

The Corporation of the City of Kawartha Lakes

Committee of Adjustment Report – Fife

Report Number COA2018-022

Public Meeting

Meeting Date: April 19, 2018

Time: 1:00 pm

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

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).

Author: David Harding, Planner II

Signature:

Recommendations:

RESOLVED THAT Report COA2018-022 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: At its March 15, 2018 Committee of Adjustment meeting, the Committee declared support of the application in principle and deferred it in order to provide staff sufficient time to prepare a list of proposed provisional consent conditions so that the Committee may proceed with granting provisional consent.

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 staff's analysis of the merits of the application was conducted in Report COA2018-017 and has not changed, the analysis will not be revisited in this report. Further to Committee's direction, staff have prepared an analysis of the comments that have been received for the application for incorporation into the Committee's decision.

In the crafting of these conditions, planning staff have determined that despite Community Services Department's comments in Appendix "D", payment of cash-in-lieu or the dedication of parkland in this situation is not necessary, as the residential use on the lot to be created has existed since at least 1887 (MPAC) and there is no new demand for park services. A condition has been requested by the Building Division to ensure that the agricultural shed on the proposed severed lot complies with the Ontario Building Code requirements for a residential accessory building. This request has been incorporated as proposed condition 2. Condition 3 has been incorporated to ensure no additional dwellings are constructed on the agricultural lot to be retained. Condition 4 is incorporated to address any minimum distance separation issues which may be present due to a barn that is directly across the road from the subject property at 788 Cottingham Road.

Should the Committee's approval of the decision result in an appeal to the Local Planning Appeal Tribunal (replacement of the Ontario Municipal Board), then the Committee will need to determine whether they would want their decision defended by a third party planner. The City would need to retain a consultant on the Committee's behalf to defend the decision.

The following draft decision and conditions of provisional consent below are provided for Committee's review in order to assist it in its decision-making process given its declared direction at its March 15th, 2018 meeting.

Committee's Directed Recommendation:

RESOLVED THAT Report COA2018-022 Hugh & Shirley Fife, be received;

THAT Consent Application D03-17-033, which proposes 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 GRANTED.

1. This approval applies to the transaction as applied for.
2. The owners shall apply for and obtain a change of use permit for the building identified as "Shed" on the sketches submitted with the application.
3. The owners shall apply for, pay the prescribed fee and obtain an amendment to the Zoning By-law respecting the lot to be retained, such that it be rezoned to prohibit more than one dwelling unit, and the By-law be in effect.
4. Submit to the Secretary-Treasurer written confirmation from an experienced and qualified Agrologist that the application meets or exceeds the MDS 1/2 criteria.
5. Submit to the Secretary-Treasurer one copy of the preliminary reference plan of survey of the residential lot to be severed for review and endorsement and the subsequent registered reference plan of survey.
6. Submit to the Secretary-Treasurer payment of all past due taxes and charges added to the tax roll, if any, at such time as the deeds are stamped.
7. Submit to the Secretary-Treasurer a deed in triplicate for endorsement with the certificate of consent which deed shall contain a registerable description of the parcel of land described in the decision.
8. The owners' solicitor shall provide a written undertaking to the Secretary-Treasurer confirming, pursuant to Subsection 53(43) of the Planning Act, that the deed in respect of this transaction shall be registered in the proper land registry office within six months from the date that the Secretary-Treasurer's certificate is stamped on the deed, failing which the consent shall lapse.

9. The owners' solicitor shall also undertake to provide a copy of the registered Transfer to the Secretary-Treasurer as conclusive evidence of the fulfillment of the above-noted undertaking.
10. All of these conditions shall be fulfilled within a period of one year after the giving of the Notice of Decision, failing which, pursuant to Subsection 53(41) of the *Planning Act*, this consent shall be deemed to be refused.

Attachments:



Appendices A to D of
COA2018-022.pdf

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

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Department File:	D03-17-033