



COMMITTEE MINUTES

COMMITTEE OF ADJUSTMENT & APPEALS

December 20th, 2022 @ 6:00 p.m.

COUNCIL CHAMBERS

ELECTRONIC PARTICIPATION VIA ZOOM

A. CALL TO ORDER

Chairperson Thomas Neufeld called the Meeting to order at 6:00 p.m. with the following persons in attendance:

MEMBERS OF COMMITTEE OF ADJUSTMENT:

Councillor Thomas Neufeld
Allison Vilardi
Russell Horrocks
Shannon Olson

MEMBERS OF ADMINISTRATION:

George Robinson, Manager of Planning
Sarah Campbell, Town Planner
Angelina Pannunzio, Administration

B. DISCLOSURE OF PECUNIARY INTEREST

Chairperson, Thomas Neufeld reminded the Committee that any declaration is to be made prior to each item being discussed and to identify the nature of the conflict, if any, as the agenda items come forward.

C. MINUTES OF THE PREVIOUS MEETING

1. ADOPTION OF COMMITTEE OF ADJUSTMENT & APPEALS MEETING MINUTES DATED November 8th, 2022

CA-62-2022

Moved by Russell Horrocks, seconded by Allison Vilardi, that the Committee of Adjustment & Appeals Meeting Minutes dated November 8th, 2022, be adopted.

CARRIED

D. HEARINGS

1. B / 19 / 19 & A / 07 / 19 – Joseph Assad Eid – 1463 Wellington Union Avenue

George Robinson, Manager of Planning, introduced the Consent and Minor Variance applications, and reviewed the report dated December 5th, 2022, which provides details regarding the requested consent to create a new lot, with an associated minor variance for lands known as 1463 Wellington Union Avenue, in the Town of Kingsville.

The applicant, Joseph Assad Eid, was in attendance.

Chairperson, Thomas Neufeld asked if there were any comments or questions from the Committee, the applicant, or the public.

The applicant, Joseph Eid, mentioned he provided documents to the Committee to support his proposal. He confirmed he had circulated his proposal for a 1,500 square foot home and septic weeping bed to a consulting engineer and to Essex Region Conservation Authority (ERCA), who saw no issue. Mr. Eid explained that a reduction in lot area would allow for affordable housing, and that the desired size is compatible with lots in the neighbourhood, as there are multiple lots of the same size, or smaller, than what he has requested. He further relayed this request would favour intensification, which is desired by Provincial Policy Statements, and the Official Plans for both the County of Essex and the Town of Kingsville. He confirmed that all provisions of the by-law for the Town will be met, and that only a reduction in minimum lot size is being requested.

Shaun Martinho, a resident of 1473 Wellington Union Avenue, stated that he and his family own multiple properties in the area, and they had previously approached the Town with planning applications with similar proposals and received resistance from the Town due to the limited servicing and the cross-section of the road, stating there are no sanitary nor storm sewers. Mr. Martinho relayed that if this proposal were to be approved by the Committee, it would set a precedent for applications he may submit in the future.

Lynn Lawson, a resident of 1517 Lawson Lane, expressed her concerns with the reduction, citing that it is a drastic variance to Town requirements. She feels that if the variance is granted, changes should be made to the Town's Comprehensive Zoning By-Laws, and questioned what the future standard requirements would be. Ms. Lawson feels the fire hydrant is too close to the southern lot line to allow building plans larger than 1,500 square feet, would be too close to any new required access, and would therefore not be in accordance with fire regulations. Ms. Lawson also cited a utility box that is located 22 feet and 9 inches from the southern lot line, which would be in the centre of the proposed driveway, according to the applicant's submitted site plan.

George Robinson, Manager of Planning, stated that building plans and utility and fire setbacks are not reviewed during the planning application stage, but confirmed they would be reviewed once plans are formally submitted by the applicant, and that generally, a 3 – 5 foot service utility setback is required.

Lynn Lawson mentioned section 4.23 of the Town's Comprehensive Zoning By-Laws, which outlines regulations for Municipal Drain and Watercourse Setbacks, citing:

"No part of any building or structure other than a fence, shall hereafter be erected in any zone or defined area . . . where a drain is covered or may be covered as authorized by the Council, the Drainage Superintendent or a municipal engineer, the minimum setback shall be 3 m (10 ft.) from the centre line of the drain"

She confirmed that the Hiser Drain passes through the subject property, is covered, and that she is concerned with the site plan submitted by the applicant to the Town, as the proposed setbacks are not sufficient. She referenced a drawing she had submitted to the Town and to the Committee, which shows the setback of the drain to be 7.5 feet and 5 inches off-centre, and the drain running under the catch basin on the southwest corner of the subject property. She stated she spoke with Andrew Plancke, the Town's Director of Infrastructure and Engineering, who relayed they cannot confirm the exact placement of the drain, and that there may be an off-set of 1 or 2 feet. She relayed that Mr. Plancke had stated that setbacks for the drain access, maintenance, and repair should be 18 feet off the south lot line if the drain is under the catch basin, and a maintenance corridor easement of 7.5 feet must be adhered to, although a 10 foot working area is preferred, which would require a 20.5 foot working area from the south.

Ms. Lawson mentioned the recent developments in land use planning with the enactment of Bill 23, *More Homes Built Faster Act, 2022*, which she feels severely limits municipalities managing growth and development, prohibits affordable housing, and negatively impacts heritage properties, climate protection, and community improvements. She expressed her concerns with the Act, as it does not conform to the Town's Official Plan, does not outline minimum floor area requirements, and requires only one parking space for a lot allowing three residential units. Ms. Lawson feels that if the severance is approved, the owner will have the opportunity to have three dwellings on each lot, with only one parking space per lot, and this will cause a parking and traffic concern on Wellington Union Avenue, which she feels is already crowded. Ms. Lawson believes that with the passing of the Act, the Town should re-assess its current development and variance approvals.

Blaze Bezaire, a resident of 1415 Pigeon Bay Lane, relayed that he had spoken with the applicant who advised him he had no firm building plans, and thus was unsure why the notice for the public meeting mailed by the Town contained a site plan showing a structure to be built. He is concerned with the actual location of the Hiser Drain, versus the location shown on an aerial overview provided to him by the Town. Mr. Bezaire stated the Hiser Drain runs through the subject property, and includes a 15 foot easement. Mr. Bezaire requested clarification as to why the proposed structure is over the drain, stating that the structure is too large for the requested new lot size. He feels that if proper information was provided as to the location of the Hiser Drain, the applicant's plans could be modified to adhere to regulations. He noted that plans in the area have changed over the years, stating that some properties are now landlocked and require utility access through his property via an access easement, and therefore the Hiser Drain

could not be located under 1415 Pigeon Bay Lane, and instead runs beneath the subject property.

Committee Member, Shannon Olson, requested confirmation from the Town as to what the maximum lot coverage is for the subject property.

George Robinson, Manager of Planning, confirmed the proposal is for the property to be split into two lots, with Part 1 being 9,016.93 square feet, and Part 2 being 8,886.68 square feet, which equates to approximately 60% variance being requested. He clarified that the Planning Department has not approved the proposed building plans, and that this would be completed further in the process. He noted that a portion of the building plans were provided in the notice for public meeting for greater context. He stated that when building plans are submitted, they will be reviewed by the Town's Building Department and Engineering Department prior to the issuance of any permits and approvals, and that a lot grading certificate from an Ontario Land Surveyor would be required at that time. He noted a lot grading certificate would properly locate any easements or utilities, if applicable, and concerns surrounding utilities would be resolved.

Committee Member, Allison Vilardi, cited the applicant's submission to the Committee, where he listed similar sized lots in the area, and requested input from the Planning Department as to the current lot fabric, and why the Town is recommending the Committee deny the applications in the report.

George Robinson, Manager of Planning, stated the lots in the area are historical and non-conforming, as it is an older subdivision which existed prior to the 2014 amendment of the Town's Comprehensive Zoning By-Laws. He relayed that when the zoning amendment was made, existing lots were exempt from the new regulations, and therefore considered legal non-conforming. He elaborated on the recommendation for denial, referring to the four tests for a minor variance, which are outlined in the report. He elaborated that the test as to whether the variance can be considered minor did not pass, as the proposed lot size for Part 1 is only 40% of the Town's required minimum lot area, and Part 2 is only 41%. Thus, the requested variances of approximately 60% cannot be considered minor in nature.

Committee Member Allison Vilardi, recalled that years ago, the Town had extended sewers on Wellington Union Avenue, and asked if there were plans to extend the sanitary system to include this area in the near future, which would cause the lots to be in conformance to the required lot area outlined in the Town's zoning by-laws.

George Robinson, Manager of Planning, stated there are no confirmed plans for sanitary system extension in the area in the near future.

Committee Member Shannon Olson stated that he feels the proposal has too many issues and unanswered questions, and therefore the applications should not proceed at this time.

Chairperson, Thomas Neufeld confirmed there were no other comments or questions from the Committee, the applicant, nor the public.

CA-63-2022

Moved by Shannon Olson, seconded by Russell Horrocks, that Consent application B / 19 / 19 and Minor Variance application A / 07 / 19, be denied.

CARRIED

2. B / 33 / 22 - Donald Claire Sherk, Bonnie Lee Christina Sherk, & Dana Lee Chrisrene Sherk-Waites – S/S Road 10 & V/L County Road 14

George Robinson, Manager of Planning, introduced the Consent application, and reviewed the report dated December 1st, 2022, which provides details regarding the requested consent to sever and convey a portion of S/S 10th Concession Road, being Part 1 on reference plan 12R-18894, in the Town of Kingsville.

The subject properties are designated 'Agriculture' by the Official Plan and zoned 'Agricultural (A1)' under the Kingsville Comprehensive Zoning By-law. The subject land is approximately 30.35 ha (75 ac.) of vacant farm land. The applicants purchased Part 1 12R-18894 in 2001 and the parcels merged at this time. The applicants wish to re-establish the pre-2001 property boundaries, resulting in one 20.23 ha (50 ac.) parcel, being Part 1, 12R-13704, fronting on Road 10, and one 10.12 ha (25 ac.) parcel, being Part 1, 12R-18894, fronting on County Road 14. This proposal does not remove any prime agricultural lands, nor change the use of the lands as a result of the proposed severance. A zoning by-law amendment is not required as both parcels are zoned Agriculture (A1).

The applicant Donald Claire Sherk, and the applicant's agent, Simon Yared, were in attendance.

Chairperson, Thomas Neufeld asked if there were any comments or questions from the Committee, the applicant, or the public.

Chairperson, Thomas Neufeld confirmed there were no other comments or questions from the Committee, the applicant, nor the public.

CA-64-2022

Moved by Russell Horrocks, seconded by Allison Vilardi, that Consent application B / 33 / 22 to sever and convey a portion of S/S 10th Concession Road, being Part 1 on reference plan no 12R-18894, in the Town of Kingsville, be APPROVED, subject to the following conditions:

1. That a plan of survey be prepared or a reference plan deposited in the registry office, **both an electronic and paper copy** of either to be provided to the Town for the files of the Secretary-Treasurer.
2. That the deeds, such plan of survey or reference plan, for property lines being newly created, shall be in accordance with the existing zoning requirements for the municipality.
3. That the owner shall provide that all municipal taxes be paid in full.

4. That as a result of 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 the consent is being endorsed on the deeds.
5. That any special assessment imposed pursuant to the provisions of the Local Improvement Act and/or the Municipal Act be paid in full.
6. That the necessary deed(s), transfers or charges be **submitted in triplicate**; signed and fully executed (**no photocopies**), including a copy of the reference plan, prior to certification.
7. That any necessary drainage reapportionments be undertaken.
8. That any new or revised municipal addressing being completed.
9. The conditions imposed above shall be fulfilled by **December 20, 2024** or this application shall be deemed to be refused in accordance with Section 53(41) of *The Planning Act*.

CARRIED

E. NEXT MEETING DATE

The next meeting of the Committee of Adjustment & Appeals will be announced when new members of Committee have been appointed.

F. ADJOURNMENT

CA-65-2022

Moved by Allison Vilardi, seconded by Russell Horrocks, to adjourn this meeting at 6:32 p.m.

CARRIED

CHAIR, Thomas Neufeld

**SECRETARY TREASURER,
Sarah Campbell**