

Haldimand County Committee of Adjustment Consent

Meeting Date: August 15, 2023

File Number: PLB-2023-032

Property Roll Number: 2810-155-005-04400

Applicant: Hedley Seeds

Agent: Kim Hessels

Property Location: Concession 1 South of Talbot Road, Part Lot 3, Geographic

Township of North Cayuga, known municipally as 6602

Highway 3

Recommendation

That application PLB-2023-023 be refused. The application is not consistent with the Provincial Policy Statement, 2020 and does not conform to the intent of the Haldimand County Official Plan. The application also does not meet the Ministry of Transportation's requirements for a severance.

Details of the Submission

Proposal: Hedley Seeds Ltd. and Hedley Farms Inc. own 6602 Highway 3 which is approximately 40.4 ha (approximately 100 acres) in area and has approximately 400 metres (1,312 feet) of frontage on the south side of Highway 3 in the geographic township of North Cayuga. Hedley Seeds Ltd. owns an abutting property, 6552 Highway 3, which is approximately 45.92 Ha (113.48 acres) in area. 6552 Highway 3 has approximately 265 metres (870 feet) of frontage on the south side of Highway 3.

The intent of this application is to sever a rectangular parcel of land, of approximately 0.48 ha (1.19 acres) from 6602 Highway 3. The proposed severed parcel would have 75 metres (246 feet) of frontage on Highway 3. The parcel intended to be severed is occupied by an existing single detached dwelling that is in severe disrepair.

The applicant indicates that the remainder of 6602 Highway 3 would be the retained lands which would have an area of approximately 39.92 ha (98.81 acres) and frontage of approximately 325 metres (1066 feet).

The application states that the purpose of the application is a boundary adjustment. The retained portion of 6602 Highway 3 is proposed to be added to 6552 Highway 3. The location map that is part of the package for this file illustrates the intent of the application.

In summary, the result of this application would be a lot of 0.48 ha (1.19 acres) and a lot at 6552 Highway 3 of approximately 85.84 ha (approximately 212.12 acres).

Site Features and Land Use: The subject property is located at 6602 Highway 3, and has approximately 400 metres of frontage on the south side of Highway 3. 6602 is a large lot, the majority of which is currently farmed. An existing house in severe disrepair is located somewhat centrally on the site within approximately 10 metres (32.8 feet) of the front property line, and would be part of the severed lands. Approximately 70 metres south east of the dwelling is a barn, which would remain with the retained lands. The majority of 6602 Highway 3 is actively farmed. There are some drainage features, ponds and hedgerows on the property. Less than a quarter of the property at the south west rear corner, is wooded and wetland.

The parcel which is proposed to be the benefitting lands is located at 6552 Highway 3. It appears that at some time in the past, three lots, each with frontage on Highway 3, were severed from 6552. There is a cluster of farm buildings located behind two of the previously severed lots. A large portion of 6552 is actively farmed. The property also has some drainage features, and hedgerows. The wooded wetland area located on 6602 Highway 3 continues east across a portion of the rear of the property at 6552 Highway 3.

Neither 6602 nor 6552 Highway 3 would rely on private water and sewer services. Given the state of the existing dwelling on 6602 Highway 3 it is not know if there is an septic system on the property.

Land uses surrounding 6602 and 6552 Highway 3 are predominantly agricultural, with some residential uses. Lands to the north of Highway 3 and south of the two properties includes woodland/wetlands regulated the by the Niagara Peninsula Conservation Authority.

Existing Intensive Livestock Operations: Not applicable.

Agency & Public Comments

Haldimand County Building & Municipal Enforcement: Septic Evaluation required. Property Standards Review to determine if house is livable.

Haldimand County Planning & Development – Development Technologist: Direct runoff to watercourse assurances required in lieu of a grading plan.

Haldimand County Emergency Services: No comments received.

Haldimand County Water and Wastewater Engineering & Compliance: No comments received.

Niagara Peninsula Conservation Authority: No comments received.

Ministry of Transportation: After reviewing the proposal to sever the lands and create a stand-alone parcel of lands with a frontage of 396 m, it appears that the subject lands do not meet MTO requirements or qualify for a severance. To be eligible for consideration of a severance, the subject property must have a minimum pre-severance frontage of 500 m. Moreover, any access or severance applications must comply with the MTO's requirements, which include following the guidelines and specifications set out in the *MTO's Highway Access Management Manual*. Given the insufficient frontage of this property, it would not be safe to accommodate an additional access that would be required for the severed lands. The existing access density in this section of Highway 3 already exceeds the acceptable limit, and no further entrances can be allowed at this location.

Hydro One: No comments received.

Municipal Property Assessment Corporation: No comments received.

Mississaugas of the Credit: No comments received.

Six Nations: No comments received.

Public: No comments received.

Planning Analysis

Provincial Policy Statement, 2020 (PPS)

This application proposes severing a 0.48 ha (1.19 acre) parcel of land, from 6602 Highway 3 which has an area of approximately 40.4 ha (approximately 100 acres). The retained parcel of land would be approximately 39.92 ha (98.81 acres) and is intended to be added to the abutting lands, 6552 Hwy 3 (the benefitting lands).

Where there are presently two lots, one of 40.4 ha (approximately 100 acres) and one of 45.92 ha (113.48 acres), there would be, if approved, two lots, one of 0.48 ha (1.19 acres) and one of 85.84 ha (approximately 212.12 acres).

Policy 2.3.4.2 states "Lot adjustments in prime agricultural areas may be permitted for *legal or technical reasons*." The PPS defines *Legal or technical reasons* as "severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot."

In the opinion of staff, the proposed boundary adjustment is not required for any legal or technical reason. It is not for an easement, a correction of deeds, a quit claim, and Planning Staff do not consider a lot addition of this size to be a minor boundary adjustment.

On the surface of this application it appears that this is simply a "lot swap": there are two lots before the proposed severance and two lots after the proposed severance. However, Planning staff turn to the PPS policies regarding lot creation in agricultural areas, and in particular policy 2.3.4.1:

"2.3.4.1.a) Lot creation in prime agricultural areas is discouraged and may only be permitted for:

a) agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;

The resulting lot created through the proposed lot addition would large enough that the day following the proposed severance, the applicant could submit an application to sever the new 6552 lot of 85.84 ha (approximately 212.12 acres). This would allow the creation of an additional lot so that there would be three lots instead of the existing two, one of which (the 0.48 ha parcel) would be residential in nature and does not currently exist.

Planning staff are of the opinion that this proposal is not consistent with the PPS.

A Place to Grow, 2020

As with the PPS, A Place to Grow directs grow and intensification to existing settlement areas. A Place to Grow does not include specific policies addressing land division in rural areas.

Haldimand County Official Plan (OP)

Consistent with the PPS, the Haldimand County Official Plan is highly protective of agricultural lands. Policies regarding land division for the creation of new lots and/or boundary adjustments (lot additions) are set out in section 5.H.3 and 5.H.4:

- "5.H.3. Generally consent to sever land in the Agricultural designation may be considered in accordance with the following criteria:
 - a) The parcel to be severed and the parcel to be retained are both for agricultural use and are a minimum of 40 hectares in size;
 - b) Severances for individual, small-scale agriculturally-related uses may be permitted provided that the severance of these uses meet MDS requirements, does not form strip development and the size of the parcel is limited to the amount of land specifically required for the use.
 - c) Severances for legal or technical reasons, including minor boundary adjustments, easements or rights-of-way or other purposes that do not create an additional separate lot or in agricultural areas do not compromise the functionality and/or viability of a farm.
- 5.H.4. A severance may be granted for a habitable farm dwelling of a minimum age of ten years, calculated from the date of occupancy of the dwelling, made surplus through farm consolidation where it is part of a farm holding containing two or more habitable dwellings and where each farm is located within the County."

Policy 5.H.3.c) addresses severances for the purpose of boundary adjustments. It is consistent with the policy for boundary adjustments in the PPS. As discussed in relation to the PPS, staff are of the opinion that the proposed boundary adjustment does not conform to policy 5.H.3.c).

As discussed above with respect to the PPS, the creation of the large 85.84 ha (approximately 212.12 acres) parcel through adding the retained portion of 6602 Highway 3 to 6552 Highway 3 (the benefitting lands) creates a lot that could be severed (Policy 5.H.3.(a) - both parcels to exceed a minimum of 40 ha). This creates the potential for three lots where only two lots current exist. The creation of an additional residential lot that would result does not conform to the policies of the Official Plan. Staff are of the opinion that not only does this application not meet the requirements for a lot addition, it also creates the potential for creation of three lots instead of two.

Haldimand County Zoning By-law HC 1-2020

The proposed severed lot appears to meet the standards for lot frontage and lot area set out in the Zoning By-law. The proposal conforms to the standards of Zoning By-law HC 1-2020.

Notice Sign, Public Consultation, and Applicant Discussion

A public notice sign was posted in accordance with the *Planning Act, R.S.O. 1990, c. P.13* on July 28, 2023.

The applicant has satisfied the public consultation requirements as per the Provincial legislation.

Staff have contacted the applicant and discussed the recommendations as set out in this report. Staff have confirmed with the applicant that he/she understands the nature of and content contained within the recommendations as well as any requirements/conditions relating to such. A copy of the staff report has been provided to the applicant.

Prepared by:

John Douglas, MCIP, RPP

Senior Planner

905-318-5932 ext. 6252

Reviewed by:

Alisha Cull, BES, MCIP, RPP

Supervisor, Planning & Development

905-318-5932 ext. 6208

IF APPROVED, THIS APPLICATION WILL BE SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. That the Haldimand County requirements, financial or otherwise, be satisfied. This will include taxes paid up to date, a parkland dedication fee in accordance with By-law 2349/22 and a fee for deed stamping in accordance with the Haldimand County User Fees By-law. Also, a one (1) foot square, unencumbered, parcel of land dedicated to Haldimand County, which must be shown on the reference plan, is required from the abutting lands presently owned by Hedley Seeds Ltd. and further identified as Roll No. 2810-155-005-04550, if required.
- 2. That Section 50(3) or (5) of the Planning Act shall apply to any subsequent conveyance or transaction.
- 3. That the severed parcels become part and parcel of the abutting lands presently owned by Hedley Seeds Ltd. and further identified as Roll No. 2810-155-005-04550.
- 4. That the solicitor acting in the transfer provide his/her undertaking in the following manner: in consideration of the Certificate by the official I undertake to ensure by a subsearch of the abstract book that at the time of the registration of the said Certificate or deed upon which it has been affixed, the name of the registered owner of the abutting lands is the same as that of the Grantee in the said deed and that the one (1) foot square parcel of land dedicated to Haldimand County is an unencumbered parcel of land. Also the solicitor will apply to consolidate the two parcels into one consolidated PIN so the two parcels can be assessed together and the consolidation information will be provided to the Secretary-Treasurer once completed.
- 5. Receipt of a letter from the Planning and Development Division, indicating that their requirements, regarding surface drainage of the property, have been satisfied. Typically the county would require a full lot grading to be designed, in lieu of that, the proponent shall provide the Planning and Development Division with a letter assuring that all storm water from this parcel will be discharged toward the roadway, or a large body of water (lake, river, stream or other conveyance system), not adjacent properties. This is required as the new development as proposed, has the potential to increase the volume or rate of the storm runoff and may impact abutting landowners. A sample form letter can be provided. Contact the Development & Design Technologist at 905-318-5932, ext. 6253, for further clarification.
- 6. Subject to the approval and permitting from the Ontario Ministry of Transportation (MTO).
- 7. That a septic evaluation for severed parcel be completed and submitted to the SecretaryTreasurer, who will give it to the Haldimand County Building Controls and By-law Enforcement
 Division for approval. (Septic evaluations must be completed prior to the issuance of the
 certificate. Please allow approximately six (6) months for completion of the septic evaluation.)
 Please contact the Building Controls and By-law Enforcement Division at 905-318-5932, for
 further clarification.

- 8. That a Property Standards Review be submitted to the Planning and Development Division prior to the signing of the certificate. Alternatively, the County will accept evidence from a qualified professional that any associated property standard review process has been initiated along with a commitment to a completion date for the Property Standards Review process. Contact the Planner at 905-318-5932 for further clarification.
- 9. That the owner's solicitor provide an undertaking to Haldimand County agreeing that if there are any changes proposed to the wording on the certificate after stamping of the certificate by the County, prior to the registration of the certificate; that the Secretary-Treasurer or designate must approve the change prior to registration of the certificate.
- 10. Receipt of a copy of the registered reference plan of the severed parcel, with an area of approximately 39.92 hectares (98.6 acres). Also, **prior to the signing of the certificate**, an electronic version of the reference plan in AutoCAD.dwg in format shown below, indicating the consent file number and name of the applicant, must be emailed to dscott@haldimandcounty.on.ca and astewart@haldimandcounty.on.ca. The draft plan must be approved by the Secretary-Treasurer prior to depositing to the Land Registry Office.

The AutoCad drawings need to be georeferenced for the following Coordinate System:

Projected Coordinate System: NAD_1983_UTM_Zone_17N

Projection: Transverse_Mercator False_Easting: 500000.00000000

 False_Northing:
 0.00000000

 Central_Meridian:
 -81.00000000

 Scale_Factor:
 0.99960000

 Latitude_Of_Origin:
 0.00000000

Linear Unit: Meter

Geographic Coordinate System: GCS North American 1983

Datum: D_North_American_1983

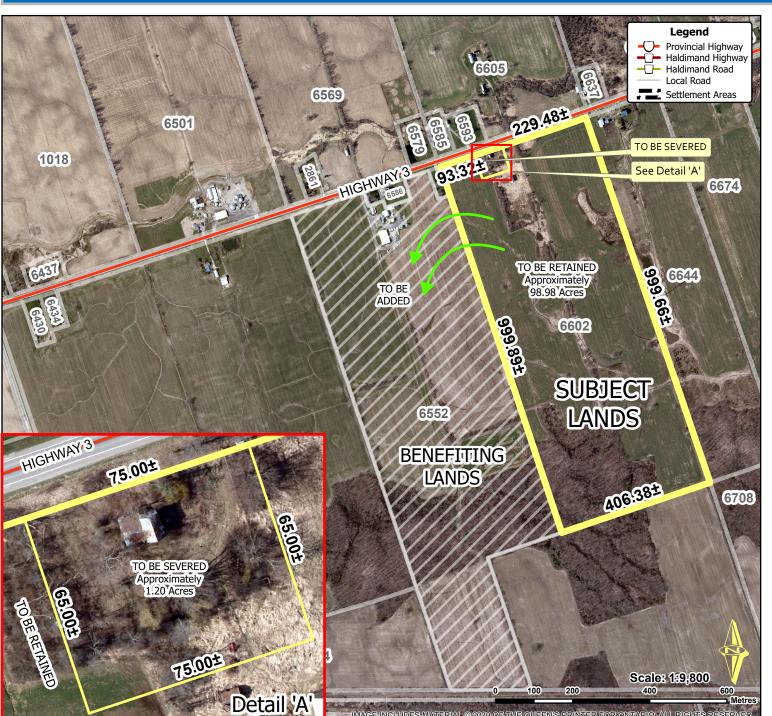
Prime Meridian: Greenwich Angular Unit: Degree

11. That the above conditions must be fulfilled and the Document for conveyance be presented for stamping/issuance of the certificate on or before August 15, 2025, after which time this consent will lapse.

File No. PLB-2023-032 HEDLEY SEEDS LTD.

Assessment Roll No. 2810.155.005.04400

Location Map FILE #PLB-2023-032 APPLICANT: Hedley Seeds Ltd/Hedley Farms Inc





Location:

6602 HIGHWAY 3 GEOGRAPHIC TOWNSHIP OF NORTH CAYUGA WARD 4

Legal Description:

NCAY CON 1 STR PT LOT 3

Property Assessment Number:

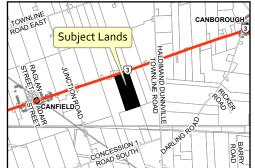
2810 155 005 04400 0000

Size:

100 Acres Zoning:

A (Agriculture), W (NPCA Wetland), NPCA Regulated Lands and HCOP Natural Environment Wetland Area

HALDIMAND COUNTY, IT'S EMPLOYEES, OFFICERS AND AGENTS ARE NOT RESPONSIBLE FOR ANY ERRORS, OMISSIONS OR INACCURACIES WHETHER DUE TO THEIR OWN NEGLIGENCE OR OTHERWISE. DO NOT USE FOR OPERATING MAP OR DESIGN PURPOSES. ALL IN





Owner's Sketch 1 of 2 FILE #PLB-2023-032 APPLICANT: Hedley Seeds Ltd/Hedley Farms Inc







Owner's Sketch 2 of 2 FILE #PLB-2023-032 APPLICANT: Hedley Seeds Ltd/Hedley Farms Inc









Haldimand County Committee of Adjustment Consent

Meeting Date: August 15, 2023

File Number: PLB-2023-082

Property Roll Number: 2810-023-005-12300

Applicant: DeVries Family Farms

Agent: Kim Hessels

Property Location: Concession 4 from Canborough, Part Lot 6, Geographic

Township of Moulton, known municipally as 1644

Hutchinson Road

Recommendation

That application PLB-2023-082 be approved, subject to the attached conditions. The application is consistent with the Provincial Policy Statement, 2020 and A Place to Grow, 2020, and conforms to the intent of the Haldimand County Official Plan and Haldimand County Zoning By-law HC 1-2020.

Details of the Submission

Proposal: The applicant proposes to sever a lot containing an existing surplus farm dwelling and accessory structure. The severed lands will have a frontage of approximately 71 metres (233 feet) and will contain an area of 0.57 hectares (1.4 acres). The retained parcel will contain an area of approximately 19.6 hectares (48.4 acres).

Site Features and Land Use: The subject lands are located in the geographic township of Moulton, and front onto the north side of Hutchison Road. This lot contains a residential dwelling and accessory structures.

The subject property is serviced with private water (cistern) and a private septic system.

The surrounding land uses are agricultural in nature.

Existing Intensive Livestock Operations: Not applicable.

Agency & Public Comments

Haldimand County Building & Municipal Enforcement: No concerns. Septic evaluation shows that the system will be entirely on the severed parcel.

Haldimand County Planning & Development – Development Technologist: Municipal drainage re-apportionment agreement required. Entrance permit required for the retained parcel.

Haldimand County Emergency Services: No comments received.

Haldimand County Water and Wastewater Engineering & Compliance: No comments received.

Niagara Peninsula Conservation Authority: No comments received.

Hydro One: No comments received.

Municipal Property Assessment Corporation: No comments received.

Mississaugas of the Credit: No comments received.

Six Nations: No comments received.

Public: No comments received.

Planning Analysis

Provincial Policy Statement, 2020 (PPS)

The subject lands are designated 'Agricultural' and are located in the prime agricultural area of the County. The PPS discourages lot creation in the prime agricultural area. The PPS, however, permits lot creation for a residence surplus to a farming operation as a result of farm consolidation, if the new lot will meet the minimum size requirement to accommodate the use and appropriate sewage and water service. The planning authority is required to ensure that new residential dwellings are prohibited on any remnant parcel of farmland created by severance. The proposed lot is able to accommodate the existing dwelling and appropriate servicing. The application limits the area of land removed from agricultural production, and the retained lands will be rezoned such that no new residential dwellings will be permitted. It is the opinion of Planning staff that the subject application is consistent with the PPS.

A Place to Grow, 2020

A Place to Grow does not provide surplus farm dwelling criteria. As such, the proposal is consistent with A Place to Grow

Haldimand County Official Plan (OP)

The OP builds onto the PPS surplus farm dwelling severance policies, providing further details. The OP states that a severance may be granted for a habitable dwelling of a minimum age of 10 years, calculated from the date of occupancy of the dwelling made surplus through farm consolidation where it is part of a farm holding container two or more habitable dwellings and where each farm is located within the county. No new residential development shall be permitted on the retained lands.

The applicants have demonstrated conformity with the above policies. In addition, the OP directs that the creation of the of a surplus dwelling lot be based on the following:

- a) The severance shall generally be 0.4 hectares (1 acre) to 0.6 hectares (1.5 acres) in size and shall minimize the amount of agricultural land or productive forest taken out of production. Consideration of varying the size of the parcel includes ensuring farm fields are not fragmented, environmental and topographical features are recognized and the location of the surplus farm dwelling in relation to the existing farm building and structures;
 - **Planning Comment:** The subject application is seeking to create a lot with an area of 0.57 hectares. The proposed lot is sufficient size for the proposed use and will not remove any land from active production.
- b) No severance shall be granted unless the proposed lot can be serviced by an onsite sanitary sewage system designed and installed per the *Ontario Building Code*:
 - **Planning Comment:** The existing dwelling on the lot is serviced by an on-site sanitary sewage system. A septic evaluation has been completed and shows that the septic system is working properly and is located in an appropriate location. The lands are also serviced by a cistern.
- c) No severance shall be granted unless it is shown that it will not adversely affect the operation or viability of the farm operation on the remaining lands;
 - **Planning Comment:** The subject application will not adversely affect the operation or viability of the farm.
- d) Severances that do not meet the Minimum Distance Separation (MDS) formulae, as amended shall not be permitted;
 - **Planning Comment:** The proposed lot creation will comply with the MDS formulae.

- e) Severances shall not be permitted within 300 metres from licensed pits and 500 metres from licensed quarries and must be well removed from waste disposal sites and other potential land use conflicts;
 - **Planning Comment:** The subject lands are not located within 300 metres of a licensed pit or 500 metres from a licensed quarry, and are well removed from waste disposal sites and other potential land use conflicts.
- f) The lot created by severance shall be located with safe and direct access to a permanently maintained public road; and
 - **Planning Comment:** The subject lands front onto Hutchinson Road and have an existing safe and appropriate access.
- g) Potential impacts on natural environment areas and/ or cultural resources shall be assessed and addresses, where necessary.
 - **Planning Comment:** The application, as proposed, is not anticipated to have a negative impact on natural or cultural resources.

It is the opinion of Planning staff that the subject application conforms to the policies of the Official Plan.

Haldimand County Zoning By-law HC 1-2020

The subject lands are zoned 'Agricultural (A)' in the Zoning By-law. The proposal complies with the minimum lot area and frontage provisions of the Zoning By-law. The Zoning By-law requires a minimum lot area of 1,855 square metres (0.45 acres) and a frontage of 30 metres.

It is the opinion of Planning staff that the subject application complies with the Zoning By-law.

Notice Sign, Public Consultation, and Applicant Discussion

A public notice sign was posted in accordance with the *Planning Act, R.S.O. 1990, c. P.13* on July 28, 2023.

The applicant has satisfied the public consultation requirements as per the Provincial legislation.

Staff have contacted the applicant and discussed the recommendations as set out in this report. Staff have confirmed with the applicant that he/she understands the nature of and content contained within the recommendations as well as any

requirements/conditions relating to such. A copy of the staff report has been provided to the applicant.

Prepared by:

Ryan Michtics Student Assistant, Planning & Development 905-318-5932 ext. 6201

Reviewed by:

Alisha Cull, BES, MCIP, RPP

Supervisor, Planning & Development

905-318-5932 ext. 6208

IF APPROVED, THIS APPLICATION WILL BE SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. That the Haldimand County requirements, financial or otherwise, be satisfied. This will include taxes paid up to date, a parkland dedication fee in accordance with By-law 2349/22 and a fee for deed stamping in accordance with the Haldimand County User Fees By-law.
- 2. Receipt of a letter from the Planning and Development Division indicating that their requirements, regarding a drainage re-apportionment agreement between both severed and retained parcels, have been satisfied. The county is responsible for maintaining municipal drains on behalf of the community of landowners involved in the drain. The cost of the drain maintenance is assessed to the landowners. The division of land requires that the assessment be re-calculated for the retained and severed parcels. A written request to initiate re-apportionment is necessary. A fee is administered with each agreement. Please allow six (6) weeks for completion of this process. Contact Project Manager, Municipal Drains at 905-318-5932, ext. 6424, for further clarification.
- 3. Receipt of a letter from the Roads Operations Division indicating that they will issue an entrance permit for the subject property. In lieu of a letter, a copy of permit(s) may be provided to the Secretary-Treasurer. Entrance permits may be required for existing, severed, and / or retained parcels. Permits may be obtained from the County's Roads Operations Division Support staff at 905-318-5932, Ext. 8601 for details.
- 4. That the owner's solicitor provide an undertaking to Haldimand County agreeing that if there are any changes proposed to the wording on the certificate after stamping of the certificate by the County, prior to the registration of the certificate; that the Secretary-Treasurer or designate must approve the change prior to registration of the certificate.
- 5. Receipt of a copy of the registered reference plan of the severed parcel, with a frontage of approximately 71 metres (233 feet) and will contain an area of 0.57 hectares (1.4 acres). Also, prior to the signing of the certificate, an electronic version of the reference plan in AutoCAD.dwg in format shown below, indicating the consent file number and name of the applicant, must be emailed to dscott@haldimandcounty.on.ca and astewart@haldimandcounty.on.ca. The draft plan must be approved by the Secretary-Treasurer prior to depositing to the Land Registry Office.

The AutoCad drawings need to be georeferenced for the following Coordinate System:

Projected Coordinate System: NAD_1983_UTM_Zone_17N

Projection: Transverse_Mercator False_Easting: 500000.00000000

 False_Northing:
 0.00000000

 Central_Meridian:
 -81.00000000

 Scale_Factor:
 0.99960000

 Latitude_Of_Origin:
 0.00000000

 Linear Unit:
 Meter

Geographic Coordinate System: GCS_North_American_1983

Datum: D_North_American_1983

Prime Meridian: Greenwich Angular Unit: Degree

6. That the above conditions must be fulfilled and the Document for conveyance be presented for stamping/issuance of the certificate on or before August 15, 2025, after which time this consent will lapse.

File No. PLB-2023-082
DEVRIES FAMILY FARMS
Assessment Roll No. 2810.023.005.12300

Location Map FILE #PLB-2023-082 APPLICANT: DeVries Family Farms Inc.





Location:

1644 HUTCHINSON ROAD GEOGRAPHIC TOWNSHIP OF MOULTON WARD 5

Legal Description:

MLT CON 4 C PT LOT 6

Property Assessment Number:

2810 023 005 12300 0000

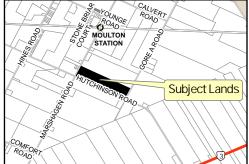
Size:

50.00 Acres

Zoning:

A (Agriculture) & NPCA Regulated Lands

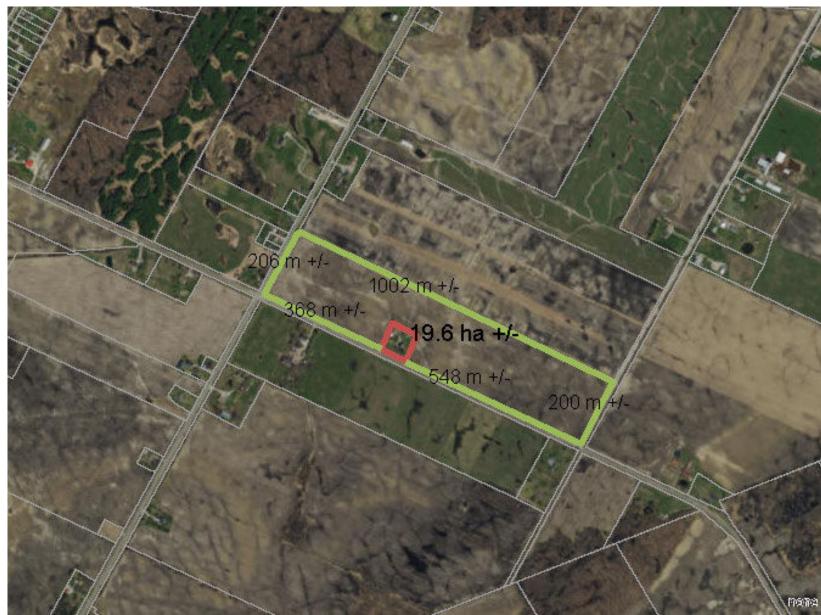
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Owner's Sketch 1of2 FILE #PLB-2023-082 APPLICANT: DeVries Family Farms Inc.





Owner's Sketch 2of2 FILE #PLB-2023-082 APPLICANT: DeVries Family Farms Inc.



County



Haldimand County Committee of Adjustment Consent

Meeting Date: August 15, 2023

File Number: PLB-2023-105

Property Roll Number: 2810-024-002-04500

Applicant: Gibkoz Inc.

Agent: Barich Grenkie Surveying Ltd.

Property Location: Plan 69, Part Lots 10 to 12 North of Broad Street, Registered

Plan 18R1687 Parts 2,3,4 and 6, Urban Area of Dunnville,

known municipally as 111 Broad Street East

Recommendation

That application PLB-2023-105 be approved, subject to the attached conditions. The application is consistent with the Provincial Policy Statement, 2020 and A Place to Grow, 2020, and conforms to the intent of the Haldimand County Official Plan and Haldimand County Zoning By-law HC 1-2020.

Details of the Submission

Proposal: The applicant proposes to sever a lot for future commercial development. The retained parcel, shown as Part 1 on the applicant's sketch, will contain an area of approximately 881.5 square metres (9488.39 square feet) and have 33.6 m (110.24 feet) of frontage on Broad St. E.

The severed lands are shown a Part 2 and Part 3 on the applicants sketch. Part 3, which will be required through condition to be dedicated to the County as a daylight triangle, will have 4.5 m (14.76 feet) of frontage on both Broad Street E. and Cedar St. with an area of 10.12 square metres (108.93 square metres). Part 2 of the severed lands will have an area of approximately 636.2 square metres (6956.93 square feet). Following the dedication of the daylight triangle, and per the definitions in Zoning By-Law HC 1-2020, Part 2 will have 18.66 m (61.22 feet) frontage on Cedar Street and a 22.91 metre (75.16 feet) side yard along Broad Street E.

Site Features and Land Use: The subject lands are the former site of a municipal office for Dunnville located at the north east corner of the intersection of Broad St. E. and Cedar St. The property has been improved by an existing 2 storey brick building located to the east side of the subject property. Much of the remaining area of the subject land is paved and used for parking, with the exception of the portion of the property identified as Part 3 on the sketch (daylight triangle) which is grassed.

The subject site is serviced by municipal water and sanitary sewers.

Surrounding land uses include: residential uses to the north; residential uses to the west and a municipal park located at the south west corner of the intersection of Broad St. E. and Cedar St.; a mix of residential, community institutional (a church) and some commercial uses to the south; and residential uses immediately to the east with commercial uses just beyond.

Existing Intensive Livestock Operations: Not applicable

Agency & Public Comments

Haldimand County Building & Municipal Enforcement: No comments or concerns.

Haldimand County Planning & Development – Development Technologist: A Daylight Triangle (Part 3) shall be dedicated to the County.

Applying Table 4.56 of the Zoning By-law it should measure:

- Cedar St. (Collector Road) = min. 5.0m
- Broad St. E. (Arterial Road / Link of HWY 3) = min. 8.0m

Haldimand County Emergency Services: No comments received.

Haldimand County Water and Wastewater Engineering & Compliance: No comments received.

Grand River Conservation Authority: No comments received.

Ministry of Transportation: No comments received.

Hydro One: No comments received.

Municipal Property Assessment Corporation: No comments received.

Mississaugas of the Credit: No comments received.

Six Nations: No comments received.

Public: No comments received.

Planning Analysis

Provincial Policy Statement, 2020 (PPS)

The Provincial Policy Statement, 2020 (PPS) generally directs growth to existing urban areas and encourages intensification in built up areas were possible. Staff are of the opinion that the proposal is consistent with the PPS.

A Place to Grow, 2020

Similar to the PPS, A Place to Grow, 2020, directs growth to existing urban areas and encourages intensification in built up areas were possible. Staff are of the opinion that the proposal is consistent with A Place to Grow, 2020.

Haldimand County Official Plan (OP)

Schedule B of the Haldimand County Official Plan (OP) designates the subject lands Community Commercial with a Riverine Hazard Lands Overlay. Additionally, the subject lands are located within an area identified as Special Flood Plain Policy Area 3, and is in the Dunnville Intensification Area.

Although this application is for the creation of only one lot in Dunnville's core intensification area, it is intensification. The Haldimand OP is generally supportive of intensification particularly in core urban areas.

The proposed severed lot is currently paved and for all intents and purposes is vacant. It is assumed that the proposed severed lot will be used for commercial uses which are permitted in the Community Commercial designation.

For Riverine Hazard lands, the County generally applies a one-zone concept. Where a one-zone concept is applied, the entire flood plain defines the floodway.

However, where strict adherence to the one-zone or two-zone concept would affect the economic and social viability for areas of existing development within a community, a special policy area may be considered and implemented. Special Policy Areas (SPA) are in place for Town of Dunnville and consist of Areas 1, 2 and 3. The subject lands are located in SPA 3. Any development or redevelopment in these areas shall be in accordance with policies set out in section 2.C.11. The relevant section to this application is included below:

- f) The County shall review development proposals in consultation with the Grand River Conservation Authority and, where appropriate, require floodproofing techniques which reduce the risk of flooding. The following matters will be taken into consideration in the review of such proposals:
 - Flood depths and velocities;
 - Adverse hydraulic effects;
 - Adjacent land uses and properties; and
 - The economic, social and environmental costs required to overcome the flood hazard.

This application proposes the creation of a new lot. The GRCA was circulated and no comments on this proposal were received.

Planning staff support this proposed creation of a new lot within the Dunnville intensification area. This application conforms with the policies of the Haldimand County Official Plan and no impacts on the surrounding community have been identified.

Haldimand County Zoning By-law HC 1-2020

The proposed retained and severed lots are modest in size, but not inconsistent with the size of other commercial lots located within the three blocks east of the subject lands. For comparison to the proposed severed corner lot (636.2 square metres or 6956.93 square feet) the following table lists a number of corner lots located within approximately 3 blocks of the subject lands:

Property	Approximate Area in square metres	Approximate Area in square feet
111 Broad St. E - Proposed severed Lot (Part 2)	636.2	6956.93
137 Broad St. E	1,249	13,447
140 Broad St. E	663	7,143
201 Broad St. E	1357	14,609
225 Broad St. E	607	6,534
302 Broad St. E	409	4,409
322 Broad St. E	1138	12,252
239 Chestnut St.	203	2,187

The subject lands are zoned Downtown Commercial (CD). A wide range of uses are permitted in the CD zone. There is no minimum Lot Area or Lot Frontage requirements in the CD zone.

Based on information provided by the applicant, the current use of the existing building fits best under the definition of a "Business Office". Based on the requirements of the Zoning By-law, Planning staff calculate the number of required parking spaces to be 8. According to the applicants application and sketch, they will provide a total of 8 parking spaces on the retained lot for existing building, in which case a minor variance would not be required. However, a condition is being required for the applicant to apply for a minor variance for parking (and any other variances as determined by the Building Department) unless the Building Department can be satisfied that both the severed and retained lots meet all standards set out in the Zoning By-law. Planning staff are satisfied that parking to be provided by the applicant on the retained lot meets the requirements set out in the Zoning By-law HC 1-2020.

Section 4.56 of the Zoning By-law sets out requirements for Sight (or Daylight) Triangles). The applicant shows a daylight triangle on the site plan which measures 4.5 m (14.76 ft.) along Cedar Street and 4.5 m (14.76 ft.) along Broad St. E.

According to comments received from a County Development Technologist, the Daylight Triangle proposed by the applicant is undersized. Broad St. E. is an Arterial Road and Cedar St. is a Collector Road. With respect to 111 Broad St. E. the dedication of a daylight triangle is required, and according to Table 4.56 should measure:

- a minimum of 5.0 metres along Cedar St. (Collector Road)
- a minimum of 8.0 metres along Broad St. E. (Arterial Road / Link of HWY 3)

The applicant is required, as a condition of approval, to revise the site plan to show Part 3 of the site plan with the appropriate measurements required under Table 4.56. The appropriately resized Part 3 will be dedicated to the County.

Notice Sign, Public Consultation, and Applicant Discussion

A public notice sign was posted in accordance with the *Planning Act, R.S.O. 1990, c. P.13* on July 29, 2023.

The applicant has satisfied the public consultation requirements as per the Provincial legislation.

Staff have contacted the applicant and discussed the recommendations as set out in this report. Staff have confirmed with the applicant that he/she understands the nature of and content contained within the recommendations as well as any requirements/conditions relating to such. A copy of the staff report has been provided to the applicant.

Prepared by:



John Douglas, MCIP, RPP Senior Planner 905-318-5932 ext. 6252

Reviewed by:

Alisha Cull, BES, MCIP, RPP

Supervisor, Planning & Development

905-318-5932 ext. 6208

IF APPROVED, THIS APPLICATION WILL BE SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. That the Haldimand County requirements, financial or otherwise, be satisfied. This will include taxes paid up to date, a parkland dedication fee in accordance with By-law 2349/22 and a fee for deed stamping in accordance with the Haldimand County User Fees By-law.
- 2. The applicant will provide the Planning & Development Department with a revised site plan showing the required Daylight Triangle (Part 3), with measurements conforming to the requirements set out in Table 4.56 of Zoning By-law HC 1-2020. Receipt of a letter from the Planning & Development Division indicating that their requirements, regarding a property dedication, have been satisfied. A dedication to the County of Part 3 of the revised Site Plan, the daylight triangle, is required to bring the road allowance width up to current standards. Contact the Planning & Development Division at 905-318-5932 for more information.
- 3. Receipt of a letter from the Building Department indicating whether, after a review of the revised site plan, whether a minor variance(s) are required prior to final approval of the consent.
- 4. If required, receipt of final approval of the minor variance (Minor Variances can take three months, therefore, your application must be submitted as soon as possible). For further information, please contact Planning Staff at 905-318-5932.
- 5. That the owner's solicitor provide an undertaking to Haldimand County agreeing that if there are any changes proposed to the wording on the certificate after stamping of the certificate by the County, prior to the registration of the certificate; that the Secretary-Treasurer or designate must approve the change prior to registration of the certificate.
- 6. Receipt of a copy of the registered reference plan of the severed parcel, with a frontage of approximately 23.16 metres (76 feet) and contain an area of approximately 636.2 square metres (0.16 acres). Also, prior to the signing of the certificate, an electronic version of the reference plan in AutoCAD.dwg in format shown below, indicating the consent file number and name of the applicant, must be emailed to dscott@haldimandcounty.on.ca and astewart@haldimandcounty.on.ca. The draft plan must be approved by the Secretary-Treasurer prior to depositing to the Land Registry Office.

The AutoCad drawings need to be georeferenced for the following Coordinate System:

Projected Coordinate System: NAD_1983_UTM_Zone_17N

Projection: Transverse_Mercator False_Easting: 500000.00000000

 False_Northing:
 0.00000000

 Central_Meridian:
 -81.00000000

 Scale_Factor:
 0.99960000

 Latitude_Of_Origin:
 0.00000000

Linear Unit: Meter

Geographic Coordinate System: GCS_North_American_1983

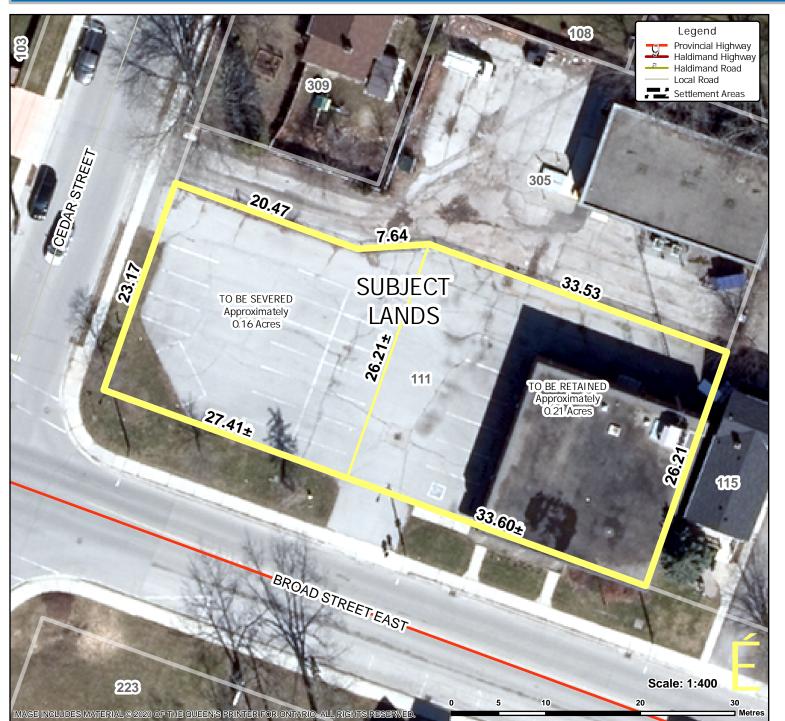
Datum: D_North_American_1983

Prime Meridian: Greenwich Angular Unit: Degree

7. That the above conditions must be fulfilled and the Document for conveyance be presented for stamping/issuance of the certificate on or before August 15, 2025, after which time this consent will lapse.

File No. PLB-2023-105 GIBKOZ INC. Assessment Roll No. 2810.024.002.04500

Location Map FILE #PLB-2023-105 APPLICANT: Gibkoz Inc.





Location:

111 BROAD STREET EAST URBAN AREA OF DUNNVILLE WARD 6

Legal Description:

PLAN 69 PT LOTS 10 TO 12 N BROAD RP 18R1687 PARTS 2,3,4,6

<u>Property Assessment Number:</u> **2810 024 002 0450 00000**

Size:

0.37 Acres

Zoning:

CD (Downtown Commercial), GRCA Regulated Lands, HCOP Riverine Hazard Lands & Special Flood Plain Policy Area 3

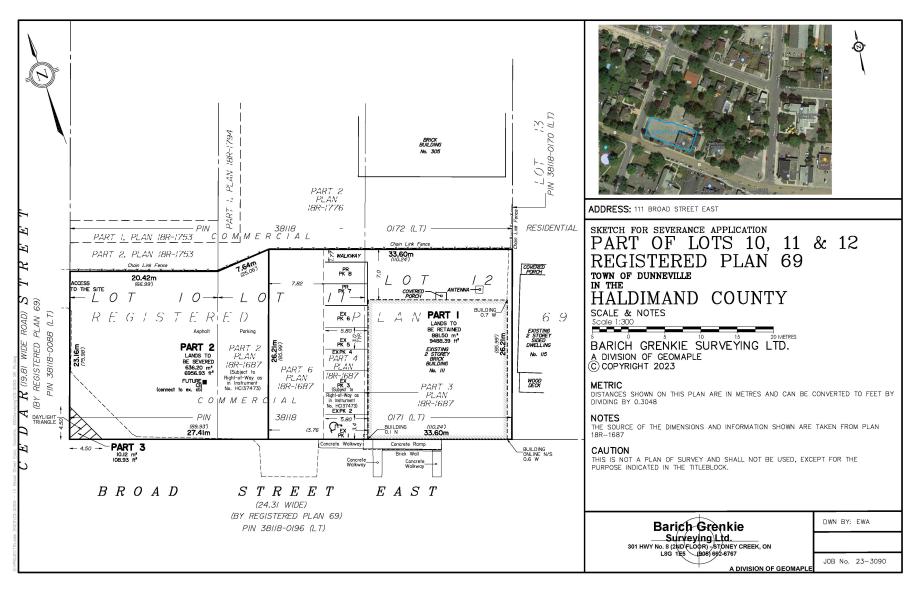
HALDIMAND COUNTY, IT'S EMPLOYEES, OFFICERS AND AGENTS ARE NOT RESPONSIBLE FOR ANY ERRORS, OMISSIONS OR INACCURACIES WHETHER DUE TO THEIR OWN NEGLIGENCE OR OTHERWISE. DO NOT USE FOR OPERATING MAP OR DESIGN PURPOSES. ALL INFORMATION TO BE VERIFIED.





Owner's Sketch FILE #PLB-2023-105 APPLICANT: Gibkoz Inc.







Haldimand County Committee of Adjustment Minor Variance

Meeting Date: August 15, 2023

File Number: PLA-2023-097

Property Roll Number: 2810-152-005-23080

Applicant: Lucas Baldwin

Property Location: Plan 63 RCP, Part Lot 1, Hamlet of Unity Side Road,

Geographic Township of Seneca, known municipally as 53

Unity Side Road

Recommendation

That application PLA-2023-097 be approved. The application meets the four tests of a minor variance.

Details of the Submission

Proposal: Relief is requested from the lot frontage provisions of the Hamlet Residential (RH) Zone of Zoning By-law HC 1-2020 as follows:

Development Standard(s)	Required	Proposed	Deficiency
Accessory Building Area	100 square metres (1076 square feet)	203.25 square metres (2187.7 square feet)	103.25 square metres (1111.7 square feet)
Accessory Building Height	6.5 metres (21.3 feet)	6.7 metres (22.0 feet)	0.2 metres (0.7 feet)

The relief is requested to permit the construction of a garage on the subject property.

Site Features and Land Use: The subject lands are located in the hamlet residential zone in the geographic township of Seneca and front onto the south side of Unity Side Road. The lands currently contain a single detached dwelling and a pool. The surrounding land uses are generally hamlet residential and agricultural in nature.

Existing Intensive Livestock Operations: Not Applicable

Agency & Public Comments

Haldimand County Building & Municipal Enforcement Services: Swimming Pool Permit required and Septic Evaluation required.

Haldimand County Planning & Development Services – Development Technologist: No comments or concerns.

Haldimand County Emergency Services: No comments received.

Haldimand County Water and Wastewater Engineering & Compliance: No comments received.

Grand River Conservation Authority: No comments.

Hydro One: No comments received.

Municipal Property Assessment Corporation: No comments received.

Mississaugas of the Credit: No comments received.

Six Nations: No comments received.

Public: No comments received.

Planning Analysis

A minor variance is required to meet four tests under Section 45(1) of the *Planning Act*.

1. Does the application conform to the general intent of the Official Plan?

Planning staff comment: The subject lands are designated "Hamlet" in the Haldimand County Official Plan. Single and semi-detached dwellings and accessory buildings are permitted uses within the Hamlet designation.

It is the opinion of Planning staff that the subject application conforms to the Official Plan.

2. Does the application conform to the general intent of the Zoning By-law?

Planning staff comment: The subject lands are zoned "Hamlet Residential (RH)" in the Haldimand County Zoning By-law HC 1-2020. The subject application is seeking relief to permit an accessory building with a height of 6.7 metres (22.0 feet) where 6.5 metres (21.3 feet) is permitted, and a total accessory building area of 203.25 square metres (2187.7 square feet) where 100

square metres (1076.9 square feet) is permitted. The intent of the accessory building is to be used as a garage.

The intent for limiting the height and area of accessory buildings is to ensure they remain accessory to the primary use on the property and to ensure they do not negatively impact the character of the area. The subject lands are located in the Hamlet of Unity Side Road, bordered by an agricultural operation to the south and hamlet residential lots to the east, west, and north. The proposed garage will be used for personal storage, accessory to the dwelling on the property. Further, the structure will not impact the character of the area and is not anticipated to negatively impact neighbouring properties.

It is the opinion of Planning staff that the subject application maintains the intent of the Zoning By-law.

3. Is the application desirable for the appropriate development of the lands in question?

Planning staff comment: The subject lands are designated as "Hamlet Residential (RH)", where accessory structures are permitted. The proposed accessory structure is not anticipated to negatively impact surrounding property and does not require the removal of trees.

It is the opinion of Planning staff that the subject application is appropriate and desirable development.

4. Is the application minor?

Planning staff comment: For the reasons listed above, it is the opinion of Planning staff that the subject application is minor.

The subject application meets the four tests of a minor variance.

Notice Sign and Applicant Discussion

A public notice sign was posted in accordance with the *Planning Act, R.S.O. 1990, c. P.13* on August 1, 2023.

Staff have contacted the applicant and discussed the recommendations as set out in this report. Staff have confirmed with the applicant that he/she understands the nature

of and content contained within the recommendations as well as any requirements/conditions relating to such. A copy of the staff report has been provided to the applicant.

Prepared by:

Chris Tang, B. Plan.
Planning Technician, Planning & Development
905-318-5932 ext. 6210

Reviewed by:

Alisha Cull, BES, MCIP, RPP

Supervisor, Planning & Development

905-318-5932 ext. 6208

Location Map FILE #PLA-2023-097 APPLICANT: Baldwin





Location:

53 UNITY SIDE ROAD GEOGRAPHIC TOWNSHIP OF SENECA WARD 3

Legal Description:

SEN PLAN 63 RCP PT LOT 1

Property Assessment Number:

2810 152 005 23080 0000

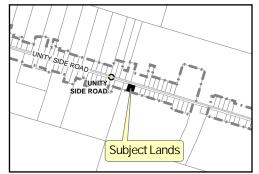
Size:

0.49 Acres

Zoning:

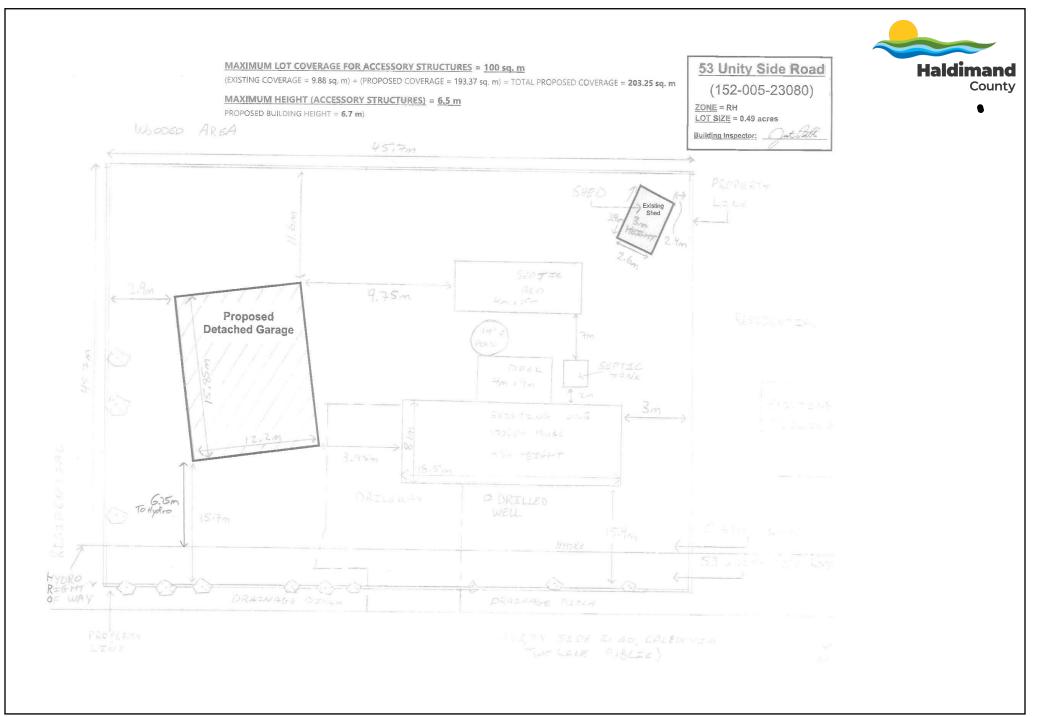
RH (Hamlet Residential)

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Owner's Sketch 1 of 2 FILE #PLA-2023-097 APPLICANT: Baldwin



Owner's Sketch 2 of 2 FILE #PLA-2023-097 APPLICANT: Baldwin







Haldimand County Committee of Adjustment Minor Variance

Meeting Date: August 15, 2023

File Number: PLA-2023-103

Property Roll Number: 2810-024-001-01600

Applicant: Vince Casali

Property Location: Plan 69, Part Lot 24 South of Main Street, Registered

Plan18R1308 Part of Part 1, Urban Area of Dunnville, known

municipally as 548 Main Street East

Recommendation

That application PLA-2023-103 be approved. The application meets the four tests of a minor variance. Approval is conditional on the following:

1. Receipt of a letter from the Planning & Development Division indicating that their requirements, regarding a lot grading plan to address surface drainage of the property, have been satisfied. Please note that the owner/developer is responsible to have the grading plans prepared/stamped/signed by a qualified Professional Engineer as per Haldimand County Design Criteria. Contact the Development & Design Technologist at 905-318-5932, ext. 6253, if further clarification required. Please allow approximately six (6) to eight (8) weeks for completion of this process.

Details of the Submission

Proposal: Relief is requested from the provisions of the Marine Commercial (CM) Zone of Zoning By-law HC 1-2020 as follows:

Development Standard(s)	Required	Proposed	Deficiency
Exterior Side Yard Setback	6.0 metres (19.7 feet)	3.13 metres (10.3 feet)	2.87 metres (9.4 feet)
Tourist Cabin as an accessory use	Tourist Cabin as an accessory use	Tourist Cabin with no primary use established	Tourist Cabin with no primary use established

The relief is requested to permit the construction of a tourist cabin on the subject property.

Site Features and Land Use: The subject lands are located on the south side of Main Street East in the urban area of Dunnville and are currently vacant. Unopened road allowances run along the rear and east side of the property. The Grand River is located to the south of the property, with residential uses to the north and west. The Dunnville waste water treatment plant is located to the east of the property.

Existing Intensive Livestock Operations: Not applicable.

Agency & Public Comments

Haldimand County Building & Municipal Enforcement Services: Grading Plan and Building Permits required.

Haldimand County Planning & Development Services – Development Technologist: A full lot grading plan required prior to the issuance of permits.

Haldimand County Emergency Services: No comments received.

Haldimand County Water and Wastewater Engineering & Compliance: No comments received.

Grand River Conservation Authority: No comments received.

Hydro One: No comments received.

Municipal Property Assessment Corporation: No comments received.

Mississaugas of the Credit: No comments received.

Six Nations: No comments received.

Public: No comments received.

Planning Analysis

A minor variance is required to meet four tests under Section 45(1) of the *Planning Act*:

1. Does the application conform to the general intent of the Official Plan?

Planning staff comment: The subject lands are designated *Agriculture* in the Haldimand County Official Plan and subject to the *Riverine Hazard* overlay. The Official Plan permits "limited marine commercial and marine industrial uses, including buildings and structures normally associate therewith along river edges and shoreline", provided the requirements of the Conservation Authority are met.

Tourist cabins are listed as permitted accessory use in marine commercial areas under the zoning by-law and the Grand River Conservation Authority has issued a permit for the development as proposed.

Lands designated *Agriculture* yet located within the urban area result in a unique layering of policies. At its core a *Tourist Cabin* is a form of short term residential accommodation. Residential uses are permitted within the *Agriculture* designation. Typically alternative forms of accommodation are restricted on *Agriculture* designated lands within Haldimand County as they are also considered to be in a Prime Agricultural Area per provincial policy and could only be permitted in specific circumstances such as an on farm diversified use. These additional requirements do not apply to the subject lands as the Prime Agricultural Area policies do not apply within Urban Areas.

The subject application conforms to the general intent of the Haldimand County Official Plan.

2. Does the application conform to the general intent of the Zoning By-law?

Planning staff comment: The subject lands are zoned Marine Commercial (CM) in the Haldimand County Zoning By-law HC 1-2020. The CM zone permits a Tourist Cabin as an accessory use. In addition to relief from the exterior side yard the subject application is seeking to establish an accessory use (tourist cabin) prior to the establishment of a primary use. The application will not result in a new use being added to the property.

The subject application is seeking relief to permit an exterior side yard setback of 3.13 metres where 6 metres is required along the east property line. The east property line abuts an unopened road allowance. Unopened road allowances and opened-travelled roads are treated the same under the Haldimand County Zoning By-law. The intent of an exterior side yard setback is to ensure any structures located on a lot do not negatively impact road users by limiting sight lines along the road. The impacted road allowance is located within the flood plain of the Grand River and if opened would access other lots within the floodplain. It is unlikely that the subject road allowance will ever be opened for vehicular traffic. The proposed setback exceeds the required setback for an interior side yard, and the development is not anticipated to negatively impact the functionality of the road allowance.

It is the opinion of Planning staff that the proposed relief maintains the general intent of the Zoning By-law.

3. Is the application desirable for the appropriate development of the lands in question?

Planning staff comment: Primary uses permitted within the CM zone include an Office, Business, Parking lot, Restaurant, Retail Store, Marina or Cultural facility. Given the constraints posed by the proximity to the Grand River, the limited size of the property and no direct access to the river, establishing a permitted primary use on the property would face many challenges – with the exception of a parking lot. Should a parking lot be established, a tourist cabin could be established as an accessory use. The proposed development will provide the necessary parking area for the tourist cabin. Establishing a larger parking lot to facilitate the proposed development would lead to unnecessary paving of the site.

It is staff's opinion the development as proposed is appropriate and desirable.

4. Is the application minor?

Planning staff comment: For reasons listed above including, the nature of the road allowance and that a tourist cabin is permitted as an accessory use, it is staff's opinion that the application is minor.

The subject application meets the four tests of a minor variance.

Notice Sign and Applicant Discussion

A public notice sign was posted in accordance with the *Planning Act, R.S.O. 1990, c. P.13* on July 31, 2023.

Staff have contacted the applicant and discussed the recommendations as set out in this report. Staff have confirmed with the applicant that he/she understands the nature of and content contained within the recommendations as well as any requirements/conditions relating to such. A copy of the staff report has been provided to the applicant.

Prepared by:

Neil Staff

Neil Stoop, MSc., RPP Senior Planner 905-318-5932 extension 6202

Reviewed by:

Alisha Cull, BES, MCIP, RPP

Supervisor, Planning & Development

905-318-5932 ext. 6208

Location Map FILE #PLA-2023-103 APPLICANT: Casali





Location:

548 MAIN STREET EAST URBAN AREA OF DUNNVILLE WARD 6

Legal Description:

PLAN 69 PT LOT 24 S MAIN ST RP 18R1308 PT PART 1

Property Assessment Number:

2810 024 001 01600 0000

Size:

0.13 Acres

Zoning:

CM (Marine Commercial), GRCA Regulated Lands, HCOP Riverine Hazard Lands & Special Flood Plain Policy Area 2

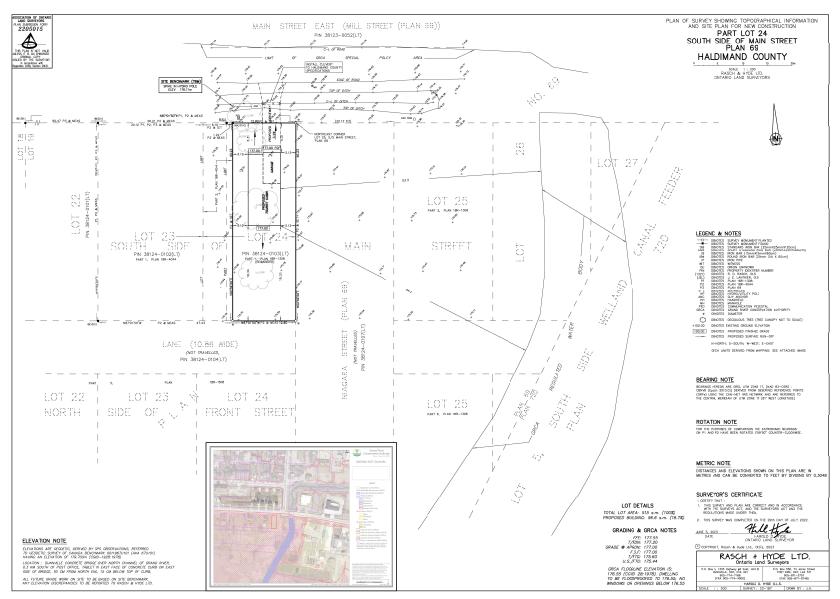
HALDIMAND COUNTY, IT'S EMPLOYEES, OFFICERS AND AGENTS ARE NOT RESPONSIBLE FOR ANY ERRORS, OMISSIONS OR INACCURACIES WHETHER DUE TO THEIR OWN NEGLIGENCE OR OTHERWISE. DO NOT USE FOR OPERATING MAP OR DESIGN PURPOSES. ALL INFORMATION TO BE VERIFIED.





Owner's Sketch FILE #PLA-2023-103 APPLICANT: Casali







Haldimand County Committee of Adjustment Minor Variance

Meeting Date: August 15, 2023

File Number: PLA-2023-106

Property Roll Number: 2810-021-002-43900

Applicant: Henri Bennemeer and Sheila Joris

Property Location: Concession 5 South of Dover Road, Part Lot 10, Registered

Plan 18R1498 Parts 6 and 9, Geographic Township of Dunn,

known municipally as 34 Paradise Line

Recommendation

That application PLA-2023-106 be approved. The application meets the four tests of a minor variance.

Details of the Submission

Proposal: Relief is requested from the provisions of the Lakeshore Residential (RL) Zone of Zoning By-law HC 1-2020 as follows:

Development Standard(s)	Required	Proposed	Deficiency
Front Yard	7.0 metres	1.5 metres	5.5 metres
Setback	(22.97 feet)	(4.9 feet)	(18.0 feet)

The applicant advised that during a storm in December 2022, with the wind, waves and spray blowing off Lake Erie, the front and roof of the dwelling was coated in 3 feet of ice. The dwelling is now located almost on the beach due to erosion of the Lake Erie shoreline. Out of fear that the dwelling will be destroyed by storms in the coming winter, the applicant is requesting relief from the Zoning standard for front yard set back to allow the dwelling to be relocated to within 1.5 m of the front property line.

Site Features and Land Use: The subject property is approximately 0.54 hectares (1.34 acres) in area, and has approximately 61 metres (200 feet) of frontage on the south side of Paradise Line. Paradise Line is a privately owned and maintained road.

The subject property backs onto an erosion area on the shoreline of Lake Erie. The rear lot line, which is approximately 61 m (200 feet), currently lies beyond the shoreline in Lake Erie. There is an approximately 2 m (6 or 7 ft) high break wall located approximately 7 m (23 feet) from the water's edge. An existing seasonal dwelling is located above and behind the break wall.

The subject property is serviced by private well and septic system.

Surrounding land uses include: a Provincially Significant Wetland to the north of Paradise Line; seasonal residential uses to the east; Lake Erie to the south;, and seasonal residential uses and the James N. Allan Provincial Park to the west.

Existing Intensive Livestock Operations: Not applicable.

Agency & Public Comments

Haldimand County Building & Municipal Enforcement Services: Building Permit required to move cottage and septic.

Haldimand County Planning & Development Services – Development Technologist: No comments.

Haldimand County Emergency Services: No comments received.

Haldimand County Water and Wastewater Engineering & Compliance: No comments received.

Grand River Conservation Authority: The Grand River Conservation Authority (GRCA) has no objection to the minor variance application.

Hydro One: No comments received.

Municipal Property Assessment Corporation: No comments received.

Mississaugas of the Credit: The Mississaugas of the Credit First Nation would like to notify you that we are the Treaty Holders of the land on which the relocation of the existing dwelling on the subject property will be taking place. This project is located on the Between the Lakes Treaty No. 3 of 1792.

If there is any ground disturbance MCFN Department of Consultation and Accommodation (DOCA) requires that a Stage 1 Archaeological Study be conducted on the site to determine its archaeological potential and that the Stage 1 report be submitted to MCFN DOCA for review. If it is determined that a Stage 2 is required, MCFN DOCA is expected to be involved in the field study with MCFN Field Liaison Representation (FLR) on-site participation. This study will be at the cost of the

proponent. Also, MCFN DOCA would like to see an EIS conducted for this site, due to the heavy woodlot features on the site area.

Six Nations: No comments received.

Public: No comments received.

Planning Analysis

A minor variance is required to meet four tests under Section 45(1) of the *Planning Act*.

1. Does the application conform to the general intent of the Official Plan?

Planning staff comment:

The subject property is designated Agricultural with a Lakeshore Hazard Overlay. The subject property is located entirely within lands adjacent to a Provincially Significant Wetland (lands located within 120 metres of the Provincial Significant Wetland).

Section 2.A.1) of the Official Plan sets out policies which are designed to protect wetlands from potential impacts from development in the wetland or on lands within 120 metres of a Provincially Significant Wetland or wetland complex. The intent is to ensure there is: no loss of wetland functions; no subsequent demand for future development which will adversely affect existing wetland functions; no conflict with existing site-specific wetland management practices; and no loss of contiguous wetland area.

Section 2.C.2) of the Official Plan set out policies for Lakeshore Hazard Lands. These policies recognize that the Lake Erie shore is subject to fluctuating water levels, seiche episodes, wave action and storms. Consequently, development along the shore is subject to significant damage potential. The policies in this section are intended to address potential conflicts regarding development in hazard prone areas.

The subject property is located in an erosion hazard area. The rear property line is currently located off shore in Lake Erie.

Some properties in the County, near wetlands or along the Lake Erie shoreline were developed long prior to the implementation of these Official Plan policies.

These situations are recognized and flexibility has been built into the Official Plan:

Official Plan policy 2.C.2) 6: Nothing in the above policies shall be interpreted to prohibit the relocation of an existing building or structure presently located within the Lakeshore Hazard Lands designation to a location farther away from the edge of the bluff on the same lot or to another lot farther away from the edge of the bluff, even if it is still within the Lakeshore Hazard Lands subject to meeting the provisions of the applicable Zoning By-law.

Planning Staff comments: The intent of these policies is to protect the integrity and function of sensitive environmental features (such as provincially significant wetlands and shoreline areas) from potential impacts of development.

With respect to this application for minor variance, this seasonal dwelling is one of 6 existing seasonal dwellings located on Paradise Line and situated between the Provincially Significant Wetland and Lake Erie. This dwelling existed prior to the current Official Plan and Zoning By-law. At the time of construction the dwelling was located some distance from the Lake Erie shoreline. Significant erosion along this stretch of shoreline has left the seasonal dwelling in a precarious situation at the top of the bluff above the beach. Despite a 2 metre high retaining wall, intended to protect the bluff from further erosion, the dwelling is increasingly impacted by seasonal storms.

The minor variance is proposed to allow the existing seasonal dwelling to be relocated from a precarious situation at the top of the bluff to a location within 1.5 metres of the front lot line (as far from the Lake Erie shoreline as possible on the lot). Given that the subject property has been developed and used for some time, the County in consultation with the Grand River Conservation Authority agree that there is a concern for the potential of greater harm to the environment should the seasonal dwelling on 34 Paradise Line not be moved.

Planning Staff are of the opinion that OP policy 2.C.2) 6 applies in this instance: "Nothing in the above policies shall be interpreted to prohibit the relocation of an existing building or structure presently located within the Lakeshore Hazard Lands designation to a location farther away from the edge of the bluff on the same lot or to another lot farther away from the edge of the bluff, even if it is still within the Lakeshore Hazard Lands subject to meeting the provisions of the applicable Zoning By-law."

Planning staff are of the opinion that the proposed variance maintains the general intent and purpose of the Official Plan.

2. Does the application conform to the general intent of the Zoning By-law?

Planning staff comment: The subject property is zoned Lakeshore Residential (RL) with a Natural Hazard Overlay. The existing seasonal residential dwelling is a permitted use in the RL zone.

In order to relocate the seasonal residential dwelling from the edge of the bluff to the front of the property, the applicant is seeking relief from the front yard setback of 7.0 metres. The applicant is proposing a front yard setback of 1.5 m resulting in a deficiency of 5.5 metres. Front yard setbacks are intended to reduce the potential for impacts on surrounding properties through consistent distance of buildings from front lot lines, ensuring sufficient space for vehicular access, and providing opportunities for landscaping. This would be the smallest front yard setback along Paradise Line, however the existing setbacks are not consist across all properties. Existing setbacks range from as much as approximately 16 m to as little as approximately 2.5 m. If the erosion of the Lake Erie Shoreline continues at it's current rate, it is conceivable that this may be the first of several requests to move seasonal dwellings closer to the front lot line. If the house on 34 Paradise is moved to the proposed new location, it will not take up the entire frontage and there will still be room for vehicular access and opportunities for some landscaping. Staff are satisfied that the impacts of leaving the house in its current location will be greater than the mitigatable impacts of the new location.

Planning staff also note there is an existing hydro line located on the north side of Paradise Line. At the time of writing this report, comments from Hydro One had not yet been received; however, it is Planning staff's understanding that Hydro One generally requires a 4.8 m setback from hydro lines. Based on the information available to staff, Paradise Line is approximately 9 m wide. As a result, it would appear that the proposed new location of the seasonal dwelling is at least 9 metres from the hydro one transmission line.

With approval of the proposed variance and assuming positive comments from Hydro One, Planning Staff are of the opinion that the proposed variance maintains the general intent and purpose of the Zoning By-law.

3. Is the application desirable for the appropriate development of the lands in question?

Planning staff comment: There is a far greater concern for potential environmental impacts if the dwelling were to remain where it is in close proximity to the top of the bluff at the shore of Lake Erie. Planning staff are of the opinion

that the proposed relocation of the existing seasonal dwelling is desirable for the appropriate development of the subjects lands.

4. Is the application minor?

Planning staff comment: The proposed relocation is not anticipated to result in negative impacts to the environment or neighbouring properties, and is preferable to the existing situation. Staff are satisfied that the proposed variance is minor.

The subject application meets the four tests of a minor variance.

Notice Sign and Applicant Discussion

A public notice sign was posted in accordance with the *Planning Act, R.S.O. 1990, c. P.13* on August 1, 2023.

Staff have contacted the applicant and discussed the recommendations as set out in this report. Staff have confirmed with the applicant that he/she understands the nature of and content contained within the recommendations as well as any requirements/conditions relating to such. A copy of the staff report has been provided to the applicant.

Prepared by:

John Douglas, MCIP, RPP

Senior Planner

905-318-5932 ext. 6252

Reviewed by:

Alisha Cull, BES, MCIP, RPP Supervisor, Planning & Development 905-318-5932 ext. 6208

Location Map FILE #PLA-2023-106 APPLICANT: Bennemeer & Joris





Location:

34 PARADISE LINE GEOGRAPHIC TOWNSHIP OF DUNN WARD 5

Legal Description:

DUN CON 5 SDR PT LOT 10 RP 18R1498 PARTS 6 AND 9

Property Assessment Number:

2810 021 002 43900 0000

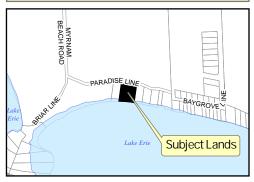
Size:

1.34 Acres

Zoning:

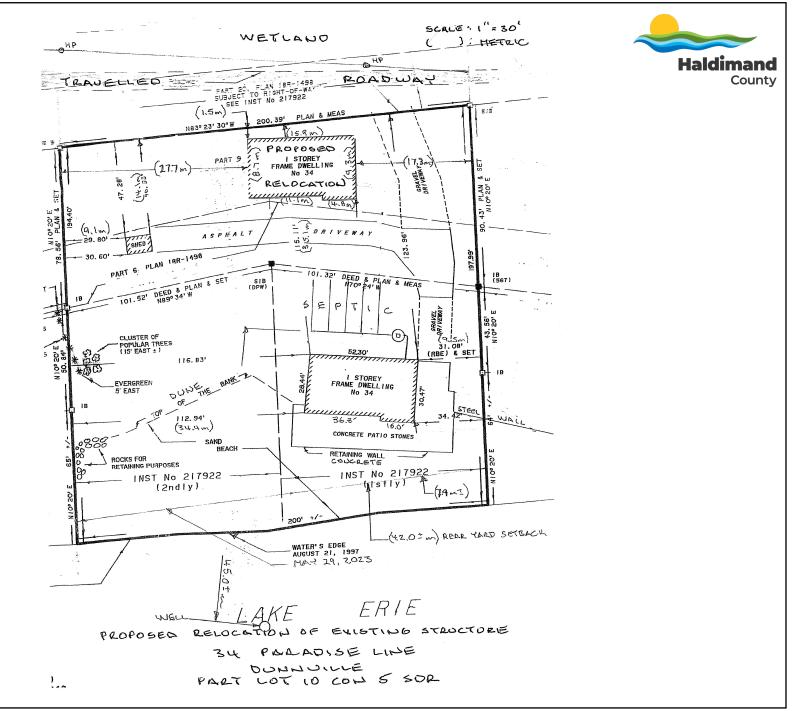
RL (Lakeshore Residential), W (Wetland), Intake Protection Zone - Type 2, GRCA Regulated Lands, HCOP Lakeshore & Riverine Hazard Lands, & HCOP Natural Environment Wetland Area

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Owner's Sketch FILE #PLA-2023-106 APPLICANT: Bennemeer & Joris





Haldimand County Committee of Adjustment Minor Variance

Meeting Date: August 15, 2023

File Number: PLA-2023-111

Property Roll Number: 2810-152-003-11610

Applicant: Andresa Sisson and Tao Drayton

Property Location: Part of the Warner Nelles Tract, Registered Plan 18R7167

Part of Part 1, Geographic Township of Seneca, known

municipally as 3 Nelles Street East

Recommendation

That application PLA-2023-111 be approved. The application meets the four tests of a minor variance.

Details of the Submission

Proposal: Relief is requested from the provisions of the Neighbourhood Institutional (IN) Zone of Zoning By-law HC 1-2020 as follows:

Development	Required	Proposed	Deficiency
Standard(s)			
Dwelling Unit in			
permitted building	Dwelling Unit as an	Dwelling Unit as the	Dwelling Unit as the
as an accessory	accessory use	primary use	primary use
use			

The relief is requested to permit the establishment of a residential dwelling on the subject property.

Site Features and Land Use: The subject lands are located on the north east corner of the intersection of Front Street North and Nelles Street East in the Hamlet of York. The subject lands contain an existing church building, cemetery and parking lot. Religious services are no longer held within the church, however it is used as office and gathering space servicing the cemetery. The Grand River is located on the west side of Front

Street across from the church building. A Montessori school is located to the south and the remaining surrounding land uses are residential.

Existing Intensive Livestock Operations: Not applicable.

Agency & Public Comments

Haldimand County Building & Municipal Enforcement Services: Requires a building permit for the sea container.

Haldimand County Planning & Development Services – Development Technologist: No comments or concerns.

Haldimand County Emergency Services: No comments received.

Haldimand County Water and Wastewater Engineering & Compliance: No comments received.

Grand River Conservation Authority: No comments received.

Hydro One: No comments received.

Municipal Property Assessment Corporation: No comments received.

Mississaugas of the Credit: No comments received.

Six Nations: No comments received.

Public: No comments received.

Planning Analysis

A minor variance is required to meet four tests under Section 45(1) of the *Planning Act*:

1. Does the application conform to the general intent of the Official Plan?

Planning staff comment: The subject lands are designated *Hamlet* in the Haldimand County Official Plan. The *Hamlet* designation permits low density residential units as well as appropriately scale institutional uses.

The proposed residential use and existing cemetery use are permitted in the *Hamlet* designation and it is the opinion of Planning staff that the subject application conforms to the general intent of the Official Plan.

2. Does the application conform to the general intent of the Zoning By-law?

Planning staff comment: The subject lands are zoned *Neighbourhood Institutional (IN)* in the Haldimand County Zoning By-law HC 1-2020. The IN zone permits a cemetery as a primary use and a residential dwelling as an accessory use within a permitted building. Through permit review the Building Division determined the residential use could not be considered an accessory use, and the property would have two primary uses, the cemetery and the dwelling.

Legislation governing cemeteries ensures the cemetery use will not cease on the property and will continue following the establishment of the residence. It is the opinion of Planning staff that the subject application complies with the intent of Haldimand County Zoning By-law HC 1-2020.

3. Is the application desirable for the appropriate development of the lands in question?

Planning staff comment: The subject application will result in a dwelling unit on the subject lands, within the existing church building. The cemetery will continue to operate on the subject lands in line with the regulations of the Ontario Cemeteries Act R.S.O. 1990. The proposed development will be facilitated primarily through internal renovations to the existing permitted structure.

It is the opinion of Planning staff that the subject application is appropriate and desirable.

4. Is the application minor?

Planning staff comment: For the reasons listed above, including the ongoing cemetery use, a residential dwelling unit being permitted within an existing permitted structure, and limited exterior works being required to facilitate the development, it is the opinion of Planning staff that the application is minor.

The subject application meets the four tests of a minor variance.

Notice Sign and Applicant Discussion

A public notice sign was posted in accordance with the *Planning Act, R.S.O. 1990, c. P.13* on August 3, 2023.

Staff have contacted the applicant and discussed the recommendations as set out in this report. Staff have confirmed with the applicant that he/she understands the nature of and content contained within the recommendations as well as any

requirements/conditions relating to such. A copy of the staff report has been provided to the applicant.

Prepared by:

Neil Steef

Neil Stoop, MSc., RPP Senior Planner 905-318-5932 extension 6202

Reviewed by:

Alisha Cull, BES, MCIP, RPP

Supervisor, Planning & Development

905-318-5932 ext. 6208

Location Map FILE #PLA-2023-111 APPLICANT: Drayton & Sisson





Location:

3 NELLES STREET EAST GEOGRAPHIC TOWNSHIP OF SENECA WARD 4

Legal Description:

SENECA PT WARNER NELLES TRACT RP 18R7167 PT PART 1

Property Assessment Number:

2810 152 003 11610 0000

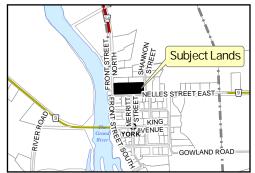
Size:

3.58 Acres

Zoning:

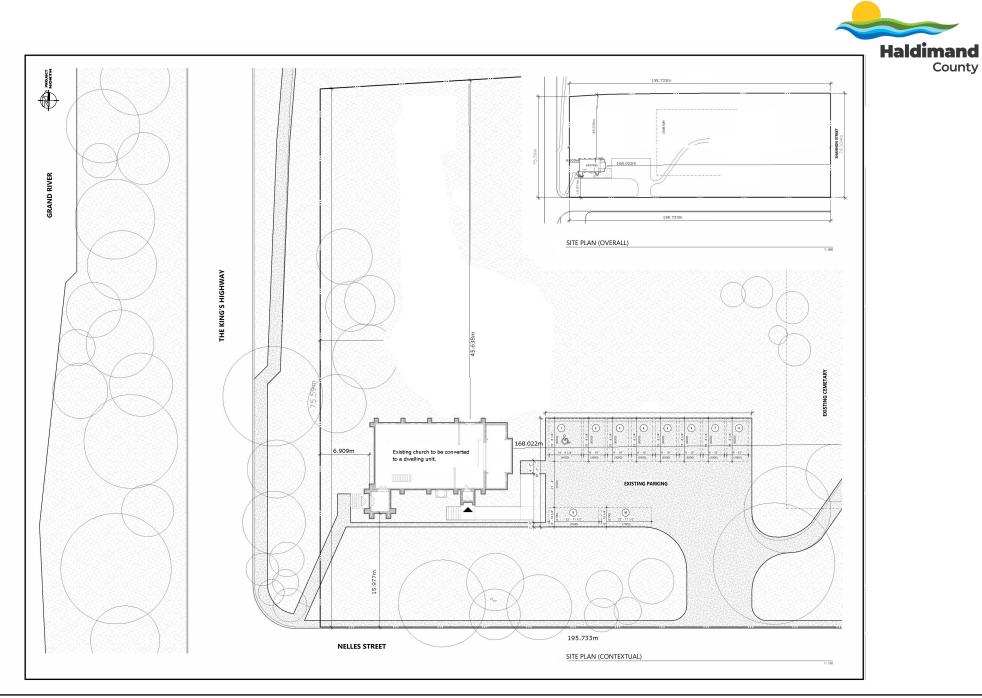
IN (Neighbourhood Institutional) & GRCA Regulated Lands

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Owner's Sketch FILE #PLA-2023-111 APPLICANT: Drayton & Sisson





July 31, 2023

MEMORANDUM

File No.: PLA-2023-043

TO: Committee of Adjustment

FROM: Chris Tang, Planning Technician

SUBJECT: Resubmission of a Previously Deferred Application

LOCATION: Range 1 from the Grand River, Part Lot 20, Registered Plan18R6387

Part 2, Geographic Township of Moulton, known municipally as 1362

North Shore Drive

Committee of Adjustment Chair and Members,

Minor variance application PLA-2023-043 was first heard by Committee of Adjustment on May 16, 2023, and the application was deferred. While Planning staff recommended deferral of this application, the application meets the four tests of a minor variance. The deferral recommendation was based on a request for an archaeological assessment by Mississaugas of the Credit First Nation. At this time, the archaeological assessment has been completed and the study has been circulated to both Mississaugas of the Credit and Six Nations. Since no additional comments were received, it is the opinion of Planning staff that this request has been fulfilled.

Attached to this memo is the staff report from May 16, 2023. An updated public notice sign was not posted on the subject property.

Regards,

Chris Tang,

Planning Technician

Low

Planning & Development Division



Haldimand County Committee of Adjustment Minor Variance

Meeting Date: May 16, 2023

File Number: PLA-2023-043

Property Roll Number: 2810-023-006-00300-0000

Applicant: Tyler King

Agent: N/A

Property Location: Moulton Range 1 GR Part LOT 20 Registered Plan 18R6387

PART 2 Known Municipally as 1362 North Shore Dr

Recommendation

That application PLA-2023-043 be deferred in order to allow the applicant time to complete a stage 1 archaeological assessment.

Details of the Submission

Proposal: Relief is requested from the secondary dwelling distance to principal dwelling provisions for the Agriculture (A) Zone of Zoning By-law HC 1-2020 as follows:

Development Standard(s)	Required	Proposed	Deficiency
Distance to Principal Dwelling	30 m (98.4 ft)	75 m (246.1 ft)	45 m (147.6 ft)

The relief is requested to permit the construction of a secondary dwelling further away from the principal dwelling on the property.

Site Features and Land Use: The subject lands are located in the agricultural area in the geographic township of Moulton and front onto the south-west side of North Shore Drive. The lands currently contain a single detached dwelling and the surrounding land uses are agricultural in nature.

Existing Intensive Livestock Operations: Not Applicable

Agency & Public Comments

Haldimand County Building & Municipal Enforcement Services: No comments

Haldimand County Planning & Development Services – Development

Technologist: No comments.

Haldimand County Emergency Services: No comments

Haldimand County Water and Wastewater Engineering & Compliance: No

comments received

Grand River Conservation Authority: No comments

Ministry of Transportation: No comments received

Hydro One: No comments

Municipal Property Assessment Corporation: No comments received

Mississaugas of the Credit: 1362 North Shore Drive, Moulton– Haldimand County is located on the lands of the Mississauga of the Credit First Nation, Between the Lakes Treaty, No. 3 (1792). With the proposal for the construction of a secondary dwelling on these lands, MCFN DOCA is requesting a stage 1 archaeological study to review and determine if there is any archaeological potential in this area.

Six Nations: No comments received

Public: No comments received.

Planning Analysis

A minor variance is required to meet four tests under Section 45(1) of the *Planning Act*.

1. Does the application conform to the general intent of the Official Plan?

Planning staff comment: The subject property is designated Agricultural in the Haldimand County Official Plan (OP). Secondary suites are a permitted use in the Agricultural designation.

According to 5(O) of the official plan, Secondary Suites, where permitted in the OP will be subject to the following criteria and the regulations of the Zoning-By-law:

a) The unit is clearly subordinate to the primary residential unit in the dwelling;

- b) Adequate on-site parking for both residential units is provided;
- c) Adequate servicing capacity exists;
- d) The secondary suite complies with Provincial building and fire code requirements; and
- e) The exterior appearance of the dwelling is not significantly altered to accommodate the unit.

It is the opinion of Planning staff that the application conforms to the general intent of the Official Plan.

2. Does the application conform to the general intent of the Zoning By-law?

Planning staff comment: The subject property is zoned Agriculture (A), and secondary suites are permitted uses in the A zone. The subject application is seeking relief to permit the construction of a secondary suite more than 30 metres (98.43 ft) away from the principal dwelling. Building the secondary dwelling within 30 metres (98.43 ft) will require GRCA approval; as such, it is more desirable for the secondary dwelling to be built further away from the principal dwelling and away from the GRCA regulated lands.

It is the opinion of Planning staff that the application conforms to the general intent of the Zoning By-law.

3. Is the application desirable for the appropriate development of the lands in question?

Planning staff comment: The subject application will construct a secondary suite in the lot. The construction of the secondary suite will not negatively impact the surrounding properties. The development will create additional housing stock which is supported by the Provincial Policy Statement and the OP.

It is the opinion of Planning staff that the subject application is appropriate and desirable development for the lands.

4. Is the application minor?

Planning staff comment: For the reasons outlined above, it is the opinion of Planning staff that the subject application is minor.

The subject application meets the four tests of a minor variance. However, an archaeological assessment has been requested by Mississaugas of the Credit First

Nation. As such, staff are recommending that the application be deferred until such time as the archaeological requirements have been satisfied.

Notice Sign and Applicant Discussion

A public notice sign was posted in accordance with the *Planning Act, R.S.O. 1990, c. P.13* on April 25, 2023.

Staff have contacted the applicant and discussed the recommendations as set out in this report. Staff have confirmed with the applicant that he/she understands the nature of and content contained within the recommendations as well as any requirements/conditions relating to such. A copy of the staff report has been provided to the applicant.

Prepared by:

Chris Tang, B. Plan.

Acting Secretary Treasurer, Planning & Development

905-318-5932 ext. 6210

ann

Reviewed by:

Alisha Cull, BES, MCIP, RPP Supervisor, Planning & Development

905-318-5932 ext. 6208

Location Map FILE #PLA-2023-043 APPLICANT: King





Location:

1362 NORTH SHORE DRIVE
GEOGRAPHIC TOWNSHIP OF MOULTON
WARD 5

Legal Description:

MLT RANGE 1 GR PT LOT 20 RP 18R6387 PART 2

<u>Property Assessment Number:</u> **2810 023 006 00300 0000**

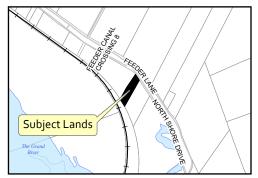
Size:

3.41 Acres

Zoning:

A (Agricultural), GRCA Regulated Lands & HCOP Riverine Hazard Lands

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Owner's Sketch FILE #PLA-2023-043 APPLICANT: King



REGIONAL ROAD No. 3

