

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Leach
Report Number COA2018-080

Public Meeting

Meeting Date: November 29, 2018
Time: 1:00 pm
Location: Victoria Room, City Hall, 26 Francis Street, Lindsay

Ward 16 – Geographic Township of Eldon

Subject: An application to sever approximately 3 hectares of agricultural land and consolidate it with an abutting vacant landlocked lot, described as Part South Part of Lot 39, Concession South of Portage Road, Part 1, 57R-9057 in order to give the lot frontage on Kirkfield Road. Approximately 97 hectares of agricultural land will be retained.

The property is located at 1561 Kirkfield Road, geographic Township of Eldon (File D03-2018-010).

Author: David Harding, Planner II

Signature:

Recommendation:

RESOLVED THAT Report COA2018-080 Leach, be received;

THAT consent application D03-2018-010 be GRANTED.

Conditions of provisional consent:

- 1) This approval applies to the transaction applied for, subject to the following revisions:
 - a. That the width of a portion of the land to be added, identified as Access Lane in Appendix D to Report COA2018-080 not exceed 6.1 metres, and
 - b. That the road frontage of the land to be added be 38 metres;
 - c. Which will result about 19,500 square metres (1.95 hectares) of agricultural land being added to a benefitting lot instead of the 3 hectares originally advertised.
- 2) The applicant shall apply for, pay the prescribed fee and obtain an amendment to the Zoning By-law respecting:

- a. The land to be added, such that it be rezoned from Agricultural (A1) Zone to Rural Residential Type One (RR1) Zone and the By-law be in effect; and
 - b. The benefitting lot, such that it be rezoned from Agricultural (A1) Zone to Environmental Protection (EP) Zone and the By-law be in effect.
- 3) Submit to the Secretary-Treasurer written confirmation from the City's Manager of Roads Operations that an entrance permit application and applicable fee has been submitted in accordance with the City's Public Works Entrance By-law to the Manager's satisfaction to demonstrate that an entrance, respecting the land to be severed, is possible.
 - 4) 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.
 - 5) Submit to the Secretary-Treasurer one copy of the preliminary reference plan of survey of the land to be severed for review and endorsement and the subsequent registered reference plan of survey.
 - 6) The applicant shall pay all costs associated with the preparation and registration of the required documents.
 - 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) Payment to the City of Kawartha Lakes of the stamping fee prevailing at the time the deeds are stamped, for the review and clearance of these conditions. The current fee is \$440.00. Payment shall be by certified cheque, money order, or from a lawyers trust account.
 - 9) Subsection 50(3) of the Planning Act shall apply to ensure the consolidation of the severed parcel with the abutting lot. The applicant's solicitor shall certify that the land owners registered on title of the subject parcel will be identical to the land owners registered on title of the land with which the severed parcel is being consolidated.
 - 10) The applicant's 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.
 - 11) The applicant's 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.
 - 12) 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.

- Background:** The application is before the Committee of Adjustment as the applicant disagrees with some of the provisional conditions proposed by staff.
- Owner:** Kevin and Jennifer Leach
- Applicant:** Alan Webster
- Legal Description:** Part of Lots 39 to 42, Concession South of Portage Road, geographic Township of Eldon, City of Kawartha Lakes
- Official Plan:** Rural, Environmental Protection, Development Plan Area Nine within the City of Kawartha Lakes Official Plan
- Zone:** Agricultural (A1) Zone within the Township of Eldon Zoning By-law 94-14
- Site Size:** Severed as Applied for – 3.0 hectares (7.4 acres)
Severed as Recommended – 1.95 hectares (4.8 acres)
Retained as Applied for – 96 hectares (237 acres)
Retained as Recommended – 98.05 hectares (242.3 acres)
- Site Servicing:** Severed – Private individual sewage system and well
Retained – None
- Existing Uses:** Agricultural
- Adjacent Uses:** North: Agricultural, Forest, Rural Residential
East: Agricultural, Rural Residential
South: Agricultural
West: Agricultural, Forest

Rationale:

Policy Conformity

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

The Growth Plan directs development to settlement areas, except where necessary for development related to the management or use of resources, resource-based recreational activities, and rural land uses that cannot be located in settlement areas.

Policy 4.2.3 identifies that development is not permitted within key natural heritage features, which includes significant woodlands. As per this policy and Lake Simcoe Region Conservation Authority's comments, condition 2 is recommended.

As a lot line adjustment is proposed to provide access to an existing lot of record, and condition 2 is proposed, the proposal is consistent with the Growth Plan.

Provincial Policy Statement, 2014 (PPS)

Development within Rural Areas, particularly upon Rural Lands must be compatible with the rural landscape and sustained by rural service levels. As a lot line adjustment is proposed, and the lot line adjustment is proposed to sever land at the northern edge of an agricultural operation, the rural landscape is being maintained and no change in demand for service would occur. Therefore, the application is consistent with the PPS.

Lake Simcoe Protection Plan (LSPP)

The Lake Simcoe Protection Plan (LSPP) contains a series of policies to protect the long term health of the Lake Simcoe watershed.

Section 6.23-DP of the LSPP states that development or site alteration is not permitted within a key natural heritage feature, which includes significant woodlands, unless it was permitted under Section 6.45-DP. Section 6.45-DP states that development or site alteration is permitted within the LSPP area if development was permitted upon the existing lot of record.

As the benefitting lot has no access to an improved street, development on the lot is not permitted. Therefore, Section 6.45-DP does not permit development within the significant woodland feature should access to the landlocked parcel be granted.

Sufficient space remains on the lands to be added to the landlocked lot to contain a building envelope. While the lands to be added were not originally intended to contain the building envelope, these lands are designated for development (see Official Plan section below), and are therefore a more appropriate location for development.

The protection of significant woodlands is reinforced by policy 2.1.5 of the PPS.

Condition 2 is recommended to ensure conformity with the LSPP. The application subject to the conditions recommended by staff conforms to the LSPP.

City of Kawartha Lakes Official Plan

Land Use Designations: Rural, Environmental Protection and Development Plan Area Nine

The majority of the subject land is designated “Rural” within the City of Kawartha Lakes Official Plan (Official Plan), with portions designated “Development Plan Area Nine” and “Environmental Protection”. The “Environmental Protection” portions appear to reflect the locations of watercourses. The application proposes no changes to the lands with the “Environmental Protection” designation.

The “Development Plan Area Nine (DP-9)” designation is present within the eastern portion of the land to be added to the landlocked parcel. The DP-9 designation recognizes the historic anticipation of the lands being used for development, primarily in the form of single detached homes on large lots.

The “Rural” designation is found upon the balance of the property. The linear access proposed to the landlocked lot is within this designation. The designation

permits lot line adjustment provided a new lot is not created. As a result of the proposed lot line adjustment, a minimum amount of land within the Rural designation is proposed to be removed from agricultural production to facilitate access to the landlocked lot. The proposed access route is at the north edge of the cultivated fields abutting a forest. A slight reduction in the width of the access route from 10 metres (32 feet) to 6.1 metres (20 feet) is proposed to minimize the amount of agricultural land that is removed from production. The reduction of the access route and subsequent reduction in the proposed frontage along Kirkfield Road to that required by the Rural Residential Type One (RR1) Zone category preserves approximately 0.6 hectares - 1.1 hectares (1.5 acres – 2.7 acres) of agricultural land.

The Official Plan also contains policies pertaining to applications for land within the Lake Simcoe Watershed as determined by the LSPP. The Official Plan recognizes that development and site alteration is not permitted within a natural heritage feature as per the LSPP if construction upon an existing lot of record was not permitted prior to the date the LSPP took effect. Minimum vegetation protection zones are specified where development is proposed in proximity to a natural heritage feature.

A building envelope close to Kirkfield Road, contained on the land to be added to the lot, exists. This area closer to the road, away from significant environmental features, is outside of the required buffer to the significant woodland feature and sited within an area which has been recognized within the City's Official Plan for potential future development. As such the building envelope closer to the road is a more appropriate location for future residential development.

The application subject to the conditions recommended by staff conforms to the Official Plan.

Zoning By-law Conformity

The subject property is zoned "Agricultural (A1) Zone" within the Township of Eldon Zoning By-law 94-14.

The lot to be retained exceeds the minimum lot frontage (230 metres) and area (25 hectares) requirements of the A1 Zone by proposing about 1110 metres and 96 hectares respectively. A zoning by-law amendment is also required to rezone the significant woodland feature on the benefitting lot from Agricultural (A1) Zone to Environmental Protection (EP) Zone to conform with the LSPP in accordance with the Lake Simcoe Region Conservation Authority's comments. A zoning by-law amendment is required to rezone the proposed severed lands from A1 Zone to Rural Residential Type One (RR1) Zone to remove the potential to establish agricultural uses on a lot which once consolidated remains undersized.

The section of consolidated lot to be zoned "Rural Residential Type One (RR1) Zone" category meets the minimum lot frontage (38 metres) and area (4000 square metre) [0.98 acre] requirements by proposing as amended by staff about 38 metres and 1.9 hectares (4.7 acres) respectively. The lot configuration as proposed by staff will also comply with the RR1 Zone provisions. A total of three residential accessory buildings are permitted on a residential lot. Residential accessory

buildings are restricted to a maximum lot coverage of 8% or have a footprint no greater than 225 square metres, whichever is less. As some of the agricultural buildings are proposed to be kept as residential accessory buildings on the proposed severed lot, the buildings cannot comply with the 225 square metre footprint requirement. A zoning by-law amendment is necessary to address the increased accessory building lot coverage.

Consultations:

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

Agency Comments:

Building Division (June 28, 2018): No concerns.

Engineering and Corporate Assets Department (July 5, 2018): No concerns. Condition 3 is recommended to ensure a suitable entrance on the proposed severed lands is possible.

Community Services Department (July 4, 2018): No concerns.

Building Division – Part 8 Sewage System (July 11, 2018): No concerns.

Lake Simcoe Region Conservation Authority (July 13, 2018): No concerns provided a condition is included to rezone the significant woodland contained upon the benefitting lot to Environmental Protection (EP) Zone.

Public Comments:

No comments as of November 20, 2018.

Attachments:



Appendices A-E to
COA2018-080.pdf

- Appendix “A” – Location Map
- Appendix “B” – Aerial Photo
- Appendix “C” – Applicant’s Sketch
- Appendix “D” – Access Lane
- Appendix “E” – Department and Agency Comments

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