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# Haldimand County Committee of Adjustment



## Consent

**File Number:** PLB-2024-199

**Property Roll Number:** 2810-153-001-07800-0000

**Applicant:** 2491774 Ontario Inc. Kevin & Angela DeBoer

**Agent:** C. Edward McCarthy

**Property Location:** 765 2<sup>nd</sup> Line, Hagersville Legally Described as OND CON 3 PT LOT 21 AND RP 18R6044 PART 3

**For consideration on: December 17, 2024**

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## Summary

The applicant proposes to sever a parcel of land for a surplus farm dwelling. Planning staff recommend refusal of this application. The application does not have regard for Section 51(24)(f) of the *Planning Act* and does not conform to the intent of the Haldimand County Zoning By-law No. HC 1-2020, as amended. The application is generally consistent with the Provincial Planning Statement, 2024 and generally conforms to the Haldimand County Official Plan.

## Recommendation

THAT application PLB-2024-199 be refused. The application is generally consistent with the Provincial Planning Statement, 2024, maintains the general intent and conforms with the Haldimand County Official Plan. The proposed application, however, does not have regard for Section 51(24)(f) of the *Planning Act* and does not conform to the applicable provisions of the Haldimand County Zoning By-law HC 1-2020.

While Planning staff recommend refusal of this application for reasons outlined in Report PLB-2024-199, should the Committee of Adjustment approve this application, the conditions imposed on the consent application are attached to this report for consideration.

**Prepared by: Mark Andrews, M.A., MCIP, RPP, Senior Planner**

**Reviewed by: Krystina Wheatley, Acting Supervisor, Planning & Development**

## Details of the Submission:

### Proposal:

The subject application contemplates the severance of a lot containing an existing surplus farm dwelling and existing accessory structure (detached garage). The application also proposes the establishment of three (3) easements for:

1. the hydro lines crossing the retained lands from the road;
2. a gas line extending from the severed lands north across the retained lands to the gas well; and

3. a water line extending from the severed lands north across the retained lands to the water well.

The lot to be severed (severed lands) proposes a frontage of 10 meters (32.9 feet) and an area of 0.99 hectares (2.45 acres). The severed lands contain an existing single detached dwelling and an accessory structure (detached garage). The retained lands will have an irregular shaped frontage with a total of 214.71m (704.43 ft) and an area of 37.87 ha (93.58 acres). The retained lands contain an existing storage structure.

### **Site Features and Land Use:**

The subject lands are located in the geographic township of Oneida and front onto the north-easterly side of 2<sup>nd</sup> Line. The subject lands (in its present form) are approximately 38.86 hectares (96.03 acres) in area and have a frontage of 224.7 metres (737.2 feet) on 2<sup>nd</sup> Line. The subject lands currently contain a single detached dwelling and two accessory structures, including a detached garage and a barn/storage building. The surrounding land uses are generally rural residential and agriculture in nature.

Of note, the existing dwelling, which is proposed to be severed from the existing agricultural lands, is located relatively deep on the subject lands, approximately 218 ± metres (715 ± feet) from the front property line.

### **Existing Intensive Livestock Operations:**

Not applicable.

## **Agency & Public Comments**

### **Haldimand County Building & Municipal Enforcement Services:**

No comments received.

### **Haldimand County Planning & Development Services – Development Technologist:**

Applicant needs to show legal entrance for the retained parcel.

**Planning staff comment:** Should Committee desire to approve the subject application, Planning staff have included a condition of approval requiring a permit from the Roads Operation Division indicating that they have issued an entrance for the retained lands.

### **Forestry - Facilities, Parks, Cemeteries & Forestry Operations**

The property includes Significant Woodlands identified in the Official Plan located in the north corner of the property, north of the old rail line. An EIS will be required if there are any changes such as a new building to the retained lands within 50m of the Significant Woodlands.

There are County-owned trees along 2<sup>nd</sup> Line. The farm entrance for the retained lands must be installed in a location outside of the canopy of any County-owned trees. A County Tree application will have to be submitted for review by forestry staff if the farm entrance encroaches within the canopy of a County-owned tree.

**Planning staff comment:** Comments acknowledged. The comments do not require conditions of approval.

## **Haldimand County Emergency Services:**

No comments received.

## **Grand River Conservation Authority:**

No objections to the proposed application.

## **Hydro One:**

No concerns with application.

## **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**

### **Section 51(24)(f) of the *Planning Act***

Section 53 (12) (Power of Consents) of the *Planning Act* states: “A council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51 (24) ...” of the *Planning Act*. Section 51(24) (Criteria of Plan of Subdivision Approvals) sets out a list of criteria that decision makers shall have regard to in making decisions regarding the division of land, including subsection 51(24)(f) which reads:

“S. 51 (24) In considering a draft plan of subdivision [or consent application], regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

(f) the dimensions and shapes of the proposed lots;”

Altogether, this means that Planning staff and the Committee of Adjustment is to have regard to the dimension and shape of the lot being proposed in the subject Consent application.

It is Planning staff’s opinion that a proposed lot (the severed lands) that consists of a 175.83 metres long (576.9 feet) driveway, which also provides a mere 10 metres (32.9 feet) of lot frontage (solely driveway), where a minimum of 30 metres (98.4 feet) is required, has no regard for S.51(24) of the *Planning Act*. It does not represent good planning practices. Planning staff recommends that the subject application be refused.

## **Provincial Planning Statement, 2024 (PPS)**

The subject lands are located in the prime agricultural area of the County. The PPS discourages lot creation in the prime agricultural area. However, Section 4.3.3.1 of the PPS sets out four circumstances under which lot creation in the prime agricultural area can be considered, only one of which applies in this case:

“4.3.3.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for:

c) a residence surplus to a farming operation as a result of farm consolidation, provided that:

1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; and”

It is Planning staff’s opinion that the proposed surplus farm dwelling severance does not conflict with the policies of the PPS.

## **Haldimand County Official Plan (OP)**

The subject lands are designated “Agriculture” in the Haldimand County Official Plan (OP). The OP builds on the PPS policies pertaining to a residence surplus to a farming operation, providing additional criteria. Section 3.A.1)10.d of the OP outlines various criteria for a surplus farm dwelling severance in Haldimand County. Notably, 3.A.1)10.d(i) requires that the severed lot for a surplus farm dwelling generally be 0.4 hectares (1 acre) to 0.6 hectares (1.5 acres) in size, though consideration can be given to vary the size. The proposed severed lot will have an area of 0.94 hectares (2.32 acres) and is sized such that the lot will accommodate the existing onsite sewage disposal system (septic) for the existing single detached dwelling and accessory structures without resulting in the unnecessary loss of lands under active agricultural production. This section of the OP also requires that the retained lands be rezoned such that residential development on the retained lands is prohibited, in accordance with Provincial Policy. Should Committee desire to approve this application, Planning staff have included a condition of approval requiring that the subject lands be rezoned.

It is Planning staff’s opinion that the subject application conforms to the intent of the OP.

## **Haldimand County Zoning By-law HC 1-2020**

The subject lands are zoned “Agricultural (A)” in the Haldimand County Zoning By-law No. HC 1-2020. The severed lands and retained lands meets the minimum required area and setback provisions of the Zoning By-law. The severed lands do not meet the minimum frontage of 30 metres (98.4 feet) as 10 metres (32.9 feet) is proposed and pertains only to the driveway, which provides the frontage given that the dwelling and accessory structures are located deep within the subject lands. It is Planning staff’s opinion that the frontage and shape of the severed lands does not represent good planning practices, and the dwelling should not be severed given its location within the subject lands.

Further, the surplus farm dwelling lot is greater than 0.6 hectares (1.5 acres) in size and as such, the retained lands do not qualify for the automatic zoning, as outlined in Section 4.59 (Surplus Farm Dwelling Severance Properties) of the Zoning By-law. In cases where the lands are not automatically rezoned, a Zoning By-law amendment application is required to ensure consistency with the PPS and conformity with the OP, such as the case with the subject application. Should Committee desire to

approve this application, Planning staff have included a condition of approval requiring that the subject lands be rezoned.

It is Planning staff's opinion that the subject application does not maintain the intent of Zoning By-law. Planning staff recommends that the subject application be refused.

## **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 11/25/2024

The applicant has satisfied the public consultation requirements as per the *Planning Act* and other applicable Provincial legislation.

A copy of the staff report has been provided to the applicant.

### **Attachments:**

1. Condition Sheet
2. Location Map
3. Owner Sketch 1
4. Owner Sketch 2