



COMMITTEE MINUTES

**Committee of Adjustment & Appeals
October 17, 2023, 6:00 p.m.
Town Hall, Council Chambers
2021 Division Road North**

A. Call to Order

Chairperson Gord Queen called the Meeting to order at 6:17 p.m. with the following persons in attendance:

MEMBERS OF COMMITTEE OF ADJUSTMENT:

Councillor Thomas Neufeld
Nicole Hackett
Gord Queen
Russell Horrocks
Absent with Regrets: Sandra Zwiers

MEMBERS OF ADMINISTRATION:

George Robinson, Manager of Planning Services
Angelina Pannunzio, Recording Secretary

B. Disclosure of Pecuniary Interest

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

C. Minutes of the Previous Meeting

Adoption of Committee of Adjustment & Appeals Meeting Minutes, dated September 19th, 2023

CA-47-2023

Moved by Russell Horrocks, seconded by Nicole Hackett, that the Committee of Adjustment & Appeals Meeting Minutes dated September 19th, 2023, be adopted.

CARRIED

D. Committee of Adjustment & Appeals – Hearings

1. A-2023-11 – Minor Variance – 70 Road 3 West

George Robinson, Manager of Planning Services, introduced the minor variance application, and reviewed the report dated October 17, 2023, which provides details regarding a request for lands located at 70 Road 3 West. The subject property is designated 'Agricultural' by the Official Plan, and zoned 'Agricultural Exception 6 (A1-6)' under the Kingsville Comprehensive Zoning By-law.

The subject land is an approximately 2,657 square metre (0.66 acre) residential lot containing an existing residential dwelling. The applicants are proposing to replace the existing with a new dwelling, while retaining the existing accessory building. The Town's zoning by-law requires a minimum interior side yard set-back of 3.0 m (10 ft.), as such, the applicant is seeking a minor variance to permit the dwelling to be built with a 2.4 metre (8 foot) interior side yard to the west of the dwelling. Based on the applicants' sketch, all other zone performance standards will be met.

The applicant, Michael Breault, was in attendance.

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

Michael Breault, clarified his reason for requesting relief was simply to increase the square footage of his house.

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

CA-48-2023

Moved by Russell Horrocks, seconded by Councillor Thomas Neufeld, that minor variance application A-2023-11 to permit a minimum required side yard setback to be 2.4 metres (8 feet) on the west side of the proposed dwelling, on lands known as 70 Road 3 West in the Town of Kingsville, be APPROVED.

CARRIED

2. A-2023-12 – Minor Variance – 314 Road 10

George Robinson, Manager of Planning Services, introduced the minor variance application, and reviewed the report dated October 17, 2023, which provides details regarding a request for lands located on the south side of Road 10, west of Graham Side Road. The subject property is designated 'Agricultural' by the Official Plan and zoned 'Agriculture (A1)' under the Kingsville Comprehensive Zoning By-law.

The subject land is an approximately 30 hectare (74 acre) agricultural lot containing a residential dwelling with multiple accessory structures. The applicants are proposing a 121.7 square metre (1,310 square feet) detached Additional Dwelling Unit (ADU). As a result, the applicants are requesting relief from Section 4.35.1 of the Kingsville Comprehensive Zoning By-law, which prevents ADUs exceeding a floor area of 100 square metres (1,076 square feet). The applicants are requesting a relief of 21.7 square metres (234 square feet) to allow for a pre-fabricated structure that is wheel chair accessible. All other zoning provisions are proposed to be met.

Mr. Robinson cited the Town's recommendation for the Committee to deny the application, stating the proposal does not satisfy one of the four tests of minor variances, adding that for a request to be considered minor, it must comply with each of the four tests outlined in Section 45(1) of the *Planning Act*. Mr. Robinson confirmed that the applicants' request of a 21.74% increase in square footage for their proposed ADU cannot be considered minor in nature, and therefore does not satisfy one of the four tests.

The applicants, Deborah and James Gemmell, were in attendance.

Chairperson, Gord Queen asked if there were any comments or questions from the Committee, the applicants, or the public.

Councillor Thomas Neufeld requested clarification from the Planning Department as to whether the recommendation for denial was due to all four tests of the minor variance being unmet.

George Robinson, Manager of Planning, confirmed the *Planning Act* states an application must meet the four tests to be considered minor, but confirmed the Committee does have discretion to decide whether the proposal meets the tests, or if an application is approved. He added that, regardless of the limits set by Council through the passing of any by-law, and regardless of the Town's recommendation, homeowner's may submit a minor variance application to be considered by the Committee. Mr. Robinson relayed that in his professional opinion, the request for a relaxation exceeding 21% is not minor, but reiterated that the decision lies with the Committee.

Committee Member, Nicole Hackett, requested confirmation from the Town whether the by-laws for ADUs had changed from when approval was first sought by the applicants, to submission of their final plans.

Mr. Robinson stated that when the applicants had originally reached out to the Town in September 2022, the regulations in place were for Secondary Dwelling Units (SDUs), and were set by the Town. In November 2022, the Province passed the *More Homes Built Faster Act*, or Bill 23, which is part of Ontario's Supply Action Plan to aid in the housing crisis, and Council updated the Town's regulations accordingly in February 2023. Mr. Robinson said the applicants applied for their building permits in summer of 2023, which is when the non-compliance issue was noted, and the Town had then advised a request for minor variance would be required.

Committee Member, Russell Horrocks, questioned whether the Town discussed the size of the proposed dwelling with the applicants in September of 2022 when they introduced their proposal.

Mr. Robinson stated that at that time, the applicants' plans were in a preliminary stage and therefore the Town could not offer final comments on the size of the ADU. He added that when Bill 23 was introduced and enacted, the maximum size for these types of dwellings changed, where originally the limit was set to be 40% of the floor area of the prime dwelling unit. He stated it was difficult to calculate a maximum floor area based on the percentage of the prime dwelling, so the Town opted to use a firm measurement of area for simplicity. He furthered that the limit of 100 square metres (1,076 square feet) coincides with the Town of Essex and the City of Windsor, and that, as agreed upon by Council, any relaxations above those values would require a minor variance.

Committee Member, Russell Horrocks, asked whether the Town had contacted the applicants after their initial inquiry in September 2022 to advise them of the Provincial changes for ADUs, and questioned whether it is the Town's practise to contact anyone it may be of concern to, to advise them of any by-law changes.

George Robinson, Manager of Planning, confirmed there were no records that the Planning Department nor the Building Department communicated the changes with the applicants, He added that Planning receives multiple inquiries weekly, and the department does not have the capacity to follow-up with each. Mr. Robinson said oftentimes, a resident will contact the Town with a question or drawings for a building proposal, and the resident does not follow-up with the Town to begin the process any time thereafter.

The applicant, Deborah Gemmell, provided a letter and supporting documentation to the Committee.

Chairperson, Gord Queen, requested a motion to accept the letter and supporting documentation into public record.

CA-49-2023

Moved by Councillor Thomas Neufeld, seconded by Nicole Hackett, that the Committee accept the letter and supporting documentation provided by Deborah Gemmell, the applicant for Minor Variance application A-2023-12, into Public Record.

CARRIED

Deborah Gemmell referred to her letter, which elaborates on the reason for the request for relief. Mrs. Gemmell noted the Town's only concern was with the excess of square footage, some of which was required to pre-fabricate the home to then transport to their property, and the majority to make the home wheelchair accessible. She reminded the Committee that it would be situated on their very large property and would not negatively affect any neighbours.

Mrs. Gemmell recounted the timeline of her discussions with the Town, which led to drafting plans for the dwelling and her eventual contract with their chosen builder. She acknowledged that the Town's by-laws had changed due to Provincial legislation while the dwelling was being constructed, and requested the Committee consider this in their deliberations, as it was not in her control.

Chairperson, Gord Queen, referred to page five of the supporting documentation submitted by Mrs. Gemmell to the Committee. Page 5 included an internal discussion between Sarah Campbell, who was the Town Planner when the applicants initially came forward, and George Robinson, Manager of Planning. The internal discussion compared the Gemmell's building plans to the Town's by-law for SDUs, which were in place prior to the Provincial changes from Bill 23, and noted that all details of the plans complied with the SDU by-law, aside from the proposed building height, which was not known at the time. Mr. Queen stated he appreciated the earlier comments from George Robinson, Manager of Planning, who noted that Council had passed the by-law, which integrated the changes set by Bill 23, and that any requests that were non-compliant with the by-law would require a minor variance.

Councillor Thomas Neufeld stated that he realizes the recommendation from the Town derived from the directives set by the *Planning Act*, and that while he appreciates the applicants' explanations for the high variance request of 21%, that even a request of 1% still would require a minor variance. Councillor Neufeld offered his motion to approve the applicants' request, given

that the proposed structure would sit on a very large property, and given that he is in support of the applicants' hope to keep their property in the family,

Chairperson, Gord Queen, confirmed there were no other comments or questions from the Committee, the applicants, nor the public.

CA-50-2023

Moved by Councillor Thomas Neufeld, seconded by Nicole Hackett, that minor variance application A-2023-12 to allow the development of an Additional Dwelling Unit (ADU) with a maximum floor area of 121.7 sq. m. (1,310 sq. ft.), requesting relief from Section 4.35.1 of the Town's Zoning By-Laws for ADUs, being:

- *Maximum floor area not to exceed 100 sq. m. (1,076 sq. ft.)*

be APPROVED.

CARRIED

3. A-2023-13 – Minor Variance – 27 County Road 29

George Robinson, Manager of Planning Services, introduced the minor variance application, and reviewed the report dated October 17, 2023, which provides details regarding a request for lands located on the north side of County Road 29, south of County Road 34 East. The subject property is designated 'Agricultural' by the Official Plan and zoned 'Rural Residential (RR)' under the Kingsville Comprehensive Zoning By-law.

The subject land is a 6,637 square metre (1.64 acre) rural residential lot. The applicants are proposing to build a new single-detached dwelling on the property while retaining the existing as an Additional Dwelling Unit (ADU). The applicants are requesting a minor variance to allow relief from Section 4.35.1 of the Town's Zoning By-law, as it does not permit ADUs in front yards. All other requirements of the proposed new construction will comply with zoning regulations.

The applicants, Adam & Marguerite Watts, were in attendance.

Chairperson, Gord Queen asked if there were any comments or questions from the Committee, the applicants, or the public.

Adam Watts confirmed that he owns a property with an existing dwelling, and hopes to build a new house on the same lot. He stated he intends to live in the existing house while the new home is built, and that his only alternative aside from applying for a minor variance would be to

uproot his family and possessions, and find a place to live temporarily until the new home is finished.

Councillor Thomas Neufeld requested clarification from the Town as to why this type of application would be required, as this is the first time this sort of request has come forward to the Committee.

George Robinson, Manager of Planning, stated that the Town previously would fulfill this type of request by entering into a Site Plan Control Agreement or Development Agreement, where the Town would set provisions that the owner was required to comply with. Mr. Robinson said the Provincial changes set out by *More Homes Built Faster Act*, or Bill 23, have essentially taken away the Town's authority to enter in these types of agreements. He added that the only available method is to request a minor variance, as long as the proposed new dwelling conforms to the majority of regulations set out in the ADU by-law.

Councillor Neufeld questioned whether the Town has recommended to the applicant to demolish the existing house after the new one has been built.

Mr. Robinson confirmed the Town has not made that recommendation, and that the applicants may keep both dwellings if they wish to do so.

Chairperson, Gord Queen, confirmed there were no other comments or questions from the Committee, the applicants, nor the public.

CA-51-2023

Moved by Councillor Thomas Neufeld, seconded by Russell Horrocks, that minor variance application A-2023-13, to allow relief from Section 4.35.1 of the Zoning By-law for Additional Dwelling Units (ADUs), being:

- *accessory structures which contain an additional dwelling unit must be located in the rear yard or an interior side yard.*

allowing the conversion of the existing single-detached house into an ADU in the front yard, in the Town of Kingsville be APPROVED, without conditions.

CARRIED

4. B-2023-14 – Lot Addition – 4031 Graham Side Road

George Robinson, Manager of Planning Services, introduced the consent application, and reviewed the report dated October 17, 2023, which provides details regarding a request for lands located on the west side of Graham Side Road, north of Road 6 East. The subject property is designated 'Agriculture' by the Official Plan and zoned 'Agriculture (A1)' under the Kingsville Comprehensive Zoning By-law.

The subject parcel is approximately 4,873 square metres (1.2 acres) of rural residential and farm land with a single-detached house and accessory structures. The owners of 4031 Graham Side Road wish to convey a 1,137.16 square metre (0.281 acre) portion of their parcel to the owner of 4029 Graham Side Road as a lot addition.

Mr. Robinson cited the Town's recommendation for the Committee to deny the application, stating the proposal does not comply with the Provincial Policy Statement (PPS) and that the removal of agricultural land to be added as a rural residential use is not supported by the Official Plans for both the County of Essex and the Town of Kingsville,

The applicants, Dean and Penny Dent, were in attendance.

Chairperson, Gord Queen asked if there were any comments or questions from the Committee, the applicants, or the public.

Kendall Marr, the owner of the proposed receiving property at 4029 Graham Side Road, relayed that the reason for his request is due to the lack of municipal water in his area, and he is hoping for the additional land to situate a well for self-sustainability. He added that he is currently in a contract with the applicants, but realizes that if they chose to sell their property, he may not have the same luck with new neighbours, and he is therefore being proactive by requesting additional lands.

Councillor Thomas Neufeld noted that, while the Town recommended the application be denied, conditions were established should the request be approved. Councillor Neufeld stated he had read over and agrees to the conditions, and offered his motion to approve given the reason for the request.

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

CA-52-2023

Moved by Councillor Thomas Neufeld, seconded by Nicole Hackett, that consent application B-2023-14 to sever and convey a portion of the subject land (Part 2) as a lot addition from

4031 Graham Side Road (CON 6 PT LOT 18, Part 2 RP 12R-16046), to an abutting rural residential lot at 4029 Graham Side Road (CON 6 PT LOT18, Parts 3 & 4 RP 12R-16046), in the Town of Kingsville, be APPROVED, subject to the following conditions:

1. That the lot addition to be severed, shown on the applicant's sketch as Part 2, be conveyed to and consolidated with the abutting parcel, known as 4029 Graham Side Road (CON 6 PT LOT18, Parts 3 & 4 RP 12R-16046) and Section 50(3 or 5) of The Planning Act applies to any subsequent conveyance of or transaction involving the parcels of land that are the subject of this consent.
2. That a reference plan be deposited in the registry office, and an electronic copy of the registered plan is to be provided for the files of the Secretary-Treasurer.
3. 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.
4. That the owner shall provide that all municipal taxes be paid in full.
5. 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.
6. That any special assessment imposed pursuant to the provisions of the Local Improvement Act and/or the Municipal Act be paid in full.
7. 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.
8. That any necessary drainage reapportionments be undertaken.
9. That the applicant provide confirmation to the satisfaction of the Town for the location of any existing septic systems in relation to the revised lot line locations.
10. The conditions imposed above shall be fulfilled by **October 17, 2025** or this application shall be deemed to be refused in accordance with Section 53(41) of The Planning Act.

CARRIED

4. B-2023-15 – Lot Addition – 456 Heritage Road

George Robinson, Manager of Planning Services, introduced the consent application, and reviewed the report dated October 17, 2023, which provides details regarding a request for lands located on the north side of Heritage Road (County Road 50), west of Erie Avenue. The subject property is designated 'Lakeshore Residential West' by the Official Plan and zoned 'Lakeshore Residential (LR)' under the Kingsville Comprehensive Zoning By-law.

456 County Rd 50 has a total area of 2,034.6 square metres (21,900 square feet) with approximately 53.7 metres (176.2 feet) of frontage on Heritage Road (County Rd 50). The lot has an existing house with three accessory buildings. The applicants are requesting to sever the lot for the purpose of a lot addition to add a 74.67 foot by 40 foot portion from 456 Heritage Road (County Rd 50) to 828 Wride Avenue, to align lot lines with adjacent properties to the north.

828 Wride Avenue has a total area of 416.2 square metres (4,480 square feet) with approximately 12.2 metre (40 foot) of frontage on Wride Avenue. The lot has an existing single-detached structure.

The applicant, Ruby LePage, was in virtual attendance.

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

Ruby LePage, relayed that the proposed severed portion of the property was previously used as a garden, but has not been used as such for approximately twenty years. Mrs. LePage expressed that she feels her neighbours would benefit much more from having additional property, and the sole intent is for additional space.

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

CA-53-2023

Moved by Councillor Thomas Neufeld, seconded by Russell Horrocks, that consent application B-2023-15, for the purpose of a lot addition, shown on the Applicants' Sketch as Part 2, from the lands known as 456 Heritage Road (PLAN 1022 LOTS 137, 138, 139, 247, 248 & 249) to 828 Wride Avenue (PLAN 1022 LOT 246), in the Town of Kingsville, be APPROVED, subject to the following conditions:

1. That the lot addition to be severed, shown on the applicant's sketch as Part 2, be conveyed to and consolidated with the abutting parcel, known as 828 Wride Avenue (Plan

1022 Lot 246, Private Park) and Section 50(3 or 5) of The Planning Act applies to any subsequent conveyance of or transaction involving the parcels of land that are the subject of this consent.

2. That a reference plan be deposited in the registry office, and an electronic copy of the registered plan is to be provided for the files of the Secretary-Treasurer.

3. 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.

4. That the owner shall provide that all municipal taxes be paid in full.

5. 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.

6. That any special assessment imposed pursuant to the provisions of the Local Improvement Act and/or the Municipal Act be paid in full.

7. 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.

8. That any necessary drainage reapportionments be undertaken.

9. The conditions imposed above shall be fulfilled by **October 17, 2025** or this application shall be deemed to be refused in accordance with Section 53(41) of The Planning Act.

CARRIED

E. New Business

George Robinson informed the Committee that he has resigned from his position as Manager of Planning Services for the Town of Kingsville. He stated that he and his family are moving to British Columbia, where he will continue his career in Planning.

Mr. Robinson formally surrendered his role as Secretary Treasurer for the Committee, and reminded them that Richard Wyma, Director of Planning and Development, and Vitra Chodha, Planner, are additional Secretary Treasurers.

Mr. Robinson expressed his regrets for having to leave his friends and colleagues at the Town and thanked the Committee for their service.

The Committee mentioned the notable work Mr. Robinson has done during his tenure with the Town of Kingsville, and wished him the best in his future endeavors out West.

F. Next Meeting Date

The next meeting of the Committee of Adjustment & Appeals shall take place November 21st, 2023 at 6:00 p.m.

G. Adjournment

CA-54-2023

Moved by Nicole Hackett, seconded by Russell Horrocks, to adjourn this meeting at 6:54 p.m.

CARRIED

CHAIR, Gord Queen

**SECRETARY TREASURER,
Vitra Chodha**