



MUNICIPALITY OF NORTH MIDDLESEX

COMMITTEE OF ADJUSTMENT

MINUTES

A Public Meeting was held on Wednesday March 7, 2018 at 7:00 p.m. in the Council Chambers, Shared Services Building, Parkhill to consider planning applications with a quorum present.

ROLL CALL

Present:

Mayor Don Shipway
Deputy Mayor Brian Ropp
Councillor Ward One – Doreen McLinchey
Councillor Ward Two – Joan Nichol - Absent
Councillor Ward Three – Gord Moir
Councillor Ward Four – Andrew Hemming
Councillor Ward Five – Adrian Cornelissen
CAO/Director of Finance (Treasurer), Nandini Syed
Deputy CAO/Director of Operations, Jonathon Graham
Director of Emergency and Safety Services, Will Davidson
Director of Economic Development & Community Services, Justin Dias
Clerk Jackie Tiedeman
Planners Stephanie Poirier and Jennifer Huff

DISCLOSURE OF PECUNIARY INTEREST

None

MINUTES

- a. January 17, 2018 COA minutes

ROPP/CORNELISSEN: That the minutes be approved as presented. **CARRIED**

The Secretary Treasurer provided an introduction to the Public Meeting which disclosed the purpose of the meeting, that comments expressed and written material presented are a matter of public record available for full disclosure and that if a member of the public wished to be notified of a decision on applications being heard this evening that a written request must be submitted to the Municipality.

7:00 p.m. HEARING –Applications for Consent & Zoning (B02/2018) (ZBA 1/2018)
35720 Brinsley Road

Planner Stephanie Poirier advised that the above noted application had been received, deemed complete and circulated to agencies as well as property owners in accordance to the Planning Act.

Description of Land: Lot 3 Concession 10
(geographic Twsp of McGillivray)
Applicant: James Mark and Annette Stephan

The purpose and effect of this application is to permit the severance of a residence from a farm parcel, facilitating the creation of a new lot to dispose of a residence surplus to a farming operation as a result of consolidation.

A concurrent zoning by-law amendment application has been filed in order to rezone the severed (residential) lands to permit the residential use. The rezoning application also proposes to rezone the retained farmland parcel to prohibit residential use as required by the North Middlesex Official Plan

WRITTEN AND ORAL SUBMISSIONS

- Hydro One: no comments or concerns
- Ausable Bayfield Conservation Authority: no concerns
- Municipal Operations: new entrance for retained land, a road allowance work permit application fee and deposit required; assessment schedule for the Morrissey-Lightfoot drain 1972 is required; septic system pump out, inspection and evaluation be completed as a condition of approval.
- Public Written Comments: None received
- Oral Submissions at meeting: None

ANALYSIS

The Provincial Policy Statement (PPS), County Official Plan and North Middlesex Official Plan generally permit lot creation in agricultural areas to dispose of a dwelling surplus to a farming operation as a result of farm consolidation subject to evaluation criteria. Planning staff are satisfied that the criteria for the severance of a surplus farm residence on the lands have been met or can be appropriately addressed via conditions of consent.

CONCLUSION

The applicant was in agreement with the proposed conditions therefore the following motion was brought forward:

COA MOTION/2018

MOIR/CORNELISSEN: That Application for Consent B02/2018 submitted under Section 53 of the Planning Act be GRANTED as the application: satisfies the requirements of the Planning Act, is consistent with the Provincial Policy Statement; conforms to the Official Plans of both the Municipality of North Middlesex and the County of Middlesex; is capable of satisfying sound land use planning;

And further that the above noted application be subject to the following conditions:

- a. That the Certificate of Consent under Section 53(42) of the Planning Act shall be given within one year of the date of the notice of decision. The request for the Certificate of Consent shall be accompanied by a written submission that details how each of the conditions of consent has been fulfilled.
- b. That a zoning By-Law Amendment that appropriately rezones the severed lot and the retained lot of Consent B02/2018 be in full force and effect.
- c. That the owner obtain the necessary permits and install a new farm entrance in order to provide access to the retained lot of Consent B02-2018.
- d. That the assessment schedule for the Morrissey-Lightfoot Drain 1972 is required to be reassessed under the Drainage Act, R.S.O. 1990, c.D.17 at the expense of the owner in the format recommended by the Drainage Superintendent
- e. That the rear lot line on the lands to be severed be located 3m (9.8 ft) away from the driveway turn around and that the severed lot area be reduced to 0.605ha (1.49 ac)

- 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 verification of the septic location being wholly contained within the proposed severed lands be submitted to the Municipality.
Motion continued
- h. That a pump out, inspection and evaluation of the septic system be completed to the satisfaction of the Chief Building Official
- i. That the Owner's Solicitor submits an undertaking in a form satisfactory to the Municipality to register an electronic transfer of title exactly consistent with the Consent decision.

And Further that Zoning By-law Amendment Application ZBA01/2018 for the severed and retained lots of Consent B02-2018 in order to implement the severance of a surplus farm severance, be APPROVED.

CARRIED

The applicant was advised that a Notice of Decision will be provided in the next few days that would contain the twenty day appeal period date.

**7:05 p.m. HEARING –B03/2018 for consent to sever land and ZBA 2/2018 – 4149
Mount Carmel Drive**

Planner Stephanie Poirier advised that the above noted applications had been received, deemed complete and circulated the agencies as well as land owners in accordance with the Planning Act.

Description of Land: Con NB part Lots 14 & 15
(former geographic Twsp of McGillivray)
Applicant: James Mark and Annette Stephan

The purpose and effect of this application is to sever a parcel of land from an existing 50 ha (123.5 ac) farm parcel as a surplus farm dwelling severance.

A concurrent zoning by-law amendment application has been filed in order to rezone the severed (residential) lands to permit the residential use. The rezoning application also proposes to rezone the retained farmland parcel to prohibit residential use as required by the North Middlesex Official Plan.

WRITTEN AND ORAL SUBMISSIONS

- Hydro One – no comment or concern
- Ausable Bayfield Conservation Authority: no comment or concern
- Municipal Operations: due to severance, the assessment schedule for the Ryan Municipal Drain 1984 is required to be reassessed under the Drainage Act, R.S.O. 1990, c D.17 at the expense of the owner in the format recommended by the Drainage Superintendent. CBO advised no record of septic system in property file therefore recommend pump out, inspection and evaluation. As well the CBO is requesting that the applicants obtain a change of use permit for the barn that is to remain on the severed lands in order prohibit any future livestock use.
- County Engineer – dedicate lands along the frontage of the severed lot up to 15m from the centreline of construction of Mount Carmel Drive for road widening purposes.
- Public Comments or Submissions: None
- Oral Submissions at meeting: The potential purchaser of the residential parcel (Mike Shelter) indicated his preference to have the east lot line considered as presented.

ANALYSIS

The Provincial Policy Statement (PPS), County Official Plan and Municipality's Official Plan generally permit lot creation in agricultural areas to dispose of a dwelling surplus to a farming operation as a result of farm consolidation, subject to evaluation criteria. Staff note that the area of the lands proposed to be severed appear to be larger than necessary to accommodate water and sewage disposal. However, the applicants are proposing the severed lot to be 0.85 ha (2.1 ac) remaining under the maximum size of 1.0 ha (2.47ac). The applicant proposed the lot to be severed to extend beyond the minimum size needed to accommodate the use of an appropriate sewage and water services in order to include existing trees on the property. Staff recommend that the east lot line be straightened out and the lot frontage be reduced accordingly. As the barn on lands proposed to be retained is recommended to be removed as a condition of approval along with the silo.

The Planner advised that the Zoning By-law Map that was prepared for council consideration was based upon the original submission. It was Ms. Poirier's recommendation, that should the committee grant the severance with the conditions she has provided, that a mapping change would then be required for the By-law and a deferral of by-law consideration is required.

The applicant advised that he would like the committee's consideration of the east lot line as submitted in his application. As well, he expressed concern with the unknown cost to remove the silo that is within one of the proposed conditions.

The Committee requested clarification from the Planner as to her reasons for requesting the adjustment to the east lot line of which she responded.

CONCLUSION

Due to the questions arising from the east lot line and the applicant's concern with the potential cost to remove the silo it was suggested that a deferral may be warranted to allow the applicant time to speak with the municipal planner further about the proposal.

The applicant agreed with this approach and the following motion was brought forward:

COA MOTION/2018

MOIR/MCLINCHEY: That Applications B03/2018 and ZBA 2/2018 pertaining to 4149 Mount Carmel Drive be deferred to allow the applicant an opportunity to speak with municipal staff and consider the proposed conditions presented by the municipal planner.

CARRIED

7:10 p.m. HEARING – Application for Consent (B04/2018) 1919-2005 West Corner Drive

Planner Stephanie Poirier advised that the above noted application had been received, deemed complete and circulated to agencies and landowners according to the Planning Act.

Description of Land: Part of Lots 8 and 9, Con.6

1919 -2005 West Corner Drive (former McGillivray Dr)

Applicant: Porkhill Farms Ltd c/o Paul and Jennifer Kennedy

The purpose and effect of this application is to sever a farm parcel of approximately 40.4 ha (99.75ac) of land from an existing farm parcel of 80.8 ha (199.5 ac) of land. The proposed land severance would correct a legal merger of parcels, which occurred due to common ownership.

WRITTEN AND ORAL SUBMISSIONS

- Ausable Bayfield Conservation Authority: no comment
- Municipal Operations: no concerns
- Public Comments or Submissions: None
- Oral Submissions at meeting: None

CONCLUSION

The severance proposed by Application for Consent B04/2018 appears capable of satisfying the policy requirements associated with the creation of new lots for agricultural uses as per the Provincial Policy Statement and the County and North Middlesex Official Plans. Further the proposed lots resulting from the severance appear capable of meeting the zoning requirements of the A1 zone within the North Middlesex Zoning By-law, and as such, a zone change is not required.

The planner did advise that she had one additional condition that should be included in relation to the MDS Compliance to the satisfaction of the municipality.

The applicant was in agreement with the proposed conditions from the Planner.

COA MOTION/2018

MOIR/HEMMING: That Application for Consent B04/2018 submitted under Section 53 of the Planning Act be GRANTED as the application: satisfies the requirements of the Planning Act, is consistent with the Provincial Policy Statement; conforms to the Official Plans of both the Municipality of North Middlesex and the County of Middlesex; is capable of satisfying sound land use planning;

And further that the above noted application be subject to the following conditions:

- a) That the Certificate of Consent under Section 53(42) of the Planning Act shall be given within one year of the date of the notice of decision. The request for the Certificate of Consent shall be accompanied by a written submission that details how each of the conditions of consent has been fulfilled.
- b) That a plan of survey prepared by an Ontario Land Surveyor in a form suitable for registration be submitted to the Municipality, if required.
- c) That the Owner's Solicitor submits an undertaking in a form satisfactory to the Municipality to register an electronic transfer of title exactly consistent with the Consent decision.
- d) 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, RSO 1990, cP.13. If conditions are not fulfilled 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.
- e) MDS II Compliance be confirmed to the satisfaction of the Municipality

CARRIED

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

7:15 p.m. HEARING – Application for Minor Variance (MV3/2018) 2005 West Corner Drive

Planner Stephanie Poirier advised that the above noted application had been received, deemed complete and circulated to agencies and landowners according to the Planning Act.

Description of Land: Part of Lots 8 and 9, Con.6 WCR
2005 West Corner Drive (former McGillivray Dr)

Applicant: Porkhill Farms Ltd c/o Paul and Jennifer Kennedy

The purpose and effect of this application is to seek relieve from the North Middlesex Zoning By-law #35 of 2004, as amended in order to permit the construction of a 1,949 m² (20,974 sq ft) swine barn on an agricultural parcel of land. More specifically, the applicant is seeking relief from Section 6.26.2 of the Zoning By-law which states that a new or expanding livestock facility in the General Agricultural (A1) Zone shall comply with the Minimum Distance Separation II (MDS II) Formulae.

WRITTEN AND ORAL SUBMISSIONS

- Ausable Bayfield Conservation Authority: no comment
- Municipal Operations: no concerns
- Public Comments or Submissions: None
- Oral Submissions at meeting: None

CONCLUSION

Planner Stephanie Poirier advised that she reviewed the application based on four tests under Section 45 of the *Planning Act* and this application appears to satisfy the requirements for a minor variance set out under the Act.

The applicant concurred with the planners recommendation as set out in her report.

COA MOTION/2018

MOIR/MCLINCHEY: Be it Resolved that Application No. MV-3-2018, filed by Porkhill Farms Ltd, for relief from Section 6.26.2 of the Zoning By-law to permit requested setbacks from the proposed swine barn and the single detached residential dwellings and cemetery identified in the chart below be GRANTED:

MDS II Requirement	Required Setback from Livestock and Manure Facility	Requested Setback from the Livestock and Manure Facility
dwelling on a separate lot (1919 West Corner Dr.)	552m (1,811 ft)	343.3 m (1,126 ft)
dwelling on a separate lot (1902 West Corner Dr.)	552m (1,811 ft)	468.6 m (1,537 ft)
dwelling on a separate lot (1938 West Corner Dr.)	552m (1,811 ft)	374.5 m (1,229 ft)
dwelling on a separate lot (1974 West Corner Dr.)	552m (1,811 ft)	248.4 m (815 ft)
dwelling on a separate lot (2080 West Corner Dr.)	552m (1,811 ft)	486.2 m (1,595 ft)
dwelling on a separate lot (2087 West Corner Dr.)	552m (1,811 ft)	401.7 m (1,318 ft)
cemetery (1959 West Corner Dr.)	552m (1,811 ft)	126.8 m (416 ft)

on the basis that the variance proposed would:

- a. Maintain the spirit and intent of the North Middlesex Official Plan;
- b. Maintain the spirit and intent of North Middlesex Zoning By-law No.35 of 2004, as amended;
- c. Be desirable for the appropriate development of the property;
- d. Be minor

CARRIED

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

MCLINCHEY/CORNELISSEN: That Committee of Adjustment meeting adjourn and return to Regular Meeting at 7:32 p.m

CARRIED

CHAIRMAN

SECRETARY