

**COMMITTEE OF ADJUSTMENT
MINUTES**

A Public Meeting was held on Monday December 2, 2013 in the Council Chambers to consider planning applications with a quorum present.

ROLL CALL

Present: Mayor Don Shipway

Deputy Mayor Chuck Hall

Councillor Ward One – Doreen McLinchey

Councillor Ward Two – Brian Ropp

Councillor Ward Three – Gord Moir

Councillor Ward Four – Andrew Hemming

Councillor Ward Five – Adrian Cornelissen

CAO Linda Creaghe

Clerk Jackie Tiedeman

Planner Barbara Rosser was present

DISCLOSURE OF PECUNIARY INTEREST

None

MINUTES

HEMMING/MCLINCHEY: That the November 4, 2013 minutes be accepted.

CARRIED

**APPLICATION B19/2013 AND ZONING ZBA#8/2013 FOR CONSENT TO SEVER
LAND – JOHN AND SUZANNE NUTTALL**

Planner Barbara Rosser advised that application had been received and circulated according to the Planning Act.

Description of Land: Part Lot 12 Concession 5
3502 Elginfield Road (former Township of McGillivray)

Applicant: John & Suzanne Nuttall

Agent: Philip Walden

The purpose and effect of this application would be to sever a parcel of land from an existing 50.6 hectare farm parcel as a surplus farm dwelling severance. The land to be severed would be approximately .8053 hectares in size with 67.8 metres frontage on Elginfield Road and would contain the existing single detached dwelling and accessory building. The Applicants would retain approximately 49.8 hectares comprising the farmland portion. An amendment to the zoning by-law will be required to prohibit future residential use of the retained (farmland) parcel in accordance with the policy of the North Middlesex Official Plan relative to surplus farm dwelling severances to rezone the severed (residential) parcel for residential use.

The subject land is also the subject of an application under the Planning Act for an amendment to Zoning By-law No. 35 of 2004, as amended (Application ZBA#8/2013)

Planner Barbara Rosser noted that in response to concerns with regard to the area of the severed parcel and the Part 2 proposal, a revision has been proposed which would reduce the area of the severed parcel by 0.18024 hectares to approximately 0.69

hectares and correspondingly, increase the area of the retained parcel to approximately 49.96 hectares. Also, the applicants have advised that underground hydro service will be provided rather than retaining the existing hydro pole located on the previous easterly property line.

The planning report dated November 28, 2013 was reviewed which took into account responding agency comments. As no additional input was received from the public the following recommendation was then introduced:

HALL/MOIR: That the Committee of Adjustment GRANT the above application with the following conditions:

- a) That the dimensions of the severed parcel and of the retained parcel be revised in accordance with the drawing by FKS Land Surveyors Plotting Date: November 27, 2013 and affixed to this decision;
- b) That North Middlesex Zoning By-law No. 35 of 2004, as amended, be amended to rezone the severed parcel to the Agricultural Small Holding (AG1-6) Zone and the retained parcel to a General Agricultural (A1) Zone Exception prohibitive of residential use ;
- c) That the Applicants provide a signed affidavit stipulating to the satisfaction of the Municipality of North Middlesex that the lands being retained for agricultural purposes will be used as part of their existing farming operation;
- d) That, unless replaced, the existing septic tank and weeping bed system on the severed parcel be inspected by a licensed septage hauler and the inspection provided to the North Middlesex Chief Building Official;
- e) That laneway access is required to the retained parcel from Elginfield Road (Middlesex County Road No. 7) and, if laneway access does not already exist, the Owners are required to obtain permission from the County of Middlesex prior to the construction of any access;
- f) That the Bice Municipal Drains and Walker Drainage Works 1984 be reassessed under the Drainage Act, R.S.O. 1990, c.D.17 at the expense of the Owner;
- g) That the wooden accessory buildings be fully removed from the severed parcel;
- h) That provision of hydro electric service be fully contained on the severed parcel;
- i) That the Owners dedicate lands up to 18 metres from the centerline of Middlesex County Road No. 7 (Elginfield Road) to the County of Middlesex if it is not already to that width;
- j) That a plan of survey prepared by an Ontario Land Surveyor in a form suitable for registration be submitted to the Municipality, if required;
- k) That the Applicant's Solicitor submits an undertaking in a form satisfactory to the Secretary of the Committee of Adjustment to register an electronic transfer of title exactly consistent with the acknowledgement and direction executed by the applicants and the decision of the Committee of Adjustment;
- l) Conditions imposed must be met within one year of the date of notice of decision, as required by Section 53(41) of the Planning Act, R.S.O. 1990, c.P.13. If conditions are not fulfilled as prescribed within one year, the application shall be deemed to be refused. Provided the conditions are fulfilled within one year, the application is valid for two years from the date of decision.

CARRIED

A twenty day appeal period will apply from the date of notice of decision.

It was also recommended that the by-law be given three readings and finally passed during the regular meeting.

DEFERRED FEB 4/13 APPLICATIONS FOR CONSENT TO SEVER LANDS OWNED BY ABCA

Planner Barbara Rosser advised her initial report of January 31, 2013 concerning the following applications recommended deferral until such time as the EIS was complete to the satisfaction of the Municipality and it is established whether the Official Plan Amendment will proceed or be amended. Some modifications may be required to the consent and zoning by-law applications as a result of the EIS and to address the West Corners Drive road access concern.

Application for Official Plan Amendment
Part Lots 1,2,3 Con 5 ECR (12.1 hectares)
Part Lots 2,3,4,5 Con 5 WCR (56.9 hectares)

Consent Application No. B02/2013 Application ZBA#2/2013
Part Lot 9 Con 7 ECR (former McGillivray Township)

Consent Application No. B03/2013 Application ZBA #3/2013
Part Lots 1,2,3 Con 5 ECR (former McGillivray Township)

Consent Application No. B04/2013 Application ZBA #4/2013
North Part east half Lot 1 Part Lots 2,3 Con 5 ECR (**APPLICATIONS WITHDRAWN BY APPLICANT**)

Consent Application No. B05/2013 Application ZBA#5/2013
Part Lots 2,3,4,5 Con 5 WCR (former McGillivray Township)

Subsequent to the deferral motions, a meeting was held with the applicant on February 12, 2013 and municipal staff as well as St. Clair Region CA staff who had provided input on the planning applications in lieu of the ABCA. At that time, staff were advised that Application B03/2013 was to be withdrawn and prohibition of building on Application B02 and B03/2013 lands would be an option. SCRCA staff advised that they would not be available to peer review the required EIS. Alternative arrangements were subsequently made with Storey Samways Planning Ltd. to undertake the peer review.

Ms. Rosser then reviewed her planning report dated November 27, 2013 in detail. After careful consideration the following recommendations were brought forth:

ROPP/HEMMING: That Amendment No. 7 to the North Middlesex Official Plan be recommended for adoption by Council by-law and submitted to the County of Middlesex for approval. It should be noted that, with the exception of Application ZBA #2/2013 the proposed zoning by-law amendments and consents should be conditional upon the County's approval.

CARRIED

ROPP/MOIR: That Application No. B02/2013 be granted subject to the following conditions:

- a) That North Middlesex Zoning By-law No. 35 of 2004, as amended, be amended to rezone the severed parcel to an Environmental Protection (EP) Zone Exception prohibitive of livestock related uses including the spreading of manure;

- b) That the Applicant identify using fence posts, either wood or steel t-rails, the line of severance at a spacing of not less than 76 metres with each post to be signed with the ABCA logo;
- c) That an agreement be registered on the title to the severed parcel that any proposed drainage works be undertaken in conformity with the recommendations of the Scoped Environmental Impact Study (BM Ross, 2013);
- d) That a plan of survey prepared by an Ontario Land Surveyor in a form suitable for registration be submitted to the Municipality;
- e) That the Applicant's Solicitor submits an undertaking in a form satisfactory to the Secretary of the Committee of Adjustment to register an electronic transfer of title exactly consistent with the acknowledgement and direction executed by the applicants and the decision of the Committee of Adjustment;
- f) Conditions imposed must be met within one year of the date of notice of decision, as required by Section 53(41) of the Planning Act, R.S.O. 1990, c.P.13. If conditions are not fulfilled as prescribed within one year, the application shall be deemed to be refused. Provided the conditions are fulfilled within one year, the application is valid for two years from the date of decision.

CARRIED

MCLINCHEY/HEMMING: That Application No.B03/2013 be granted subject to the following conditions:

- a) That Amendment No. 7 to the North Middlesex Official Plan be approved by the County of Middlesex and be in full force and effect;
- b) That North Middlesex Zoning By-law No. 35 of 2004, as amended, be amended to rezone the severed parcel to a General Agricultural (A1) Zone Exception permissive of the proposed lot area and to implement a 50 metre buffer requirement;
- c) That the Applicant identify using fence posts, either wood or steel t-rails, the line of severance at a spacing of not less than 76 metres with each post to be signed with the ABCA logo;
- d) That an agreement be registered on title to the severed parcel that any proposed drainage works be undertaken in conformity with the recommendations of the Scoped Environmental Impact Study (BM Ross, 2013) and to include an educational pamphlet which will note the natural features on the property and the adjacent provincially significant wetland with the pamphlet to be provided to the Municipality for review prior to registration;
- e) That the Mollard Drainage Works and the Vanderkant Municipal Drains be reassessed under the Drainage Act, R.S.O. 1990, c.D 17 at the expense of the Owner;
- f) That a plan of survey prepared by an Ontario Land Surveyor in a form suitable for registration be submitted to the Municipality, if required;
- g) That the Applicant's Solicitor submits an undertaking in a form satisfactory to the Secretary of the Committee of Adjustment to register an electronic transfer of title exactly consistent with the acknowledgement and direction executed by the applicants and the decision of the Committee of Adjustment;
- h) Conditions imposed must be met within one year of the date of notice of decision, as required by Section 53(41) of the Planning Act, R.S.O. 1990, c.P.13. If conditions are not fulfilled as prescribed within one year, the application shall be deemed to be refused. Provided the conditions are fulfilled within one year, the application is valid for two years from the date of decision.

CARRIED

CORNELISSEN/HEMMING: That Application No. B05/2013 be granted subject to the following conditions:

- a) That Amendment No. 7 to the North Middlesex Official Plan be approved by the County of Middlesex and be in full force and effect;
- b) That North Middlesex Zoning By-law No. 35 of 2004, as amended, be amended to rezone the easterly retained (residential) parcel to the Agricultural Small

Holding (AG1)Zone and the severed parcel to a General Agricultural (A1) Zone Exception prohibitive of residential use;

- c) That the lands being conveyed for agricultural purposes (the severed parcel) be transferred in the same name and title as 1633552 Ontario Inc. to the satisfaction of the Municipality of North Middlesex;
- d) That 1633552 Ontario Inc. provide a signed affidavit stipulating to the satisfaction of the municipality of North Middlesex that the lands being conveyed for agricultural purposes will be used as part of their existing farming operation;
- e) That unless replaced, the existing septic tank and weeping bed system be inspected by a licensed septage hauler and the inspection provided to the North Middlesex Chief Building Official;
- f) That a certified laboratory test confirming the availability of a potable well water supply be provided;
- g) That the Norman Mollard Municipal Drain be reassessed under the Drainage Act, R.S.O. 1990, c.D.17 at the expense of the Owner;
- h) That a plan of survey prepared by an Ontario Land Surveyor in a form suitable for registration be submitted to the Municipality, if required;
- i) That the Applicant's Solicitor submits an undertaking in a form satisfactory to the Secretary of the Committee of Adjustment to register an electronic transfer of title exactly consistent with the acknowledgement and direction executed by the applicants and the decision of the Committee of Adjustment;
- j) Conditions imposed must be met within one year of the date of notice of decision, as required by Section 53(41) of the Planning Act, R.S.O. 1990, c.P.13. If conditions are not fulfilled as prescribed within one year, the application shall be deemed to be refused. Provided the conditions are fulfilled within one year, the application is valid for two years from the date of decision.

CARRIED

Zoning By-law Amendment Applications No. ZBA#2/2013, ZBA#3/2013, ZBA#5/2013 are recommended for approval by Council however with the exception ZBA#2/2013 would not come into force until Official Plan Amendment No.7 is approved by the County of Middlesex and is in full force and effect.

A twenty day appeal period will apply from the date of notice of decision.

CORNELISSEN/MOIR: That Committee of Adjustment adjourn to regular meeting at 8:00 p.m.

CARRIED

MAYOR

CLERK