



**November 4, 2015      MUNICIPALITY OF NORTH MIDDLESEX      7:01 P.M**  
**COMMITTEE OF ADJUSTMENT**  
**MINUTES**

A Public Meeting was held on Wednesday November 4, 2015 in the Council Chambers, 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

Councillor Ward Three – Gord Moir

Councillor Ward Four – Andrew Hemming

Councillor Ward Five – Adrian Cornelissen

CAO Marsha Paley

Clerk Jackie Tiedeman

Planner Barbara Rosser

**DISCLOSURE OF PECUNIARY INTEREST**

None

**MINUTES**

a) Committee of Adjustment Minutes – October 7, 2015

CORNELISSEN/MOIR: That the minutes be accepted as presented.

CARRIED

**HEARING – Consent Application B#10/2015 and ZBA #10/2015 for 34527  
Richmond Street**

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

Description of Land: Part Lot 18 Concession 1  
34527 Richmond Street (former McGillivray Twsp)

Applicant: Wilhelmus Coenen  
Agent: Alister MacLean

Ms. Rosser stated that the purpose of this application would be to sever a parcel of land from an existing 16 hectare farm parcel as a surplus farm dwelling severance. The land to be severed would be approximately .98275 hectares in size and would contain the existing single detached dwelling and drive shed, pool and two small sheds. The Applicant would retain approximately 15.11 hectares comprising the farmland portion which contains no buildings or structures. 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 and to rezone the severed (residential) parcel for residential use.

The subject land is also currently the subject of an application for zoning by-law amendment. The purpose of the amendment is to amend North Middlesex Zoning By-law No. 35 of 2004, as amended, to rezone the severed parcel to Agricultural Small Holding (AG1) Zone permissive of single detached residential development. The retained parcel would be rezoned to a special General Agricultural (A1) Zone prohibitive of residential use as required by the North Middlesex Official Plan.

Ms. Rosser then reviewed her planning report dated October 30, 2015 which also contains agency comments received to date. She expressed her opinion on the size of proposed new lot area. The applicant should seriously consider reduction of the westerly and southerly extent of the severed lot to be in closer conformity with the AG1 zone rear yard and interior side yard minimums for the dwelling and pool. She advised that if the Committee agrees, this would require a deferral of the application to allow the Applicant the opportunity to submit a revised severance sketch for review and for revision of the zoning by-law.

Mr. Mclean replied, on behalf of his client, that the proposed lot size is below the 1 hectare minimum. The proposed boundary line they used was the mature tree line which is well established. There would be no gain to farmland due to the requested reduction in size. Also, it was felt the proposed area would also allow sufficient room for a future septic system. The applicant and agent requested their application be considered as presented.

No public comments received.

After careful consideration the following motion was then introduced:

MOIR/CORNELISSEN: That Application B10 /2015 be granted subject the following conditions:

- a) 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) Zone and the retained parcel to a General Agricultural (A1) Zone Exception prohibitive of buildings and structures;
- b) That the Applicant 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 its existing farming operations;
- c) 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 report be provided to the North Middlesex Chief Building Official for determination as to any replacement or remedial works that may be required to be completed to the complete satisfaction of the Chief Building Official;
- d) That a certified laboratory test confirming the availability of a potable well water supply to the severed parcel be provided;
- e) That the Watson-Hodgins Drainage Works 1996 be reassessed under the Drainage Act, R.S.O. 1990, cD.17 at the expense of the Owner in the format recommended by the Drainage Superintendent;
- f) That Part 2 indicated on the severance drawing be registered on the title to the severed lot and to the retained lot as a right-of-way driveway easement in favour of the retained lot (a letter of undertaking is to be provided by the Applicant's solicitor ensuring that the easement will be registered on title to both properties;
- g) Upon registration, a final copy of the easement is to be provided to the Ministry of Transportation and the Municipality;
- h) That a new entrance permit is required from the Ministry of Transportation (MTO) for the existing laneway to service the severed (residential) parcel;
- i) That a new entrance permit is required from the Ministry of Transportation (MTO) for the existing laneway to service the retained (farmland) parcel:

- j) That a plan of survey prepared by an Ontario Land Surveyor in a form suitable for registration be submitted to the Municipality;
- 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.

Ms. Rosser also recommended that the zoning By-law Amendment Application No. ZBA#10 /2015 By-law be given three readings and finally passed during regular meeting.

#### **HEARING – Application for Consent B#11/2015 – 148 Catherine Street, Parkhill**

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

Description of Land: Lot 56, Registered Plan No. 327  
148 Catherine Street (former Town of Parkhill)

Applicant: Joan Battram and Michael William Battram  
Agent: Philip Walden

The purpose of the application would be to create a right of way easement over an existing laneway in favour of the adjoining property described as Lot 55 Registered Plan no. 327. The easement would have a width of 3.800 metres at Catherine Street and depth of 48.280 metres over the full depth of Lot 56, for a total area of 183.464 square metres.

Planner Barbara Rosser then reviewed her planning report dated October 30, 2015 which also contains agency comments received until the time of the report. After taking all into consideration it is her conclusion that Application B11/2015 would be in conformity with the Middlesex County Official Plan, North Middlesex Official Plan and the North Middlesex Zoning By-law.

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No Public Comments were received.

After careful consideration the following motion was then introduced:

MCLINCHEY/NICHOL: That Application #B11/2015 be granted subject to the following conditions:

- a. That Part 1 indicated on the consent drawing be registered on the title to Lot 56, Registered Plan No. 327 (148 Catherine) and on the title to Lots 54 and 55, Registered Plan no. 327 (152 Catherine Street) as a right-of-way laneway easement in favour of Lots 54 and 55 (152 Catherine Street)(a letter of undertaking is to be provided by the Applicant's solicitor ensuring that the easement will be registered on title to both properties);
- b. Upon registration, a final copy of the easement is to be provided to the Municipality;
- c. 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.

#### **HEARING- Application for Minor Variance MV#7/2015 – 33446 GODKIN ROAD**

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

Description of Land: Part Lot 5, Concession 6 E.C.R  
33446 Godkin Road (former McGillivray Twsp)

Applicant: Peter & Heather Roelands

The purpose of this application is to request permission to vary Section 6.3.2 Location Requirements for Accessory Buildings, subsection c) of North Middlesex Zoning By-law No. 35 of 2004, as amended, which stipulates that in all zones other than a Residential Zone an accessory building shall be erected only in a side or rear yard and the setback requirements for the main building shall also apply in the location of an accessory building. The property which is subject of this application is zoned as General Agricultural (A1). The variances are related to the Applicant's proposal to erect an

accessory building within the front yard of the existing single detached dwelling at a setback of 10 metres as opposed to the applicable setback of 15 metres; Under Section 7.3.2 b) and having a height of 7.92 metres as opposed to 5.5 metres required under Section 7.3.2 h).

These variances are 5 metres and 2.42 metres respectively from the By-law.

The subject property is not currently the subject of any other application under the Planning Act.

Planner Barbara Rosser then reviewed her Planning Report dated October 30, 2015 which contains agency comments received to date. It is her conclusion that the variances proposed by Application MV#7/2015 meet the tests of Section 45(1) of the Planning Act in the respect that the variances would maintain the spirit and intent of the North Middlesex Official Plan and Zoning By-law No. 35 of 2004, as amended, would be desirable for the appropriate development or use of the property and would be minor.

No public comments were received.

Mr. Roelands indicated the height is required due to equipment with his landscaping business and it will also be the same height as his house.

After careful consideration the following motion was then introduced:

ROPP/NICHOL: That Application No. MV#7/2015 for Minor Variance to the North Middlesex Committee of Adjustment be granted the following relief:

Section 6.3.2-100% Variance – allow accessory building to be erected within the front yard of the existing single detached dwelling;

Section 7.3.2 b) Front Yard Setback – relief of 5 metres

Section 7.3.2 h) Maximum Height – relief of 2.42 metres  
with the following condition:

That development proceeds in accordance with the application including supplementary information pertaining to the proposed construction.

CARRIED

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

### **HEARING - Minor Variance for MV#6/2015 – 34927 CREAMERY ROAD**

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

Description of Land: Lot 13, Part Lot 14, Con 15  
34927 Creamery Road (former McGillivray Twsp)

Applicant: Matt Roelands

Agent: Daniel and Janet Roelands

The above application was deferred upon a motion by the Committee of Adjustment on October 7, 2015. This was to allow the applicant to engage in discussion with the ABCA and municipal staff as to location of the proposed construction further west and to assess additional construction costs and operational impacts.

Planner Barbara Rosser then reviewed her supplementary report dated November 2, 2015. Additional concerns were also received from landowners in this area indicating their opposition to the proposed variances. She advised that as a result of the on site meeting the Applicant has now provided proposals intended to achieve the intent of the MDS 11 setbacks and possibly mitigate odour concerns in accordance with the Guideline 46 of the OMAFRA MDS Formulae Implementation Guidelines (Publication 707). Primarily these include:

- A revised setback drawing indicating a barn location with a front yard setback of 208.8 metres as opposed to 158.9 metres originally proposed and approximately 20 metres further north. This is as far west that the barn could be located without crossing the regulated area associated with the drain. The revision results in the following nearest neighbour's setbacks:
  - a) Northerly dwelling: 369.9 metres to 370.7 metres, +0.8 metres;
  - b) Easterly dwelling: 205 metres to 247.5 metres, +42.5 metres;
  - c) Southerly dwelling: 294.6 metres to 325.2 metres, +30.6 metres.

It should be noted that the easterly dwelling is the critical nearest neighbour under MDSII. The revised location would preserve opportunities to utilize existing servicing and infrastructure associated with the existing barn;

A shelterbelt plan and site sketch was prepared by the ABCA on behalf of the Applicant. It is intended to reduce potential odours from the proposed new barn and provide adequate buffering along the easterly edge of the regulated area. It was noted that the proposed shelterbelt would not address odours generated by the existing manure pit which, most likely, is the primary source of odour from this operation. The applicant indicated his voluntary commitment to its use of an additive for the reduction of manure pit odours (Manure Magic) after each evacuation. Correspondence was received from the Ontario Pork Environmental Specialist in support of the revised barn location in proximity to the existing operation and the odour mitigation measures eg. Shelterbelt planting and manure additive.

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Ms. Rosser also gave consideration to correspondence received from Carol and Jack Tweddle dated October 7, 2015 subsequent to the initial hearing. Concerns were reiterated about reduced property values and air quality as a result of odours anticipated from the new barn. The position is that the MDS II required setback of 419 metres should be upheld.

Having considered these submissions in concert with the site specific factors set out in my original report, it was her conclusion that the variances proposed by Application MV#6/2015 (as revised) meet the tests of Section 45(1) of the Planning Act in the respect that the variances would maintain the general spirit and intent of the North Middlesex Official Plan and Zoning By-law no. 35 of 2004, as amended, would be desirable for the appropriate development or use of the property and would be minor. I believe that a compromise has been reached which hopefully respects the odour concerns of the neighbours and will promote the viability and expansion of this farming operation in conformity with the North Middlesex Official Plan objectives.

Public Comment from Carol Tweddle in support of her letter (as indicated in the Planners Report) was then heard.

After careful consideration the following motion was then introduced:

ROPP/NICHOL: That Application MV #6/2015 be granted the following relief:

- a) That the extent of variance to the nearest neighbours' dwelling be increased to 370.7 metres for the northerly dwelling, 205 metres for the easterly dwelling and 325.2 for the southerly dwelling in accordance with the revised setback drawing (AGM, plot date 10/21/2015);
- b) That development proceed in accordance with the Application;
- c) That, prior to building permit issuance, the Owner is required to enter into an agreement with the Municipality under Section 45. (9.1) of the Planning Act to guarantee implementation, establishment and ongoing maintenance of the shelterbelt plan proposal. The agreement will be at the Owner's expense and will entail submission of a letter of credit to be returned to the Owner, in full or in part, upon inspection and verification of the shelterbelt plantings.

CARRIED

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



Being no further applications the following motion was then made:

MOIR/CORNELISSEN: That the Committee of Adjustment Meeting adjourn at 7:50 p.m.

CARRIED

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CHAIRMAN

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SECRETARY