



Meeting Date: June 21, 2023

Submitted by: Dan FitzGerald MPI MCIP RPP, Planner II

Report No: PLA-47-2023

Subject: Consent Application (B-13/2023); 12538 Eight Mile Road

Recommendation:

THAT Consent Application B-13/2023, filed by Joel Gordon Robson, Jay Everett Robson, James Willard Robson in order to sever a residence surplus to a farm operation as a result of consolidation, from a lot legally described as Part of Lot 31, Concession 8 South, in the Municipality of Middlesex Centre, County of Middlesex, and municipally known as 12538 Eight Mile Road; be GRANTED.

AND THAT Consent B-13/2023 be subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within two years of the date of the notice of the decision. The request for the Certificate of Consent shall be accompanied by a written submission that details how each of the conditions of severance has been met.
2. That the fee for the Certificate of Consent be paid in accordance with the Municipality's Fees and Charges By-law.
3. That a draft reference plan be prepared by an Ontario Land Surveyor for the purposes of facilitating the transaction of Consent B-13/2023 and that this plan be approved by the Municipality prior to being deposited with the Land Registry Office.
4. That the Owner's solicitor provide a Transfer in Preparation to the Municipality, together with a deposited reference plan and a Schedule describing the land to be transferred, for the purposes of the issuance of a Certificate of Consent.
5. That the Owner's solicitor submit an undertaking in a form satisfactory to the Municipality to register an electronic transfer of title consistent with the Consent decision.

6. That the Owner enter into a severance agreement with the Municipality in order to advise future owner of the severed lot of Consent B-13/2023 of normal farm practices occurring in the area as outlined in the Farming and Food Production Protection Act, 1998, as amended.
7. That any outstanding property taxes for the severed and retained lots of Consent B-13/2023 be paid in full.
8. That, if necessary a revised assessment schedule in accordance with the Drainage Act, as amended, be commissioned and paid for by the Owner.
9. That a Zoning By-law Amendment that recognizes the residential use of the severed lot and reduced frontage and prohibits any additional residential use on the retained lot of Consent B-13/2023 be in full force and effect.
10. That the Owner provide confirmation that the private sewage disposal system that services the residence on the severed lot of Consent B-13/2023 is wholly contained on the said lot and that a 100% contingency area exists, to the satisfaction of the Municipality.
11. That the Owner be required to drill a new well on the lands to be severed, to be wholly contained on the said lot, to the satisfaction of the Municipality.
12. That the severed land requires its own entrance, address and any laneway connecting the retained and severed land shall be altered in such a way that one cannot travel from one parcel of land to the other.
13. That the hydro service for the severed lands be fully within the boundary of the proposed severed lot.
14. That the agricultural buildings on the remnant parcel either be removed, or altered in such a way, through a building permit, that it would no longer be suitable for housing livestock to the satisfaction of the municipal building department, thereby ensure no compliance issues with MDS.
15. That any remaining buildings on the severed lands maintain their own hydro service wholly contained on the retained lands, if required.
16. That any access between the severed and retained parcels be removed, including any driveways connecting the two parcels, to the satisfaction of the Chief Building Official.

17. That an address be assigned and number erected for the retained agricultural parcel.

AND FURTHER THAT the reasons for granting Consent Application B-13/2023 include:

- The proposal is consistent with the Provincial Policy Statement;
- The proposal conforms to the County of Middlesex Official Plan and the Middlesex Centre Official Plan; and
- Subject to the conditions, the proposal would comply with the Middlesex Centre Comprehensive Zoning By-law.

Purpose:

The purpose of this report is to provide Council with a recommendation in regards to an application for a surplus farm dwelling severance on a farm that is located on the north side of Eight Mile Road, east of Vanneck Road.

A location map is included as Attachment 1.

Background:

The purpose and effect of Consent Application B-13/2023 is to sever a residence surplus to a farm operation as a result of consolidation. The severed lands are proposed to have a frontage of approximately 13 metres (42.65 feet) on Eight Mile Road and an area of approximately 1.63 acres (0.66 ha). The retained farmland would maintain a broken frontage of approximately 587 metres (1925.85 ft) on Eight Mile Road and an area of approximately 98.37 ac (39.81 ha).

The subject lands currently contain a single detached dwelling, various farm buildings including a barn and grain bins and agricultural lands in crop production. The lands are serviced by private services in the form of a septic system and a well. The property is surrounded by agricultural lands in crop production. The lands are partially regulated by the St. Clair Region Conservation Authority (SCRCA). The lands also contain natural heritage features identified by the Middlesex Natural Heritage Systems Study 2014 as well as significant woodlands.

A sketch of the proposal is included as Attachment 2.

Policy Regulation:

The subject land is designated 'Agricultural Area' according to the County of Middlesex Official Plan and 'Agriculture' by the Middlesex Centre Official Plan. The land is zoned 'Agricultural' (A1) by Middlesex Centre's Comprehensive Zoning By-law.

Provincial Policy Statement (PPS)

According to Section 3 of the Planning Act, as amended, decisions made by planning authorities “shall be consistent with” the PPS. The principal policies of the PPS that are applicable to the proposed development include:

Section 2.3.4.1(c) of the PPS directs that lot creation may be permitted for a residence surplus to a farming operation as a result of farm consolidation, provided the new lot is limited to a minimum size needed to accommodate the use and appropriate sewage and water services, and new residential dwellings are prohibited on the remnant parcel of farmland.

County of Middlesex Official Plan:

The principal policies of the County of Middlesex’s Official Plan that are applicable to the proposed development include:

Section 4.5.3.4(a) of the Plan indicates that consents to sever a residence surplus to a farming operation as a result of farm consolidation may be permitted, provided the residence was built prior to January 1, 1999 and that the new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance.

Middlesex Centre’s Official Plan

The principal policies of Middlesex Centre’s Official Plan that are applicable to the proposed development include:

The criteria for proposals to sever surplus farm residences, as outlined in Middlesex Centre’s Official Plan, are as follows:

“10.3.2.1...

- d) Consent to sever a residence surplus to a farming operation as a result of farm consolidation may be permitted, provided the following conditions are satisfied:
 - i. Farm consolidation occurs or has occurred through the acquisition of an additional farm property.
 - ii. The farming operation consists of at least two farms. The farms may be located in different municipalities and the registered ownerships of the farms need not necessarily be identical provided it is demonstrated that the farms are operated as a single operation.
 - iii. The farming operation demonstrates that the acquired farm has rendered a residence surplus to the needs of the operation.
 - iv. The residence was constructed prior to January 1, 1999.
 - v. The residence is habitable, as determined by the Municipality’s Chief Building Official.

- vi. The lot for the surplus farm residence is limited to the minimum size needed to accommodate the use and appropriate sewage and water services, including contingency areas. The loss of agricultural land shall be avoided wherever possible when determining an appropriate lot size. Environmental features, including but not limited to natural heritage features and natural hazards, will also be avoided when determining an appropriate lot size.
- vii. That safe ingress/egress for vehicles is possible for both resulting lots, which may necessitate new road entrances or road upgrades to be undertaken at the expense of the applicant. Environmental features, including but not limited to natural heritage features and natural hazards, will be avoided when considering new road entrances or road upgrades.
- viii. If required, a revised assessment schedule in accordance with the Drainage Act, as amended, is commissioned and paid for by the applicant.
- ix. The lot creation for the surplus farm residence is to comply with the Minimum Distance Separation I formula if there are livestock buildings on the remnant farm.
- x. Livestock is prohibited on the residential lot, specifically through the Municipality's Comprehensive Zoning By-law.
- xi. A notice is registered on the title of the lot that is to accommodate the surplus farm residence; specifically notifying future owners of normal farm practices, as outlined in the Farming and Food Production Protection Act, 1998, as amended.
- xii. New residences are prohibited on any remnant farm lot resulting from the severance, specifically through the Municipality's Comprehensive Zoning By-law.
- xiii. If the remnant farm lot does not meet the minimum lot area and lot frontage standards of the Comprehensive Zoning By-law, the new minimum lot area and lot frontage that result are to be recognized through an implementing zoning by-law amendment. This requirement shall not apply if the remnant farm is merged in title with an abutting farm.
- xiv. There are no negative impacts on natural and built heritage features as a result of the severance.
- xv. Natural hazard concerns relating to the severance are addressed to the satisfaction of the conservation authorities that have jurisdiction in the area."

Consultation:

Notice of the application has been circulated to agencies, as well as property owners in accordance to the requirements of the Planning Act.

Public Comments:

At the time of writing the subject report, no comments or concerns had been received from the public regarding this proposal.

Agency Comments:

The following comments were received at the time of writing this report;

St. Clair Region Conservation Authority: SCRCA has no concerns with the proposed development. We recommend that the retained parcel be re-zoned to prohibit future development. The proposed surplus dwelling lot is outside of the area regulated by the Authority and the retained parcel is partially within an area regulated by the Authority. Both the retained and severed parcels have a development envelope outside of the hazards. No change in land use or structures requiring approval under the Planning Act is proposed on the retained lot. The property owner of the retained parcel will require written permission from the Authority prior to undertaking any activities governed by O.Reg 171/06.

Hydro One: applicant advised to contact Hydro One regarding any service relocations.

Middlesex Centre Chief Building Official:

Should the committee of adjustment approve this application, I recommend the following conditions:

That the applicant confirms to the satisfaction of the municipality, that the septic system will be wholly contained and a 100 % contingency area is available.

That the agricultural buildings which may house livestock be removed or altered in such a way, through a building permit, that it would no longer be suitable for housing livestock to the satisfaction of the municipal building department. This is required because currently the buildings would not meet the minimum separation requirements to the dwelling.

That any residue of manure storage kept behind the existing barn be removed to the satisfaction of the municipality

That the water service to the farm buildings be removed to the satisfaction of the municipality

That the hydro service serving the farm buildings be re-routed off the residential parcel.

That the laneway to the farm building complex be disconnected from the laneway from the residential parcel.

That an address be assigned and number erected for the retained agricultural parcel.

Middlesex Centre Public Works and Engineering Department: that a drainage reassessment be included as a condition of consent if required.

Analysis:

The Provincial Policy Statement (PPS), County Official Plan and Municipality's Official Plan generally permit lot creation in agricultural areas to dispose of a dwelling surplus to a farming operation as a result of farm consolidation, subject to evaluation criteria.

Staff are satisfied that farm consolidation has been achieved and that the residence may be deemed surplus to the needs of the farming operation as a result of farm consolidation. Additionally municipal records indicate that the existing dwelling was constructed prior to 1999.

The Provincial Policy Statement directs that lot creation may be permitted for a residence surplus to a farming operation as a result of farm consolidation, provided the new lot is limited to a minimum size needed to accommodate the use, as well as an appropriate sewage and water services.

Middlesex Centre's Official Plan indicates that the severed parcel should generally only be as large as necessary to accommodate on-site water and sanitary disposal facilities. Staff note that the area of the lands proposed to be severed include the septic system, and will need to confirm that a contingency area for the septic system exists on the severed lands. It is important to note that the lands as shown do not accommodate the existing well. Therefore, it would be appropriate to require the owner to drill a new well to be wholly contained on the lot to be severed as a condition of consent. Staff note that a small portion of agricultural lands in crop production at the North West corner of the lot to be severed are being removed as a result of the proposed application.

The proposed severance was evaluated in accordance with the Minimum Distance Separation (MDS) Formula Implementation Guidelines. Staff note that MDS I formula is not applied when a dwelling to be severed is already located on a separate lot from an area livestock barn or facility. There are no existing livestock barns which would be located on the retained lands. Staff have determined that MDS I would not create a new impact should the subject application be approved.

Planning staff is satisfied that the criteria for the severance of the surplus farm residence, as proposed, have been met or can be appropriately addressed via conditions of consent.

Given the above, planning staff are recommending that the subject application be approved, subject to conditions.

This opinion is provided prior to the public meeting and without the benefit of potentially receiving all comments from agencies or members of the public. Should new information arise regarding this proposal prior to or at the public meeting, Council is advised to take such information into account when considering the application.

Financial Implications:

None.

Attachments:

1. Location Map
2. Severance Sketch