
HALDIMAND COUNTY

Report PED-PD-25-2018 Zoning Amendment to Fulfill a Condition of Consent-Deboer



For Consideration by Council in Committee on June 19, 2018

OBJECTIVE:

To fulfill a condition of consent related to a surplus farm dwelling severance by removing a dwelling as a permitted use on the retained farmlands and permitting an accessory structure that is taller than the Zoning By-law permits to be maintained on the surplus farm dwelling lot.

RECOMMENDATIONS:

1. THAT Report PED-PD-25-2018 Zoning Amendment to Fulfill a Condition of Consent-Deboer be received;
2. AND THAT application PLZ-HA-2018-086 to amend the Town of Dunnville Zoning By-law 1-DU 80 to establish a special provision to prohibit future residential development and home occupation opportunities on the retained farmlands and to permit an accessory structure that is taller than the Zoning By-law permits to be maintained on the surplus farm dwelling lot be approved for reasons outlined in Report PED-PD-25-2018;
3. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2014) and the Growth Plan for the Greater Golden Horseshoe (2017);
4. AND THAT the By-law attached to Report PED-PD-25-2018 be presented for enactment.

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Reviewed by: Mike Evers, MCIP, RPP, BES, Manager, Planning and Development Division

Respectfully submitted: Craig Manley, MCIP, RPP, General Manager of Planning and Economic Development

Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

The subject zoning amendment is required as a condition of a recently approved consent application for a surplus farm dwelling lot. Since the surplus farm dwelling lot is proposed to be 0.80 hectares (1.98 acres) in size, the automatic rezoning process does not apply. As such, the subject zoning application is required to remove a dwelling as a permitted use on the retained farmlands in accordance with the requirements of the Provincial Policy Statement. The subject rezoning application is also to recognize and permit the continuance of a tall accessory structure on the surplus farm dwelling lot.

It is planning staff's opinion that there is sufficient justification to permit the proposed rezoning. Planning staff recommended approval of the related consent application and the Committee of Adjustment conditionally approved the severance on March 13, 2018. It is planning staff's opinion that the proposal as a whole is consistent with the Provincial Policy Statement (2014), conforms to

the Provincial Growth Plan (2017) and Haldimand County Official Plan, and meets the general intent and purpose of the Town of Dunnville Zoning By-law 1-DU 80.

BACKGROUND:

The subject zoning amendment is required as a condition of consent application PLB-2018-028 which was conditionally approved by the Committee of Adjustment on March 13, 2018. The subject lands are described as Geographic Township of Moulton, Concession 4, Part of Lot 9 and are municipally known as 324 Marshagen Road. The subject lands consist of two parts. Part 1 is the surplus farm dwelling lot or the severed lands and Part 2 is the retained farmlands (Attachments 1, 2, and 3). The surplus farm dwelling lot contains a surplus farm dwelling (bungalow), swimming pool, three accessory structures (one storey garage and two small sheds), and gas well. The retained farmlands are currently vacant.

The Provincial Policy Statement and Haldimand County Official Plan permit the severance of a surplus farm dwelling as a result of farm consolidation provided that the surplus farm dwelling lot is limited to the size needed to accommodate the appropriate use, appropriate sewage and water services, and new residential dwellings are prohibited on the retained farmlands.

Further, surplus farm dwelling lots are generally to be 0.4 to 0.6 hectares (1.0 to 1.5 acres) in size in Haldimand County and must minimize the amount of agricultural land or woodland taken out of production. However, larger surplus farm dwelling lots are permitted on a case by case basis. The surplus farm dwelling lot was approved to be 0.80 hectares (1.98 acres) in size which is larger than the preferred lot size. The retained farmlands were approved to be 20.24 hectares (50.02 acres) in size. The 0.80 hectare (1.98 acre) surplus farm dwelling lot was approved as a result of environmental and topographical features (i.e. the established trees and ditch that runs along the north property line of the surplus farm dwelling lot), and the location of the surplus farm dwelling in relation to the garage and gas well. Surrounding land uses are agricultural and rural residential in nature.

ANALYSIS:

Through the review of the subject proposal, planning staff have identified the following key issues:

Provincial Policy:

Provincial Policy Statement (2014)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The *Planning Act* directs that decisions affecting planning matters “shall be consistent with” the policies of the PPS. The PPS directs that prime agricultural areas shall be protected in the long-term for agriculture. The PPS permits lot creation in prime agricultural areas for a residence surplus to a farming operation as a result of farm consolidation provided that, the new surplus farm dwelling lot is limited to the size needed to accommodate the use and appropriate sewage and water services and new residential dwellings are prohibited on the retained farmlands. The subject zoning amendment will remove a dwelling as a permitted use on the retained farmlands. Although the surplus farm dwelling lot is larger than the preferred size as per the Haldimand County Official Plan, it is planning staff’s opinion that the lot size is appropriate.

Overall, it is planning staff’s opinion that the proposal is consistent with the surplus farm dwelling severance policies of the PPS. It is also planning staff’s opinion that the proposal as a whole meets the intent of the agricultural policies of the PPS such that the proposal will not negatively affect the

viability of the existing farming operation and the retained farmlands will be protected for agricultural purposes only.

Provincial Growth Plan (2017)

The purpose of the Growth Plan is to address challenges related to the forecasted growth and changes in the Greater Golden Horseshoe, and to ensure the protection and effective use of finite resources. The Growth Plan establishes a unique land use planning framework for the Greater Golden Horseshoe that supports the achievement of complete communities, a thriving economy, a clean and healthy environment, and social equity. One of ten guiding principles for how land is to be developed, resources are to be managed and protected and public dollars are to be invested, is to support and enhance the long-term viability and productivity of agriculture by protecting agricultural areas and the agri-food network. While the Growth Plan does not specifically speak to surplus farm dwelling severances, it is planning staff's opinion that the proposal to sever a surplus farm dwelling from the farmlands is in keeping with the overall intent of the Growth Plan to protect agricultural lands.

County Policy:

Haldimand County Official Plan

The subject lands are designated 'Agriculture'. The Haldimand County Official Plan (OP) provides the avenue through which Provincial Policy is implemented into the local context. It also provides the framework for guiding land use changes in the County by protecting and managing the natural environment, directing and influencing growth patterns and facilitating the vision of the County.

The OP builds upon the Provincial permissions for surplus farm dwelling severances by permitting surplus farm dwelling severances subject to a list of criteria. Through the review of the consent application, planning staff determined that the proposal generally satisfies the surplus farm dwelling severance policies and general consent to sever policies. Although the OP generally requires that the surplus farm dwelling lot size be no more than 0.6 hectares (1.5 acres) in size, consideration is provided for varying the lot size. In fact, the OP provides the following examples for larger lot sizes: ensuring farm fields are not fragmented, environmental or topographical features are recognized, and the location of the surplus farm dwelling in relation to the existing farm buildings and structures and key infrastructure. It is planning staff's opinion that the proposed lot size is appropriate for the following reasons:

- 1) The intention of the preferred lot size is to protect viable agricultural lands in the long-term for agricultural production. The surplus farm dwelling lot is within the portion of the farm currently utilized for residential purposes. The severed lands are not currently in agricultural production and no actively farmed lands will be removed from agricultural production. No additional actively farmed lands are proposed to be severed with the surplus farm dwelling lot.
- 2) The north property line of the surplus farm dwelling lot will follow the established trees and ditch (i.e. topographical/environmental features). Reducing the size of the surplus farm dwelling lot may not put agricultural lands back into production as a result of these features.
- 3) Reducing the size of the surplus farm dwelling lot such that the backyard area is reduced will result in an irregular shape as a result of the location of the detached garage.
- 4) Maintaining the gas well with the property will ensure that it is protected and controlled by the property owner.

Town of Dunnville Zoning By-law 1-DU 80

The subject lands are zoned 'Agriculture (A)' Zone. The purpose of the zoning amendment is to fulfill the requirements of both Provincial and County policy and a condition of the related consent

application by removing a dwelling as a permitted use on the retained farmlands such that future residential development is prohibited. This is required to ensure that prime agricultural lands are protected for the long-term for agricultural purposes. The secondary purpose is to permit an accessory structure that is taller than the Zoning By-law permits to be maintained on the surplus farm dwelling lot. A zoning deficiency chart and amending By-law have been attached to the subject report (Attachments 4 and 5).

The Zoning By-law permits a maximum residential accessory height of 6.5 metres (21.3 feet). The proponent is proposing to sever three accessory structures with the surplus farm dwelling lot, one of which is 7.3 metres (24 feet) in height. The purpose of the maximum permitted height provision together with the maximum size provision is to ensure residential accessory structures in the agricultural area are utilized for their intended use, that the structures fit with the character of the area, and to ensure that the structures do not create land use conflicts (i.e. inappropriate housing of livestock or a change in drainage resulting in flooding). It is planning staff's opinion, that permitting the accessory structure to be maintained on the severed land does not offend the purpose and intent of the zoning provision, and will not create land use conflicts with the retained farmlands. More specifically, on the ground there will be no change and the use of the accessory structure is appropriate for the rural residential use of the subject lands.

Planning Opinion:

Planning staff have reviewed the subject proposal against Provincial and County land use planning policy. It is planning staff's opinion that there was sufficient justification to permit the severance of a larger surplus farm dwelling lot. It is also planning staff's opinion that the retained farming operation is protected for long-term agricultural purposes only, and that the subject proposal maintains the general intent and purpose of the surplus farm dwelling and agricultural policies.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Canada Post–Canada Post does not have any comments on the severance of this property as it will not affect mail delivery. Should this application change, please advise so that I may further comment on the file.

Emergency Services/Fire Department–No objections.

Public Works–Roads Operations–No issues.

Planning & Development–Development & Design Technologist–No objections.

Health Unit–No comment.

Building Controls & By-law Enforcement Division–Septic evaluation required to fit on the severed land with the dwelling. House number to stay with dwelling.

Comments were not received from Bell Canada, Mississaugas of the New Credit Council, Six Nations Council, Hydro One, Union Gas, or the Municipal Property Assessment Corporation.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Location Map.
2. Owner's Sketch 1 of 2.
3. Owner's Sketch 2 of 2.
4. Zoning Deficiency Chart.
5. Amending Zoning By-law.