



Date: April 24, 2023

To: Mayor and Council

Author: George Robinson, MCIP, RPP
Manager of Planning

RE: ZBA-2023-6 and B-2023-1 – Application for Surplus Dwelling
Severance at 1520 Road 5 West by George and Theresa
Verschueren
Roll No. 3711-440-000-02800

RECOMMENDED ACTION

1. That consent application B-2023-1 to sever an existing dwelling, deemed surplus to the needs of the applicants' farming operation on a 0.78 ha (1.928 ac.) lot shown as Parts 1 & 2 on the applicants' sketch, known as 1520 Road 5 W, in the Town of Kingsville, **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-2023-6).
 - 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 each parcel have access to Road 5 W or Road 6 W and the applicant acquire an entrance or encroachment permit for access to both parcels to the satisfaction of the Town as applicable.
- i) That the applicant register an easement for mutual access over Part 2, and an easement for utilities over Part 3, if separate accesses are not completed, to the satisfaction of the Town.
- j) The conditions imposed above shall be fulfilled by April 24, 2025 or this application shall be deemed to be refused in accordance with Section 53(41) of the Planning Act.

2. **By-law 29-2023** 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 applications for lands located on the north side of Road 5 W, West of McCain Side Road (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 greater than 40 ha (100 ac.) in size and contains two existing single detached dwellings and a shed. It is proposed that the dwellings, and shed deemed surplus to the owner, be severed on a new lot. The proposed severed parcel is shown as Part 1 and 2 on the applicant's sketch (attached as Appendix B), Part 1 and 2 has an area of 0.78 ha (1.928 ac.) and frontage of 42.67 m (140 ft.). Part 2 is a proposed right-of-way for mutual access for both parcels. The proposed retained farm parcel has an area of approximately 40.81 ha (100.85 ac.). Part 3 is included in the retained parcel and is also a proposed easement for utility access to Parts 1 & 2.

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-2023-6).

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 within the recommended size limit of 0.8 ha (1.97 ac.) or less.

Comment: The severed parcel, Part 1 and 2 has an area of 0.78 ha (1.928 ac.), therefore the application conforms to the Kingsville Official Plan.

3) Comprehensive Zoning By-law

The severed parcel, Part 1 and 2 has an area of 0.78 ha (1.928 ac.) and frontage of 42.67 m (140 ft.).

The retained parcel will have an area of approximately 40.81 ha (100.85 ac.) and provide frontage on Road 5 W and through to Road 6 W. Access to the severed lot will be on the existing gravel driveway on Road 5 W, through an access easement or right-of-way.

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.

FINANCIAL CONSIDERATIONS

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

ENVIRONMENTAL CONSIDERATIONS

The environmental impact resulting from the severance of the dwelling from the farm parcel is anticipated to be minimal.

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)

ERCA has no objection to the Application Zoning By-Law Amendment ZBA-2023-6 and Application for Consent B-2023-1. ERCA Comments attached as Appendix C.

2) Town of Kingsville Technical Advisory Committee

- Minimum required setbacks will need met from the new property line for any portion of an existing building that will remain.
- Drainage re-apportionment required.
- Septic location to be determined to confirm entirety remains with severed parcel, and efficacy of septic system determined.
- A new water service may be required for retained farm.
- Retained parcel may require permanent site / farm access. May require an encroachment permit to install new access.
- Ensure retained parcel and newly created parcel maintains and manages their own storm water on each lot.
- Ensure all building services are contained within existing property lines and do not cross over into newly established lines.
- Mutual access agreement / easement for joint access and servicing to be filed prior to stamping of deed.

PREPARED BY:



George Robinson, MCIP, RPP
Manager of Planning

REVIEWED BY:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right, ending in a small dot.

Richard J.H. Wyma, CSLA
Director of Community and Development Services