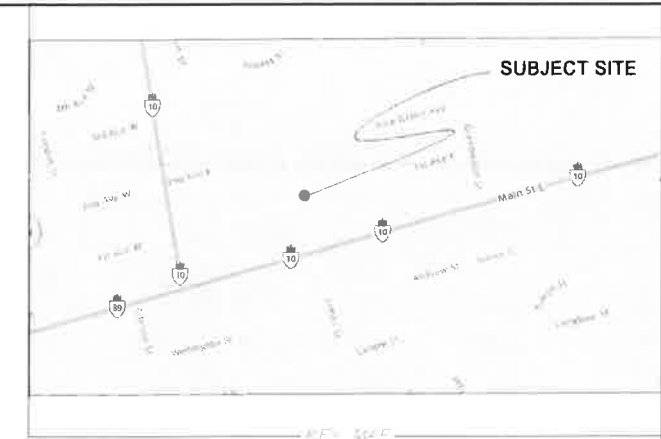
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Steve Wever, MCIP, RPP, Town Planner

Reviewed by:

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Denyse Morrissey, CAO



**CONCEPT PLAN ON  
ALL OF LOT 1 AND PART OF LOT 2  
BLOCK 27  
REGISTERED PLAN 12A  
TOWN OF SHELburne  
COUNTY OF DUFFERIN**

SCALE 1 : 150  
0 5 10metres

- DENOTES SEVERED PARCEL AREA = 345 m<sup>2</sup>±
  - DENOTES RETAINED PARCEL AREA = 578 m<sup>2</sup>±
- TOTAL AREA = 923 m<sup>2</sup>±

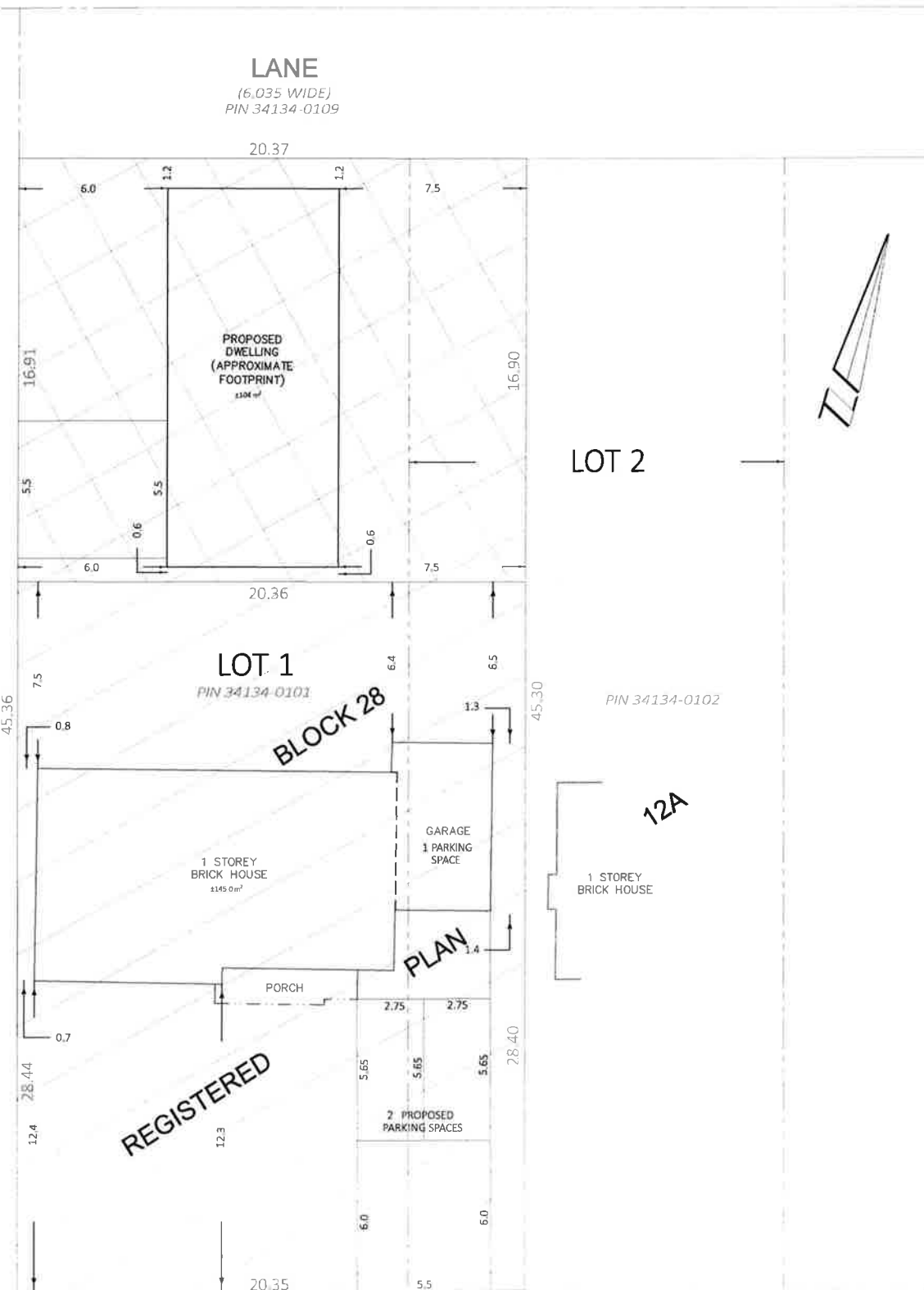
**NOTE:**  
THIS IS NOT A PLAN OF SURVEY  
ALL DIMENSIONS AS SUBJECT TO FINAL SURVEY

BOUNDARY INFORMATION SHOWN HEREON IS BASED ON RECORDS FOUND AT THE LAND REGISTRY OFFICE, REGISTERED PLAN 12A AND PLAN OF SURVEY BY LLOYD THOMSON O.L.S. DATED DECEMBER 2, 1965.

**METRIC:**  
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

No.	BY	DATE	REVISION
3	TDM	DEC 04/30	PREPARED FOR SUBMISSION
2	TDM	NOV 17/20	UPDATE ZONING
1	TDM	SEPT 09/20	PROPOSED SEVERANCE

PREPARED FOR:  
DAVID & KELLY MONTGOMERY  
302 FIRST AVENUE EAST



**JAMES STREET**  
(15.088 WIDE)  
PIN 34134-0112

**FIRST AVENUE**  
(20.117 WIDE)  
PIN 34134-0111

**ZONING BY-LAW 38-2007**  
EXISTING: RESIDENTIAL TWO (R2) ZONE  
PROPOSED SEVERED: RESIDENTIAL TWO SITE SPECIFIC (R2-#) ZONE  
PROPOSED RETAINED: RESIDENTIAL FOUR (R4) ZONE

	REQUIRED (R2-#)	RETAINED (R2-#)	REQUIRED (R4)	SEVERED (R4)
• MINIMUM LOT AREA	= 464m <sup>2</sup>	= 578m <sup>2</sup>	= 300m <sup>2</sup>	= 344m <sup>2</sup>
• MINIMUM LOT FRONTAGE	= 15.0m	= 20.6m	= 9.75m	= 16.9m
• MINIMUM FRONT YARD	= 6.0m	= 12.3m	= 6.0m	= 6.0m
• MINIMUM EXTERIOR SIDE YARD	= 4.5m	= 1.3m	= 3.0m	= N/A
• MINIMUM INTERIOR SIDE YARD	= 1.2m	= 1.2m	= 1.2m	= 1.2m
• OTHER SIDE	= N/A	= N/A	= 0.6m	= 0.6m
• MINIMUM REAR YARD	= 7.5m	= 7.5m	= 7.5m	= 7.5m
• MAXIMUM SETBACK FROM STREET CENTERLINE	= 20.0m	= 22.3m	= 16.0m	= 13.5m
• MAXIMUM LOT COVERAGE	= 35%	= 25%	= 45%	= 30%
• MAXIMUM BUILDING HEIGHT	= 9.2m	= 6m	= 9.2m	= 9.2m

**THE CORPORATION OF THE TOWN OF SHELBURNE**

**BY-LAW NUMBER #32-2021**

**WHEREAS** pursuant to the provisions of the Municipal Act, 2001, S.O. 2001 c. 25 as amended, ss. 8 & 9 refers the Town is authorized to enact this by-law;

**AND WHEREAS** the property dealt with in the by-law is subject to consent;

**AND WHEREAS** the Planning Act R.S.O. 1990 c. P.13 s. 51(26) and 53(12) provides for the Town and the owner to enter into an agreement with respect to the approval of a consent;

**NOW THEREFORE** the Municipal Council of The Corporation of the Town of Shelburne hereby enacts as follows:

1. THAT The Corporation of the Town of Shelburne enter into a Consent Agreement with David and Kelly Montgomery, dated as of May 31, 2021, for property located at 302 First Avenue East, substantially in the form attached to this by-law and initialled by the Clerk for identification.
2. THAT the Mayor or his designate and the Clerk are hereby authorized to execute the agreement and all documents necessary to complete the matters authorized by this by-law.

**READ A FIRST, SECOND in Open Council this the 31<sup>st</sup> day of May 2021.**

**READ A THIRD TIME in Open Council, and finally passed this the 31<sup>st</sup> day of May 2021.**

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Mayor

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Clerk

B E T W E E N:

DAVID & KELLY MONTGOMERY          PARTY OF THE FIRST PART  
hereinafter called the “Owner”

and

THE CORPORATION OF THE TOWN OF SHELBURNE  
hereinafter called the “Municipality” or the “Town”

PARTY OF THE SECOND PART

WHEREAS the Owner represents and warrants that it is the sole beneficial Owner of the lands as described in Schedule “A” annexed hereto and that this Agreement relates to all of the said lands and premises described therein;

AND WHEREAS the Owner has made a severance application (application file number B20/06) in respect of the said lands described in Schedule “A” hereto (hereinafter called the “Lands”);

AND WHEREAS pursuant to the provisions of the Planning Act, ss. 51 (26) and 53(12), the Owner is required to enter into this Agreement as a condition of the severance;

NOW THEREFORE in consideration of the mutual premises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which the parties all acknowledge, the parties hereto covenant and agree as follows:

**SERVICE REQUIREMENTS**

1. Prior to the submission of an application for a building permit, the Owner shall submit to the Town’s Engineer lot grading and servicing plans. No building permit shall issue until the approval of the grading and servicing plans by the Town’s Engineer. The servicing plan shall include particulars of sanitary sewers, water supply, storm sewers, hydrants, entrances and utilities deemed necessary by the Town of Shelburne for the servicing of the severed and retained lots in accordance with Town standards and to the satisfaction of the Town’s Engineer.
2. The Lands shall be graded in accordance with the lot grading plans approved by the Town’s Engineer, and the Owner shall not alter or interfere with the grading and drainage levels and patterns as provided on the individual lot grading and drainage plans and, without limiting the generality of the foregoing, the Owner shall not alter, fill, fence, stop up, build upon, obstruct or allow to become clogged, or fall into a state of disrepair any rear or side yard drainage depression, swale or catch basin, drainage channel facility or installation, unless the work is done pursuant to a revised site, grade and elevation plan approved by the Town.
3. All connections to municipal services shall be subject to the approval of the Town’s Engineer, shall be in accordance with the lot grading and servicing plan approved by the Town’s Engineer, and no occupancy permit shall be granted until such approvals are given. All service connections shall be at the Owner’s expense. The Owner shall provide a minimum of 5 days advance notice to the Town’s Engineer prior to completing any service connections.

4. The Owner shall, prior to an occupancy permit being granted, repair any damage to existing sidewalks, boulevards, curbs, and roadways as a result of the development to the satisfaction of the Town's Engineer. The Town will arrange and pay the cost for the curb cuts for the proposed driveways and upon completion of the curb cuts by the Town, the Owner shall reimburse the Town for the cost of completing the curb cuts required for the proposed driveways.
5. The Owner shall provide a minimum of 5 days advance notice to the Town's Engineer prior to completing any of the works required within the Town right-of-way.
6. The Owner acknowledges and agrees that it shall be responsible for obtaining any further approvals that may be required for the development of the subject lands, including but not limited to an entrance permit and a building permit. The Owner further acknowledges and agrees that nothing herein relieves the Owner from compliance with the requirements of the Town's Zoning By-law, or any other law or regulation that may apply to the development of the subject lands.

#### **EXISTING BUILDINGS AND STRUCTURES**

7. The Owner shall demolish and remove from the lands, or cause to be demolished and removed from the lands, the existing accessory shed located on the severed and retained lot. No building permit shall be issued for a new building or structure on the severed and retained lot until the existing building has been completely removed.
8. The Owner shall be responsible for all costs in connection with the requirement to demolish and remove the existing shed, including those of the Town in accordance with Section 20.

#### **PARKING REQUIREMENTS**

9. The Owner shall construct and maintain parking spaces on the retained lot and severed lot in accordance with the Town's Zoning By-law and this Agreement.

#### **EASEMENTS**

10. The Owner shall designate and grant, when necessary, easements upon the lands herein described to provide for services, utilities, and drainage that may be required to furnish an outlet for storm water or natural courses across the lands, as required by the Town.

#### **TREES**

11. The Owner acknowledges and agrees and shall ensure that the development of the Lands includes measures to protect the existing trees that are located on the Town rights-of-way along the boundary with the Lands.
12. The Owner shall be responsible for implementing the measures to protect the existing trees on the Town rights-of-way for the duration of the development of the Lands, to the satisfaction of the Town.
13. If, in the opinion of a qualified professional appointed or approved by the Town, any of the trees on the Town rights-of-way require removal to accommodate the development and/or have been adversely impacted by the development, the Owner shall be responsible for the cost of removing any trees that require removal due to location or that have or may become hazardous and for the cost of planting an equal number of replacement trees for each tree that is required to be removed, to the satisfaction of the Town.
14. The Owner shall be responsible for all costs in connection with implementing the tree preservation, removal and replacement requirements, including those of the Town in accordance with Section 20.

## **FENCES**

15. The Owner acknowledges and agrees and shall ensure that the development of the Lands includes measures to protect the existing fences located along or near the common lot boundaries between the Lands and the adjoining lots and shall repair or replace any boundary fencing that is damaged or removed as a result of the development of the Lands, to the Town's satisfaction.
16. The Owner shall be responsible for all costs in connection with the repair or replacement of existing fencing, including those of the Town in accordance with Section 20.

## **UPPER GRAND DISTRICT SCHOOL BOARD**

17. The Owner (or the person applying for building permits) shall pay the applicable Education Development Charges prior to the issuance of the building permit.

## **ACKNOWLEDGEMENT AND RELEASE**

18. The Owner shall indemnify and hold harmless the Town from all claims arising by reason of or related to the approval of the severance, application file number B19/02.

## **REGISTRATION OF AGREEMENT**

19. The parties hereto agree that this Agreement may at the option of the Municipality be registered against the title of the lands and premises herein described at the cost of the Owner. The execution of this Agreement shall be conclusive authorization to the Town's solicitor to register this Agreement on behalf of all parties.

## **MUNICIPAL EXPENSES**

20. The Owner shall reimburse the Municipality for all charges and expenses incurred by the Municipality in connection with the preparation and enforcement of this Agreement, including all engineering, planning, legal and administrative fees, and including charges for compliance certificates. The Owner shall reimburse the Town for such municipal expenses within 30 days of invoices for the same being provided, following which any unpaid amounts shall bear interest at a rate of 1% per month. Any amounts that remain unpaid after 6 months shall be recoverable in like manner as taxes pursuant to the provisions of the *Municipal Act, 2001*.

## **AGREEMENT RUNS WITH THE LAND**

21. This Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns as the case may be and in the event of the Agreement herein being registered against the title of the land, the Agreement shall be deemed to run with the lands.
22. Where in this Agreement the context so requires, words in the singular include the plural and words in the plural include the singular, and words importing the masculine gender include the feminine and neuter genders.
23. Any part of this Agreement that is invalid shall be severed from the balance of the Agreement.



IN WITNESS WHEREOF the parties have executed this Agreement as of the effective date.

David and Kelly Montgomery

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D. Montgomery, Co-Owner

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K. Montgomery, Co-Owner

The Corporation of the Town of Shelburne  
Per:

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W. Mills, Mayor

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Jennifer Willoughby, Clerk

We have the authority to bind the Corporation.

**SCHEDULE “A”**

**LEGAL DESCRIPTION OF LANDS**

All of Lot 1, Part of Lot 2, Block 28, Plan 12A,  
Town of Shelburne, County of Dufferin