

**The Corporation of the City of Kawartha Lakes**  
**Committee of Adjustment Report – Fife**

Report Number COA2018-017

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**Public Meeting**

**Meeting Date:** March 15, 2018

**Time:** 1:00 pm

**Location:** Council Chambers, City Hall, 26 Francis Street, Lindsay

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**Ward 7 – Geographic Township of Emily**

**Subject:** An application to sever an approximately 0.72 hectare residential lot (791 Cottingham Road) containing a single detached dwelling along with an accessory building and retain an approximately 39.75 hectare agricultural lot (795 Cottingham Road) containing a single detached dwelling. The property is located at 791 & 795 Cottingham Road, geographic Township of Emily (File D03-17-033).

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**Author:** David Harding, Planner II

**Signature:**

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**Recommendation:**

**RESOLVED THAT** Report COA2018-017 Hugh & Shirley Fife, be received;

**THAT** consent application D03-17-033, being an application to sever an approximately 0.72 hectare residential lot (791 Cottingham Road) containing a single detached dwelling along with an accessory building and retain an approximately 39.75 hectare agricultural lot (795 Cottingham Road) containing a single detached dwelling, be DENIED.

**Background:** The application proposes to sever an existing single detached dwelling (original farmhouse) constructed circa 1887 (MPAC) along with an accessory building constructed circa 1950 (MPAC). The second dwelling unit was constructed circa 1960. The owners are not bona-fide farmers, and have advised staff that they rent the agricultural land to a farmer. The owners have further advised that they have previously rented out the original farmhouse, and are no longer interested in being landlords.

Owners: Hugh & Shirley Fife

Applicant: Hugh Fife

Legal Description: Lot 21, Concession 3, geographic Township of Emily, City of Kawartha Lakes

Official Plan: "Prime Agricultural" – City of Kawartha Lakes Official Plan

Zone: "Agricultural (A1) Zone" – Township of Emily Zoning By-law 1996-30

Site Size: Severed – 0.72 hectares  
Retained – 39.75 hectares

Site Servicing: Private individual wells and septic systems

Existing Uses: Agricultural

Adjacent Uses: North: Agricultural  
South: Agricultural/Rural Residential  
East: Agricultural/Rural Residential  
West: Agricultural/Rural Residential

**Rationale:**

As the land owners are not bona-fide farmers, a farm operation does not own the property and therefore the proposal cannot be viewed as an application to sever a dwelling surplus to a farm operation as a result of a farm consolidation. As the application cannot be viewed as a farm consolidation, it must be treated as rural lot creation within a prime agricultural area.

Provincial and municipal policy establishes a very specific circumstance for when a residential lot may be created within a prime agricultural area. The sole circumstance where this is permitted is when a dwelling is deemed surplus to a farm operation as a result of a farm consolidation. The City has established the following criteria to ensure provincial and municipal policy is met:

1. The person or persons that hold title to the property must be bona-fide farmers. A landowner demonstrates that they are a bona-fide farmer by submitting a photocopy of their current Ontario Federation of Agriculture (OFA) card, which contains their name and their Farm Business Registration Number (FBR). A copy of an OFA card was not provided.
2. The bona-fide farmer must hold sole title to at least one other farm lot to demonstrate that there is a farming operation that spans more than one property. A Parcel Register from the Land Registry Office (LRO) is used to demonstrate that the farm operation holds sole title to at least one additional agricultural lot. The Parcel Register of an additional agricultural lot was not provided.

## **Policy Conformity**

### **Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan)**

Relevant Policies: 2.2.1 Managing Growth, 4.2.6 Agricultural System

Relevant Sections: 2.2.1.2(d), 4.2.6.2, 4.2.6.8

The Growth Plan provides that development, including lot creation, is to be directed to settlement areas. Prime agricultural areas are to be protected for the long term for agricultural uses.

This application does not conform to the policies of the Growth Plan.

### **Provincial Policy Statement, 2014 (PPS)**

Relevant Policies: 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, 2.3 Agriculture

Relevant Sections: 1.1.1, 1.1.4, 2.3.4

Sections 2.3.1 and 2.3.3.2 provide that prime agricultural areas shall be protected for long term use, and all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

Section 2.3.4.3 prohibits the creation of new residential lots within prime agricultural areas if the dwelling on that proposed lot is not deemed surplus to a farming operation as a result of a farm consolidation.

The application is not consistent with the PPS.

### **City of Kawartha Lakes Official Plan (Official Plan)**

Land Use Designation: Prime Agricultural

Relevant Policies: 15.3.4, 15.3.5, 33.3

The subject land is designated "Prime Agricultural" in the Official Plan. Section 15.1 of the Official Plan provides that agricultural land that is primarily class 1-3 shall be protected from fragmentation, development and land uses unrelated to agriculture. One of the objectives of the Official Plan is to support farming operations as an important component of the economy, a source of employment and a way of life for many rural residents.

In keeping with the PPS, the Official Plan does not permit the creation of residential lots within prime agricultural areas if the dwelling on that proposed lot is not deemed surplus to a farming operation as a result of a farm consolidation.

This application does not conform to the applicable policies of the Official Plan.

### **Zoning By-law Conformity**

The subject property is zoned "Agricultural (A1) Zone" in the Township of Emily Zoning By-law 1996-30.

The lot to be retained exceeds the minimum lot frontage (120 metres) and area (25 hectares) requirements of the A1 Zone by proposing about 710 metres and 39.75 hectares respectively.

The A1 Zone category provides that residential lots created within the said zone are subject to the requirements of the "Rural Residential Type One (RR1) Zone" category. The lot to be severed exceeds the minimum lot frontage (38 metres) and area (0.28 hectare) requirements by proposing about 65 metres and 0.72 hectares respectively. The dwelling on the proposed severed lot will comply with the applicable setback provisions of the RR1 Zone. The implement shed on the proposed severed residential lot, should it be converted to a residential accessory building, would comply with the coverage and setback requirements for a residential accessory building.

**Other Alternatives Considered:**

Staff advised the applicant prior to submission that they would be unable to support the application as the proposal does not meet the criteria needed to be eligible to consider the dwelling surplus to a farm operation as a result of a farm consolidation.

The applicant submits that while there is no farming operation by the land owners, there is a residence surplus to their needs.

**Servicing Comments:**

Each single detached dwelling is serviced by a private individual well and sewage system.

**Consultations:**

Notice of this application was circulated in accordance with the requirements of the *Planning Act*. Comments have been received from the following agencies.

**Agency Comments:**

Community Services Department (October 11, 2017): A condition to collect a 5% cash-in-lieu of parkland payment is requested.

Engineering and Corporate Assets Department (October 11, 2017): No concerns.

Building Division (November 14, 2017): The implement shed must comply with the Ontario Building Code requirements for a residential accessory building. A change of use permit is required.

Building Division – Part 8 Sewage Systems (November 2, 2017): No concerns.

**Public Comments:**

No comments as of March 6, 2018.

**Planning Division Comments:**

Section 7.2.1.11 of the zoning by-law permits the construction of a second dwelling unit on a farm provided the farm has a minimum lot area of 25 hectares and the second dwelling unit has a gross floor area of at least 40 square metres and is no greater 100 square metres. While both dwelling units on the subject property predate the zoning by-law, the dwelling unit on the proposed retained lot complies with the area requirement.

As reviewed in the rationale section, there is no farm operation present. Section 7.2.1.11 is intended for farming operations that require an additional permanent dwelling for farm help. As this provision is established for the benefit of farming operations, in accordance with provincial policy, the two dwelling units should remain together on the agricultural lot until such time as the land is owned by a farming operation that owns more than parcel of land, and that farming operation determines that the dwelling unit is not required for its staff.

**Attachments:**



Appendices A to D of  
COA2018-017.pdf

- Appendix "A" – Location Map
- Appendix "B" – Aerial Photo
- Appendix "C" – Consent Sketches
- Appendix "D" – Department and Agency Comments

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**Department Head:** Chris Marshall  
**Department File:** D03-17-033