



Date: November 28, 2022

To: Mayor and Council

Author: George Robinson, MCIP, RPP

RE: Application for Consent to Sever and Zoning Bylaw Amendment by
Daniel and Nina Lavin
292 County Road 27 W
Con 7, Pt. Lot 3

Report No.: CADS – 2022-25

RECOMMENDED ACTION

1. That consent application B/29/22 to sever an existing dwelling, deemed surplus to the needs of the applicants' farming operation on a 0.99 ha (2.47 ac.) lot shown as Parts 2 and 4 on the applicants' sketch, known as 292 County Road 27 West, in the Town of Kingsville, and establish easements over Parts 2 and 3 on the applicants' sketch, **BE APPROVED**, subject to the following conditions:
 - a) That a reference plan be deposited in the registry office, both an electronic and paper copy of the registered plan is to be provided to the Town.
 - b) That any special assessment imposed pursuant to the provisions of the Local Improvement Act and/or Municipal Act be paid in full along with all municipal taxes.
 - c) That any necessary drainage apportionments be undertaken.
 - d) That as a result of the severance, owners shall become liable by way of up front monies for the assessment and taxation of their properties for any waterworks or sanitary sewer systems affecting their properties, in accordance with the Fees By-law in effect on the date of certification of the deed.
 - e) The zoning of the retained parcel be amended to prohibit future dwellings prior to certification (ZBA-2022-16).
 - f) That the applicant provide confirmation to the satisfaction of the Town the location of any existing septic systems in relation to the revised lot line locations.

g) That the necessary deed(s), transfer or changes be submitted in triplicate, signed and fully executed (no photocopies), including a copy of the reference plan, prior to certification.

h) That an access easement be registered over Parts 2 and 3 on the applicant's sketch for mutual shared access to County Road 27 for both the severed and retained parcels.

i) The conditions imposed above shall be fulfilled by November 28, 2024 or this application shall be deemed to be refused in accordance with Section 53(41) of the Planning Act.

2. **By-law 66-2022** being a by-law to amend By-law No. 1-2014, the Comprehensive Zoning By-law for the Town of Kingsville be taken as having been read three times and finally passed and the Mayor and Clerk **BE AUTHORIZED** to sign same.

BACKGROUND

The Town of Kingsville has received the above-noted application for lands located on the north side of County Road 27 West, east of County Road 23 (see location map attached as Appendix A). The subject parcel is designated 'Agriculture' by the Official Plan and is zoned 'Agriculture (A1)' under the Kingsville Comprehensive Zoning By-law.

The subject parcel is approximately 19.96 ha (49.31 ac.) in size and contains a single detached dwelling, pole barn and block barn. It is proposed that the dwelling and pole barn deemed surplus to the owner, be severed on a new lot. The proposed severed parcel is shown as Part 2 and 4 on the applicant's sketch (attached as Appendix B) with Part 2 subject to an access easement, Part 2 and 4 have an area of 0.997 ha (2.465 ac.) and frontage of 80 m (263 ft.).

As a condition of the consent, an application to rezone the retained farm parcel from 'Agriculture (A1)' to 'Agriculture - Restricted (A2)' is required to prohibit dwellings as per Provincial and Town policies (File ZBA/16/22).

DISCUSSION

1) Provincial Policy Statement (PPS), 2020:

When reviewing a planning application to determine if it represents sound planning, it is imperative that the proposed development is consistent with the Provincial Policy Statement (PPS). Section 2.3.4.1(c) permits, "a residence surplus to a farming operation as a result of farm consolidation," to be severed, "provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance."

Comment: The application is consistent with the PPS definition of a residence surplus to a farming operation and future dwellings will be prohibited on the retained farm parcel as a condition of consent, in that the retained parcel must be rezoned to “Restricted Agriculture (A2)”.

2) Town of Kingsville Official Plan

The Official Plan for the Town of Kingsville designates the severed and retained lands as ‘Agriculture’.

The requested consent to sever the surplus dwelling conforms to the policies of Section 7.3.1, Agriculture Land Division, of the Official Plan. The proposed severed parcel is 0.997 ha (2.465 ac.) with a frontage of 80 m (263 ft.).

Comment: The application is over the 0.8 ha (1.977 ac.) recommended size by 0.19 ha (0.47 ac.), however the applicant is requesting the extra lot area to retain the pole barn on the residential property, which conforms to the Kingsville Official Plan.

3) Comprehensive Zoning By-law

The severed parcel, shown as Part 2 and 4 on the applicant’s sketch, has area of 0.997 ha (2.465 ac.) and frontage of 80 m (263 ft.).

The vacant retained parcel will have an area of approximately 18.959 ha (46.849 ac.) and provide a frontage of 122.85 m (403.06 ft.) on County Road 27 West. Access to the severed and retained lots will be provided by sharing the existing driveway (Parts 2 and 3). A recommended condition of the consent is that an access easement be registered over Parts 2 and 3 on the applicant’s sketch for mutual shared access to County Road 27 for both the severed and retained parcels.

Comment: There are no zoning issues created as a result of the creation of the surplus dwelling lot. The retained farm parcel will be rezoned from ‘Agricultural (A1)’ to ‘Agriculture - Restricted (A2)’ to prohibit future dwellings as required by the surplus dwelling consent policies in the Official Plan.

FINANCIAL CONSIDERATIONS

The impact to assessment resulting from the severance of the dwelling from the farm parcel is minimal.

ENVIRONMENTAL CONSIDERATIONS

None.

CONSULTATIONS

Public Consultations

In accordance to O. Reg 545/06 of the *Planning Act*, property owners within 120m of the subject site boundaries received the Notice of Public Meeting by mail.

Agency & Administrative Consultation

In accordance with O. Reg 545/06 of the Planning Act, Agencies and Town Administration received the Notice of Public Meeting by mail and/or email. At the time of writing, the following comments have been received from circulated agencies.

1) Essex Region Conservation Authority (ERCA)

- The parcel falls within the regulated area of the 7th Concession Drain and the Scott Taylor Drain.
- The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.
- No objections to surplus dwelling severance. ERCA comments attached as Appendix C.

2) Town of Kingsville Technical Advisory Committee

- Drainage re-apportionment required.
- Confirm that the location of the septic systems and water service are aligned with the proposed limits of Part 4.
- Septic system inspections are required to ensure the system is located entirely within the newly proposed lot.

3) County of Essex

- The minimum setback for any proposed structures on this property must be 110 feet from the centre of the original ROW of County Road 27 as the property fronts 7th Concession Drain.
- Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances and structures.

PREPARED BY:



George Robinson, MCIP, RPP
Manager of Planning

REVIEWED BY:



Richard Wyma, CSLA
Director of Community and Development Services

LINK TO STRATEGIC PLAN

Manage growth through sustainable planning.

Link to Council 2021-2022 Priorities

- ☐ COVID-19 and the health and safety of the community
- ☐ Customer Service: Training, Technology, Staff, Review Standards/Level of service
- ☐ Housing: Affordability (lot sizes, developer incentives, second dwellings, density, etc.)
- ☐ Greenhouse: lights & dark sky, odours (site plan compliance, bylaws, other tools)
- ☐ Programming Increase: Youth and Seniors
- ☐ A development plan for Downtown Kingsville / Main Street
- ☐ Financial savings: Schools closings, Migration Hall
- ☐ Economic Development: strengthen tourism/hospitality
- ☐ COVID - economic recovery
- ☐ Communications: Strategy – Policy (social media), Website refresh and other tools, Public engagement
- ☐ Housing: Migrant Worker Housing – Inspections (Building/Fire), regulate, reduce, or increase
- ☐ Committees / Boards: Review and Report
- ☐ Policy Update: Procedural Bylaw
- ☐ Economic Development: diversify the economy, create local jobs, industrial, Cottam
- ☐ Infrastructure (non-Municipal): Union Water expansion & governance
- ☐ Infrastructure (Municipal): Asset Management Plan update, the infrastructure funding deficit
- ☒ No direct link to Council priorities