
Haldimand County Committee of Adjustment



Consent

File Number: PLB-2024-209

Property Roll Number: 2810-022-001-03700-0000

Applicant: Glen Tilstra

Agent: Kim Hessels

Property Location: 389 Lane Road, Dunnville, Legally Described as CAN CON 2 PT LOT 12

For consideration on: December 17, 2024

Summary

The applicant proposes to sever a parcel of land containing a surplus farm dwelling. Planning staff recommends refusal of this application as it is not consistent with the Provincial Planning Statement, 2024, and does not conform to the intent of the Haldimand County Official Plan.

Recommendation

THAT application PLB-2024-209 be refused as the application is not consistent with the Provincial Policy Statement, 2024 and does not conform to the intent of the Haldimand County Official Plan.

Prepared by: Chris Tang, MCIP, RPP, Planner, Planning and Development

Reviewed by: Krystina Wheatley, Acting Supervisor, Planning and Development

Details of the Submission:

Proposal:

The applicant proposes to sever a parcel of land containing a surplus farm dwelling. The severed lands are proposed to have a frontage of 31 meters (~102 feet) and an area of 0.58 hectares (1.43 acres). The retained lands have a frontage of 62.23 metres (204 feet) and an area of 33 hectares (81.54 acres).

Site Features and Land Use:

The subject lands are located in the geographic township of Canborough, in the prime agricultural area of the County. The subject lands front onto the south side of Lane Road and flank Melick Road to the east. The subject lands have a frontage of 93.22 metres (~306 feet) and an area of 33.58 hectares (82.97 acres).

The subject lands consist of the severed lands and retained lands. The severed lands are proposed to have a frontage of 31 meters (~102 feet) and an area of 0.58 hectares (1.43 acres). The severed lands currently contain a single detached dwelling and a residential accessory building. The retained lands have a frontage of 62.23 metres (204 feet) and an area of 33 hectares (81.54 acres). The retained lands contain two agricultural buildings that are proposed to be removed. The retained lands are in active agricultural (crop) production and contain a significant amount of Significant Woodlands and Significant Wetlands. The surrounding land uses are generally rural residential and agriculture in nature.

Existing Intensive Livestock Operations:

Not applicable.

Agency & Public Comments

Haldimand County Building & Municipal Enforcement Services:

A septic evaluation was provided as part of the application. The septic evaluation is not acceptable. Side yard distance to Mantle is a concern.

Planning staff comment: Planning staff recommends refusal of this application. However, should the Committee desire to approve this application, Planning staff recommends that the application be deferred to allow the applicant time to amend the application, including the lot configuration, to provide an acceptable side yard to the mantle of the septic system in accordance with the *Ontario Building Code*. Should the Committee desire to approve the application as is, Planning staff have included a condition of approval in the condition sheet requiring that the septic system be modified or a new septic system be installed to the satisfaction of the Building & Municipal Enforcement Division.

Haldimand County Planning & Development Services – Development Technologist:

Applicant needs to show proof of a legal entrance for the retained parcel.

Planning staff comment: Planning staff recommend refusal of this application. Should the Committee desire to approve the application as is, Planning staff have included a condition of approval in the condition sheet requiring that the applicant obtain a road entrance permit for the retained lands.

Haldimand County Emergency Services:

No comments received.

Niagara Peninsula Conservation Authority:

The NPCA has reviewed the subject application in relation to the surplus farm dwelling severance for 389 Lane Road. The NPCA would advise that the following regulated features are present on the lands:

- Watercourse, traversing the edge of the farmed lands along the edge of the manicured lawn.
- Provincially Significant Wetland, associated with the Attercliff Station Provincially Significant Wetland Complex.

Upon NPCA's reviews, the Agency notes that the watercourse will end up on the surplus lot. Despite this, there would remain sufficient room for servicing and amenities on both impacted lots. The owners of both properties should be made aware that any future development or site alteration on any lot will require review and approval by our Agency.

As such, the NPCA can support this application.

Hydro One:

Hydro One has no concerns regarding this severance.

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, 2024 (PPS)

The subject lands are located in the prime agricultural area of Haldimand County. The PPS discourages lot creation in the prime agricultural area and permits it in very limited circumstances, which includes permitting one new residential lot per farm consolidation for a residence made surplus to an agricultural operation provided that the lot will be limited to a minimum size to accommodate the use and appropriate sewage and water service and the planning authority ensures that new residential dwellings and additional residential units are prohibited on any remnant parcel of farmland created by severance. The applicant submitted Form 1 – Residential in a Rural/Agricultural Area – Information Form as part of his application, which lists the applicant's farms and dwellings. According to the Form, the applicant currently owns three parcels of land within Haldimand County, which include:

1. The subject lands (389 Lane Road): The subject lands are 39.7 hectare (98.18 acres) in size, although a portion of the subject lands are impacted by significant natural heritage features.

2. 377 Lane Road: This property is 3.73 hectares (9.22 acres) in size with 2.83 hectares (7 acres) of workable area.
3. 7333 Canborough Road: This property is 3.86 hectares (9.54 acres) in size with 3.24 hectares (8 acres) being of workable area.

The preferred agricultural lot size is 40 hectares (100 acres). The subject lands closely approximate the preferred agricultural lot size and are considered to be a viable, standalone lot for a farming operation. The lot size and workable acreage for the other two properties are not considered to be viable, standalone lots for farming operations; The lot sizes are considered to be more in line with a rural residential lot. Owning the subject lands and these residential lots is not considered farm consolidation and does not qualify the farm dwelling on the subject lands as surplus. The applicant must own another viable, standalone farm containing a dwelling to qualify for a surplus farm dwelling severance.

It is Planning staff's opinion that the application is not consistent with the PPS. Therefore, Planning staff recommends that the application be refused.

Haldimand County Official Plan (OP)

The subject lands are designated "Agriculture" in the Haldimand County Official Plan.

The OP states that lot creation in the "Agriculture" designation is generally discouraged and may only be permitted in limited circumstances, including a surplus 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**. No new residential dwelling shall be permitted on the retained lands.

Planning staff comment: The applicant has failed to demonstrate that the dwelling on the subject lands is made surplus through farm consolidation where it is part of a farm holding containing two or more dwellings and where each farm is located within the County

The creation of a surplus farm dwelling lot will need to meet the following criteria:

- 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 land taken out of production;

Planning staff comment: The severed lands are 0.58 hectares (1.43 acres) in size.

- b) No severance shall be granted unless the proposed lot can be serviced by an on-site sanitary sewage system designed and installed as per the Ontario Building Code;

Planning staff comment: The severed lands will be serviced by an existing cistern and septic system. A septic evaluation was submitted as part of the application. Building staff have concerns regarding the septic system; Should committee desire to approve the application, the application should be deferred to allow applicants time to reconfigure the lot to provide a sufficient setback from the mantle of the septic system to the new property line to meet the *Ontario Building Code*.

Otherwise, installation of a new septic system or modification of the septic system will be required.

- 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 staff comment: While the proposed severance does not adversely affect the operation or viability of the farm parcel in this consent application, the applicant does not own additional farm parcels that are viable for farming operations. The preferred farm size in the OP is 40 hectares (100 acres). While the retained lands generally meets this criteria, the other two parcels that the applicant owns are considered to be rural residential lots and are not considered to be viable farming operations according to the OP.

- d) Severances that do not meeting Minimum Separation Distance formulae, as amended, shall not be permitted;

Planning staff comment: The subject lands do not contain a livestock operation, therefore the MDS formulae does not apply.

- 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 staff comment: The severed lands are not located within 300 metres of licensed pits or 500 metres of licensed quarries.

- f) The lot shall be located with safe and direct access to a permanently maintained public road;

Planning staff comment: The severed lands and retained lands will have frontage on an existing public road, known municipally as Lane Road.

- g) Potential impacts on natural environment areas and/or cultural resources shall be assessed and addressed, where necessary.

Planning staff comment: The proposed application is not anticipated to have an adverse or negative impact on the surrounding natural or cultural resources.

It is Planning staff's opinion that the application does not conform to the OP. More specifically, the applicant has failed to demonstrate that the dwelling on the subject lands is made surplus through farm consolidation where it is part of a farm holding containing two or more dwellings and where each farm is located within the County. Therefore, Planning staff recommends that the application be refused.

Haldimand County Zoning By-law HC 1-2020

The subject lands are zoned “Agriculture (A)” in the Haldimand County Zoning By-law HC 1-2020. The “A” Zone permits agriculture use, a single family dwelling, and residential accessory buildings. The Zoning By-law automatically rezones the retained farmlands by removing a single family dwelling when the Committee of Adjustment approves surplus farm dwelling lots that are less than 0.6 hectares (1.48 acres) in size. Given the severed lands are 0.58 hectares (1.43 acres) in size, the retained lands would qualify for automatic rezoning process without the need for a Zoning By-law Amendment application.

The severed lands and retained lands satisfy the zoning provisions for lot frontage, lot area, and setbacks. The owner do not qualify for surplus farm dwelling in the OP.

It is Planning staff’s opinion that the application conforms to the Zoning By-law.

Other

Planning staff recommends refusal of this application because it is not consistent with the PPS and does not conform to the OP. However, should the Committee desire to approve the application, Planning staff have prepared a condition sheet.

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 11/27/2024

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

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

Attachments:

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