



Date: June 12, 2023

To: Mayor and Council

Author: George Robinson MCIP, RPP
Manager of Planning

RE: ZBA-2023-11 and B-2023-9 - Application for Surplus Dwelling
Severance at 217 County Road 27 by
Kevin & Tammy Brady
GOSFIELD NORTH CON 9 PT LOT 12
Roll Number: 3711-640-000-03902

RECOMMENDED ACTION

1. That consent application B-2023-9 to sever an existing dwelling, deemed surplus to the needs of the applicants' farming operation on a 0.8 ha (1.98 ac.) lot shown on the applicants' sketch, known as 217 County Road 27, 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-2023-11).
 - 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 their own access to County Road 27 or North Talbot Road and the applicant acquire an entrance or encroachment permit for access to both parcels to the satisfaction of the Town or County of Essex as applicable.
 - i) That the existing house be moved onto the location indicated prior to finalization of the severance, and that the applicant provide confirmation that the new location meets all applicable zoning provisions, to the satisfaction of the Town.
 - j) The conditions imposed above shall be fulfilled by June 12, 2025 or this application shall be deemed to be refused in accordance with Section 53(41) of the Planning Act.
2. **By-law 45-2023** 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 west side of County Road 27 E, close to the intersection of Road 9 W (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 17.48 ha (43.2 ac.) in size and contains a single detached dwelling. It is proposed that the dwelling is deemed surplus to the owner, and be severed on a new lot. The owner is moving the dwelling closer to County Rd 27 to comply with the surplus dwelling maximum lot size regulation and restore additional lands to agricultural production. The proposed severed parcel is shown in Appendix B with an area of 0.8 ha (1.98 ac.) and will retain 'Agriculture (A1)' zoning.

The retained parcel has a proposed lot area of approximately 16.68 ha (41.2 ac.) of vacant agriculture land with frontage and access on South Talbot Road. 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-2023-11).

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 (1.977 ac.) or less.

Comment: The proposed severed parcel has an area of 0.8 ha (1.98 ac.). The application conforms to the Kingsville Official Plan.

3) Comprehensive Zoning By-law

The severed parcel with the relocated house has area of 0.8 ha (1.98 ac.).

The vacant retained agricultural parcel will have an area of approximately 16.68 ha (41.2 ac.).

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 minimal.

ENVIRONMENTAL CONSIDERATIONS

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

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 above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No.158/06). The parcel partially falls within the regulated area of the Cottam Outlet 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. ERCA has no objection to the Application Zoning By-Law Amendment ZBA-2023-11 and Application for Consent B-2023-9. ERCA Comments attached as Appendix C.

2) County of Essex

The setback from the County Road is 110 feet from the centre of the right of way as Cottam Outlet Drain is adjacent to property. Permits are necessary for any changes to existing entrances and structures, or the construction of new structures. No new entrances will be permitted off County Road 27; new accesses will be required to be off North Talbot Rd. County Comments attached as Appendix D.

3) Town of Kingsville Technical Advisory Committee

- Septic review is required to determine if there is an existing septic system on the property and confirm that it meets Ontario Building Code requirements and setbacks. It is recommended that the owner obtains a qualified septic contractor to expose the top of the septic tank and four corners of the weeping bed for a building department inspection. Call the building department minimum 2 business days in advance to schedule the inspection.

- An Ontario land survey/lot grading plan will be required to ensure that storm water is managed and maintained on the property as required.
- Ensure all building services are contained within existing property lines and do not cross over into newly established lines.
- Water service to the relocated house will need to be adjusted. A shut-off/Turn will be required. Please make arrangements 48 hours in advance by calling the water desk. Fees apply.
- Drainage apportionment will be required.

PREPARED BY:



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Manager of Planning

REVIEWED BY:



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