



**MUNICIPALITY OF NORTH MIDDLESEX  
COMMITTEE OF ADJUSTMENT  
MINUTES**

A Meeting was held on Wednesday April 3, 2019 at 7:40 p.m. in the Council Chambers, Shared Services Building, Parkhill to consider three planning applications with a quorum present.

**ROLL CALL**

Present:

Mayor Brian Ropp  
Deputy Mayor Adrian Cornelissen  
Councillor Ward One – Doreen McLinchey  
Councillor Ward Two – Joan Nichol  
Councillor Ward Three – Gord Moir  
Councillor Ward Four – John Keogh  
Councillor Ward Five – Andrew Hemming  
CAO/Director of Finance (Treasurer), Nandini Syed  
Deputy CAO/Director of Operations, Jonathon Graham  
Director of Emergency and Safety Services/Fire Chief William Davidson (Absent)  
Planner Stephanie Poirier  
Clerk Jackie Tiedeman  
Deputy Treasurer, Dani Johnston  
Facilities Manager, Brandon Drew

**DISCLOSURE OF PECUNIARY INTEREST**

None

**APPROVAL OF MINUTES**

**MOTION COA# 08/2019**

**NICHOL/KEOGH:** That minutes dated February 6, 2019 be hereby accepted as presented.

CARRIED

The Clerk provided an introduction to the Committee of Adjustment 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 Clerks Office.

### **7:20 p.m. Application for Consent and Zoning Amendment: 34828 Lieury Rd**

Ms. Poirier advised that the above noted application was deemed complete on March 5, 2019 and was circulated according to the *Planning Act*.

#### Description of Land:

Lot 14 Con 16, 34828 Lieury Rd  
former Twsp of McGillivray

Owners: Tapeç Farms Ltd

Agent: Patrick Conlin

The purpose and effect of this application is to sever a parcel of land from an existing 40 ha (100 ac) farm parcel as a surplus farm dwelling severance. The land to be 'severed' would be approximately 0.69ha (1.7ac) in size and contains an existing single detached dwelling and two detached accessory structures (sheds). The 'land to be severed' serviced by municipal water and a private septic system. The 'land to be retained' would be approximately 39.3 ha (98.3ac) and contains agricultural land in crop production and significant woodlands. A portion of the 'land to be retained' is regulated by the ABCA. The 'land to be retained' does not contain water or septic servicing.

A concurrent zoning by-law amendment application (File No. ZBA 2-2019) has been filed in order to rezone the severed (residential) lands to the 'Agricultural Small Holding (AG1) Zone' to permit the residential use. The rezoning application also proposes to rezone the retained (farmland) parcel to the 'General Agricultural Exception 72 Zone' in order to prohibit residential use as required by the North Middlesex Official Plan.

### **WRITTEN AND ORAL SUBMISSIONS**

- Ausable Bayfield Conservation Authority: no concerns
- Municipal Operations: no drainage affected, new entrance required for the retained lands; septic to be pumped out inspected and evaluation to be approved by CBO; change of use permit to prohibit future livestock within two existing sheds.
- Enbridge Gas: service lines in the area – any relocation required would be at the cost of the property owner.

- Public Written Comments: None received
- Oral Submissions at meeting: None

The owner and agent were both present and stated no objections to the proposed conditions as outlined in the planners' report.

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:

**MOTION COA #09/2019**

**MOIR/KEOGH:** That Application for Consent B02/2019 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 B02/2019 be in full force and effect.
- c. That the taxes on the subject property are paid in full
- 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 verification of the septic location being wholly contained within the proposed severed lands be submitted to the Municipality.
- f. That a pump out, inspection and evaluation of the septic system be completed to the satisfaction of the Chief Building Official

- g. That a change of use permit be obtained to prohibit future livestock within the existing two sheds to the satisfaction of the Chief Building Official
- h. That an entrance permit be obtained for access off of Lieury Road to the lands to be retained, to the satisfaction of the Municipality
- i. That the storage container on the severed lands be removed to the satisfaction of the Municipality
- j. That the location of Enbridge Gas Line(s) be verified and rerouted if necessary to the satisfaction of Enbridge Gas.
- k. 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 ZBA02-2019 for the severed and retained lots of Consent B02-2019 in order to implement the severance of a surplus farm residence, be approved.

CARRIED

A twenty-day appeal period applies from the date of notice of decision.

**7:25 p.m. Application for Consent: 1990 Parkhill Drive**

Ms. Poirier advised that the above noted application was deemed complete on March 5, 2019 and was circulated according to the *Planning Act*.

Description of Land:

Pt Lots 8 & 9, Con 5 WCR  
1990 Parkhill Dr  
former Twsp of McGillivray

Owners: Roger & Katelyn Buurma

The purpose and effect of the Application for Consent (File No. B02/2019) is to sever a parcel of land from an existing 40.89 ha (101 ac) farm parcel as a surplus farm dwelling severance. The 'land to be severed' would be approximately 0.54 ha (1,34ac) in size and contains an existing single detached dwelling and a detached accessory building

(shed). The 'land to be retained' would be approximately 40.35 ha (99.75ac) in size and contains agricultural land in crop production and significant woodlands.

Application for Consent B12/2016 proposing the same was conditionally approved by the Committee of Adjustment on October 5, 2016. Conditional approval of Consent B12/2016 was deemed to be lapsed on October 14, 2017 as the conditions of approval were not satisfied within one year of the date of Notice of Decision (October 13, 2016).

Staff recommend that the depth of the proposed lands to be severed be reduced to approximately 45.47m (149 f) resulting in an area of 0.4 ha (1 acre) in order to reduce the amount of agricultural crop lands being taken out of production while maintaining compliance with the minimum lot size of the 'Agricultural Small Holding (AG1) Zone.

### **WRITTEN AND ORAL SUBMISSIONS**

- Ausable Bayfield Conservation Authority: no concerns
- Municipal Operations: no drainage affected and no septic pump out required as it was examined recently as last summer.
  
- Public Written Comments: None received
- Oral Submissions at meeting: None

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.

### **MOTION COA #010/2019**

**HEMMING/KEOGH:** That Application for Consent B03/2019 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 the taxes on the subject property are paid in full

- c. That the depth of the proposed lands to be severed be reduced to approximately 45.47m (149 ft) resulting in an area of 0.4 ha (1ac) in order to reduce the amount of agricultural crop lands being taken out of production while maintaining compliance with the minimum lot size of the 'Agricultural Small Holding (AG1) Zone'
- d. That a Zoning By-law Amendment that appropriately rezones the retained lot of Consent B03-2019 be in full force and effect.
- e. That a plan of survey prepared by an Ontario Land Surveyor in a form suitable for registration be submitted to the Municipality
- f. 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.

CARRIED

A twenty day appeal period applies from date of notice of decision.

**COA MOTION #011/2019**

**CORNELISSEN/NICHOL:** That Committee of Adjustment meeting adjourn and return to Regular Meeting at 8:05 p.m.

CARRIED

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY



**MUNICIPALITY OF NORTH MIDDLESEX  
COMMITTEE OF ADJUSTMENT  
MINUTES**

A Meeting was held on Wednesday May 8, 2019 at 7:28 p.m. in the Council Chambers, Shared Services Building, Parkhill to consider planning applications with a quorum present.

**ROLL CALL**

Present:

Mayor Brian Ropp

Deputy Mayor Adrian Cornelissen

Councillor Ward One – Doreen McLinchey

Councillor Ward Two – Joan Nichol

Councillor Ward Three – Gord Moir

Councillor Ward Four – John Keogh

Councillor Ward Five – Andrew Hemming

Interim CAO/Director of Operations, Jonathon Graham

Director of Emergency and Safety Services/Fire Chief William Davidson

Planner Stephanie Poirier

Clerk Jackie Tiedeman

Deputy Treasurer, Dani Johnston

Facilities Manager, Brandon Drew

**DISCLOSURE OF PECUNIARY INTEREST**

Councillor Hemming provided written declaration of conflict of interest for Minor Variance Application MV-4-2019 at 10807 Argyle St, due to business relationship /customer

The Clerk provided an introduction to the Committee of Adjustment 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 Clerks Office.

## **7:10 p.m. Application for Consent and Zoning Amendment: 3774 West Corners Dr**

Ms. Poirier advised that the above noted application was deemed complete on April 11, 2019 and was circulated according to the *Planning Act*.

### Description of Land:

Lot 15 Con 7, 3774 West Corners Dr  
former Twsp of McGillivray

Owners: Shayne Robinson and Teri MacGregor

Agent: Teri MacGregor

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.

An application for zoning by-law amendment was submitted concurrently with the consent application. The lands proposed to be severed from 'General Agricultural (A1) Zone' to 'Agricultural Small Holding (AG) Zone' to recognize residential use of the lands. The rezoning also seeks to rezone the lands proposed to be retained from 'General Agricultural (A1) Zone' to 'General Agricultural Exception 74 (A1-74)' to prohibit new dwellings from being established on the lands.

### **WRITTEN AND ORAL SUBMISSIONS**

- Ausable Bayfield Conservation Authority: no concerns
- Municipal Operations: new entrance to West Corner - road allowance work permit, fee and deposit is required; assessment schedule for the McLean Drain extension is required to be reassessed; no septic system inspection required as a new system was installed recently.
- Bell Canada – no concerns
- Public Written Comments: None received
- Oral Submissions at meeting: None

The owner and agent were both present and stated no objections to the proposed conditions as outlined planners' report other than the requirement for a new entrance as there is already one on McLead Rd. Staff advised the conditions imposed are to the satisfaction of the Municipality and if the entrance on McLean Rd is approved then the condition would be fulfilled.

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:

**MOTION COA #12/2019**

**MOIR/NICHOL:** THAT Application for Consent B04-2019, 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 the requirements of the North Middlesex Zoning By-law; and, represents sound land use planning.

FURTHER THAT Application for Consent B04-2019 be subject to the following conditions:

1. 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 the 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.
2. That the taxes on the subject property are paid in full.
3. That a Zoning By-law Amendment that appropriately rezones the retained and severed lots of Consent B04-2019 be in full force and effect.
4. That a plan of survey prepared by an Ontario Land Surveyor in a form suitable for registration be submitted to the Municipality.
5. That a new entrance be established to West Corner Drive on the lands to be retained, to the satisfaction of the Municipality.
6. That the Assessment Schedule for the McLean Drain Extension is required to be reassessed under the Drainage Act R.S.O 1990, c D17 at the expense of the owner(s) in the format recommended by the Drainage Superintendent.
7. That the Owner's Solicitor submits an undertaking in a form satisfactory to the Municipality to register an electronic transfer of title consistent with the Consent decision.

AND FURTHER THAT Zoning By-law Amendment Application ZBA 04-2019 for the severed and retained lots of Consent B04-2019 in order to implement the severance of a surplus farm residence, be **APPROVED**.

CARRIED

A twenty-day appeal period applies from the date of notice of decision.

**7:15 p.m. Application for Consent and Zoning Amendment: 3589 Ausable Dr**

Ms. Poirier advised that the above noted application was deemed complete on April 11, 2019 and was circulated according to the *Planning Act*.

Description of Land:

Pt Lots 13 & 14, Con 8

former Twsp of McGillivray

3589 Ausable Drive

Owners: Darryl Robinson and Teri MacGregor

Agent: Teri MacGregor

The purpose and effect of the Application for Consent (File No. B05/2019) 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.

An application for zoning amendment was submitted concurrently with the Application for consent. The application seeks to rezone the lands proposed to be severed from 'General Agricultural (A1) Zone' to 'Agricultural Small Holding (AG1) Zone' to recognize residential use of the lands. Upon review of the application staff identified a lot frontage deficiency and recommend that the lands to be severed be rezoned to 'Agricultural Small Holding Exception 25 (AG1-25) Zone' to permit a lot frontage of 25m (82ft). Due to the fact that the dwelling is setback approximately 115m (377 ft) from the road and there is size restriction of 1 ha (2.5 ac) for surplus farm dwelling severance, the applicants have proposed to sever off a narrow section abutting the road encompassing the driveway of 25m (82 ft) in width, which creates a deficient lot frontage. The main portion of the severed lot will have a width of 55m (180ft). The proposed zoning by-law amendment also seeks to rezone the lands proposed to be retained from 'General Agricultural (A1) Zone' to 'General Agricultural Exception 75 (A1-75) to prohibit new dwellings from being established on the lands.

**WRITTEN AND ORAL SUBMISSIONS**

- Ausable Bayfield Conservation Authority: no concerns
- Municipal Operations: new entrance to Ausable Dr and road allowance work permit along with associated fee and deposit; septic inspection is required and a change of use permit for the barn on the lands to be retained.
- Public Written Comments: None received
- Oral Submissions at meeting: None

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.

The owner and agent were both present and provided their reasons for the proposed lot lines that were submitted in the application. Also, they noted that Ausable Drive already has an entrance.

Cr. Moir indicated that he had made a site visit and was in favour of considering the lot lines as presented in the application by the owners and therefore proposed the removal of Condition 3 with the planner recommendation.

### **MOTION COA #013/2019**

**MOIR/CORNELISSEN:** THAT Application for Consent B05-2019, 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 the requirements of the North Middlesex Zoning By-law; and, represents sound land use planning.

FURTHER THAT Application for Consent B05-2019 be subject to the following conditions:

1. 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 the 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.
2. That the taxes on the subject property are paid in full.
3. That a Zoning By-law Amendment that appropriately rezones the retained and severed lots of Consent B05-2019 be in full force and effect.
4. That a plan of survey prepared by an Ontario Land Surveyor in a form suitable for registration be submitted to the Municipality.
5. That verification of the septic location being wholly contained within the proposed severed lands be submitted to the Municipality.

6. That a pump out, inspection and evaluation of the septic system be completed to the satisfaction of the Chief Building Official.
7. That a change of use permit be obtained for the existing barn on the lands to be retained to prohibit future livestock use, to the satisfaction of the Chief Building Official.
8. That the portable shed on the retained lands be relocated 15 m (49 ft) away from the interior side yard to the satisfaction of the Chief Building Official.
9. That a new entrance to Ausable Drive be established for the lands to be retained, to the satisfaction of the Municipality.
10. That the hydro service for the lot to be severed be wholly contained without encroaching onto the lot to be retained. Or that a hydro easement be required in favour of the owner of the lot to be severed over the lot to be retained to allow access to the hydro service.
11. That the Owner's Solicitor submits an undertaking in a form satisfactory to the Municipality to register an electronic transfer of title consistent with the Consent decision.

AND FURTHER THAT Zoning By-law Amendment Application ZBA 05-2019 for the severed and retained lots of Consent B05-2019 in order to implement the severance of a surplus farm residence, be **APPROVED**.

CARRIED

A twenty day appeal period applies from date of notice of decision.

Councillor Hemming provided written declaration of conflict of interest for Minor Variance Application MV-4-2019 at 10807 Argyle St, due to business relationship /customer. Cr. Hemming left the chambers during the discussion and decision of this application.

#### **7:20 p.m. Application for Minor Variance: 10807 Argyle St**

Ms. Poirier advised that the above noted application was deemed complete on April 17, 2019 and was circulated according to the *Planning Act*.

Description of Land:  
Pt Lots 15 RP33R9379 Part 1, Con 2  
former Twsp of East Williams  
10807 Argyle St  
Owner: Daniel VanDeuren

The purpose and effect of this application is to seek relief from the North Middlesex Zoning By-law No.35/2004 as amended in order to permit the construction of a 2,449 m<sup>2</sup> (26,361 sq ft) hog 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.

**Analysis:**

Section 45 of the Planning Act allows a municipality to grant a minor variance to a zoning by-law based on four tests, as follows:

**1. Is the variance considered minor in nature? NO**

Staff are of the opinion that the variance is not considered minor in nature as the applicant is seeking a 50% reduction of the required setback between the proposed hog barn and one of single detached residential dwellings on a neighbouring property. Staff are not satisfied that off-site impacts will be avoided between 10802 Argyle Street and the proposed hog barn.

**2. Is the variance an appropriate use of the land? NO**

The subject lands are an undersized agriculturally zoned parcel that was previously subject to a consent application to dispose of a residential dwelling. Although intensive agricultural uses are permitted in the 'General Agricultural (A1) Zone,' the size of the hog barn and the amount of hogs are not considered appropriate on the subject lands as it is proposed to be placed 232 m (761 ft) closer than what's required of MDS II between 10802 Argyle Street and the proposed hog barn.

**3. Does the variance maintain the intent of the Official Plan? YES**

Section 6.4.1 a) of the Official Plan states that the primary use of land shall be for farming, agriculture and agriculturally-related uses. Appendix 'A' in the Official Plan defines 'agricultural uses,' which includes the raising of livestock. Staff is of the opinion that the development of a hog barn maintains the intent and purpose of the Official Plan.

#### 4. Does the variance maintain the intent of the Zoning By-law? NO

An intensive agricultural use is permitted within the 'General Agricultural Zone (A1) Zone' of the Zoning By-Law. According to the Zoning By-law, expanding or new livestock facilities in the 'A1 Zone' shall comply with the Minimum Distance Separation II. The intent of Minimum Distance Separation II setback requirements is to minimize potential impacts associated with livestock facilities on surrounding land uses, particularly those residential in nature. The proposal does not comply with MDS setbacks and staff are of the opinion that a 50% reduction in required setback is not meeting the intent of the Zoning By-law. No supporting information that addresses measures of mitigation to minimize potential impacts with a 50% reduction have been provided, therefore staff are not satisfied that the intent of the Zoning By-law has been met.

Based on the above analysis, Application for Minor Variance MV-4-2019 does not appear to satisfy the requirements for a minor variance as set out in the Planning Act.

The owners selected this location because if it were to be located somewhere on the property it would cause undue hardship on the applicants, would require agricultural lands to be taken out of production and would cause operational inefficiencies.

Staff evaluated alternative locations however due to the reduced size of the agricultural lands as well as the surrounding residential uses and associated setback requirements from each, alternative locations for the livestock facility which meet the MDSII requirements are non-existent.

#### **WRITTEN AND ORAL SUBMISSIONS**

- Ausable Bayfield Conservation Authority: no concerns
- Municipal Operations: no concerns
- Public Written Comments: oral opposition to the proposal from the neighbour at the property legally described as south Part lot 15, Con 3.
- Oral Submissions at meeting:
  - Mike Vandermeer: MDS required setbacks should be maintained; already has water run off from these lands into his private pond, barns would obstruct view, loss of enjoyment of own property
  - Heidi Janzen: increased potential for multi-health risks associated with hog operation of this size, owner has compromised health issues already, owners house located due west of proposed barn and therefore would be in path of odour

**COA MOTION #014/2019**

**CORNELISSEN/KEOGH:** THAT Application for Minor Variance MV-4-2019, filed by Daniel Van Deuren, for relief from Section 6.26.2 of the Zoning By-law to permit requested setbacks from the proposed hog barn and the single detached residential dwellings identified in the chart below be **DENIED**.

<b>MDS II Requirement</b>	<b>Required Setback from Livestock and Manure Facility</b>	<b>Requested Setback from the Livestock and Manure Facility</b>
dwelling on a separate lot (10802 Argyle Street)	465m (1,526 ft)	232.91 m (764 ft)
dwelling on a separate lot (26049 Nairn Road)	465m (1,526 ft)	369.64 m (1,213 ft)

**Reasons**

The intent of the Municipality of North Middlesex Official Plan is maintained;

The intent of the Municipality of North Middlesex Zoning By-law is not maintained;

The variances are not considered minor in nature;

The variances are not desirable for the appropriate use and development of the lands

**CARRIED**

**COA MOTION #015/2019**

**CORNELISSEN/NICHOL:** That Committee of Adjustment meeting adjourn and return to Regular Meeting at 8:05 p.m.

**CARRIED**

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY