



Meeting Date: March 24, 2021

Submitted by: Dan FitzGerald MPI, Planner

Report No: PLA-20-2021

Subject: Consent Application (B-1/2021) and Application for a Zoning By-Law Amendment (ZBA-2/2021); 24176 Clarke Road

Recommendation:

THAT Consent Application B-1/2021, filed by Tony and Lisa Vandenhoeve, in order to sever a residence surplus to a farm operation as a result of consolidation on a lot with a frontage of approximately 63.4 m (208 ft) on Clarke Road and an area of approximately 0.99 ac (0.4 ha), and the retained having a frontage of approximately 261.6 m (858 ft) on Elginfield Road and an area of approximately 69 ac (27.9 ha), from a lot legally described Part of Lot 4, Concession 16 W, in the Township of Middlesex Centre, County of Middlesex; be GRANTED;

AND THAT Consent B-01/2021 be subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within one year 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-1/2021 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-1/2021 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-1/2021 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 prohibits residential use on the retained lot of Consent B-1/2021 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-1/2021 is wholly contained on the said lot and that a 100% contingency area exists, to the satisfaction of the Municipality.
11. 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.

AND FURTHER THAT the reasons for granting Consent Application B-1/2021 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.

Rezoning Recommendation:

THAT Application for Zoning By-law Amendment ZBA-2/2021 filed by Tony and Lisa Vandenheuver for the lands legally described Part of Lot 4, Concession 16 W, in the Township of Middlesex Centre, County of Middlesex, and known municipally as 24176

Clarke Road, to rezone the severed lands from the Agricultural (A1) Zone to the Surplus Residential (SR) Zone and the severed lands from an Agricultural (A1) Zone to an Agricultural No Residence (A3) Zone; be GRANTED;

AND THAT the implementing By-law be forwarded to Council for consideration once a deposited reference plan has been provided to the satisfaction of the Municipality.

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 east side of Clarke Road, on the south east corner of the intersection at Clarke Road and Elginfield Road.

A location map is included as Attachment 1.

Background:

The purpose and effect of Consent Application B-1/2021 is to sever a residence surplus to a farm operation as a result of consolidation. This application was received prior to the enactment of the Interim Control By-Law recently passed by Middlesex Centre Council restricting future severance application on agricultural lands. The severed lands are proposed to have a frontage of approximately 63.4 m (208 ft) on Clarke Road and an area of approximately 0.99 ac (0.4 ha). The retained farmland would maintain a frontage of approximately 261.6 m (858 ft) on Elginfield Road and an area of approximately 69 ac (27.9 ha).

The purpose and effect of the zoning by-law amendment would be to rezone the severed land from the Agricultural (A1) Zone to the Surplus Residential (SR) Zone to recognize the residential nature of the property. The retained land would be rezoned from an Agricultural (A1) Zone to an Agricultural No Residence (A3) Zone to remove the future ability to construct additional residential units on the land.

The subject property currently contains a single detached dwelling, a solar panel, and agricultural lands in crop production. The retained residential 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.

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;

Hydro One has stated that they do not have any comments or concerns with the application.

Middlesex Centre Chief Building Official no comments or concerns with respect to this proposal.

County Engineer has stated no comment.

Middlesex Centre Public Works and Engineering Department a drainage reassessment will be 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. Additionally, the land as shown also accommodates the existing well. Therefore, the proposed area only includes the necessary lands to accommodate the residential use and all services.

Staff note that no agricultural lands in crop production 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.

Strategic Plan:

This matter aligns with following strategic priorities:

- Balanced Growth

Attachments:

1. Location Map
2. Proposed Severance Plan