

**CORPORATION OF THE TOWN OF AMHERSTBURG  
BY-LAW NO. 2020-009**

**By-law to amend Zoning By-law No. 1999-52  
ES Creek Road (Conc 3 Pt Lot 32), Amherstburg**

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**WHEREAS** By-law 1999-52, as amended, is a land use control by-law regulating the use of lands and the character, location and use of buildings and structures within the Town of Amherstburg;

**AND WHEREAS** the Council of the Town of Amherstburg deems it appropriate and in the best interest of proper planning to amend By-law 1999-52, as herein provided;

**AND WHEREAS** this By-law conforms to the Official Plan for the Town of Amherstburg;

**NOW THEREFORE** the Council of the Corporation of the Town of Amherstburg enacts as follows:

1. Schedule “A”, Map 48 of By-law 1999-52, as amended, is hereby amended by changing the zone symbol on those lands shown as “Zone Change from A to A-36” on Schedule “A” attached hereto and forming part of this By-law from “Agricultural (A) Zone” to “Special Provision Agricultural (A-36) Zone”.
2. THIS By-law shall take effect from the date of passage by Council and shall come into force in accordance with Sections 34 of the Planning Act, R.S.O. 1990, c.P. 13.

Read a first, second and third time and finally passed this 27<sup>th</sup> day of January, 2020.

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MAYOR- ALDO DICARLO

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CLERK- PAULA PARKER

TOWN OF AMHERSTBURG

SCHEDULE "A" TO BY-LAW No. 2020-009  
A BY-LAW TO AMEND BY-LAW No. 1999-52



**SCHEDULE 'A'**  
**Map 57**  
ZONING BY-LAW NO. 1999-52

A to A-36 

CORPORATION OF THE TOWN OF AMHERSTBURG  
**NOTICE OF PUBLIC MEETING**

**TAKE NOTICE** that the Council of the Corporation of the Town of Amherstburg will hold a public meeting on **Monday, December 9<sup>th</sup>, 2019 commencing at 5:00 p.m.** in the Town of Amherstburg Council Chambers, 271 Sandwich Street South, Amherstburg, Ontario, to consider a proposed amendment to the Town of Amherstburg Zoning By-law 1999-52 under Section 34 of the Planning Act, RSO 1990 cP.13.

**THE SUBJECT LAND** affected by the proposed amendment is described as Conc 3 Pt Lot 32, municipally known as 3671 Creek Road. The property has an area of 37.29 hectares (92.16 ac) with a frontage of 545.25 metres (1788.89 ft). (see key map below).

**THE PURPOSE OF THE AMENDMENT** is to change the zoning of the subject lands noted above from the “**Agricultural (A) Zone**” to “**Special Provision Agricultural (A-36) Zone**”. The parcel is designated Agricultural in the Town’s Official Plan. The lands described above are subject to an application for consent (File B/28/19) to sever a dwelling which is surplus to the needs of a farming operation.

**THE EFFECT OF THE ZONING BY-LAW AMENDMENT** will be to allow for general agricultural use on the subject property and prohibit any new dwelling unit on the land. The “Special Provision Agricultural (A-36) Zone” is established as a site specific zone for the retained agricultural parcel created through consent, to prohibit new residential uses on these lands.

**ANY PERSON** may attend the public meeting and/or make written or verbal representation in support of or in opposition to the proposed Zoning By-law Amendment.

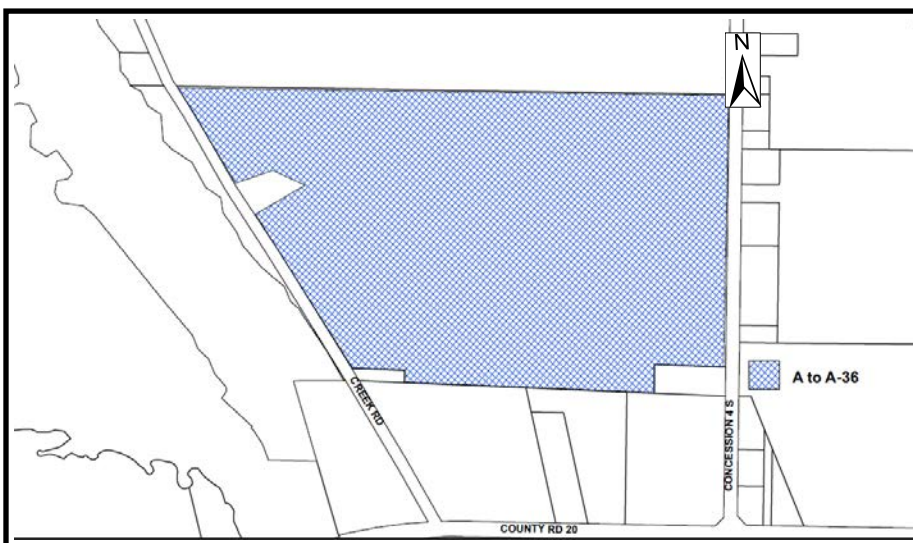
**IF A PERSON OR PUBLIC BODY** would otherwise have an ability to appeal the decision of the Council for the Corporation of the Town of Amherstburg to the Local Planning Appeal Tribunal but the person or public body does not make oral submissions at a public meeting or make written submissions to the Corporation of the Town of Amherstburg before the by-law is passed, the person or public body is not entitled to appeal the decision.

**IF A PERSON OR PUBLIC BODY** does not make oral submissions at a public meeting, or make written submissions to the Corporation of the Town of Amherstburg before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there is reasonable grounds to do so.

**ADDITIONAL INFORMATION** relating to the proposed Zoning By-law Amendment (File No. ZBA/19/19) is available for inspection at the Town of Amherstburg Planning Offices at the Libro Centre, 3295 Meloche Road, during normal office hours, 8:30 a.m. to 4:30 p.m. or at the Town website [www.amherstburg.ca](http://www.amherstburg.ca). If you wish to be notified of the passage of the proposed by-law you must make a written request to the Town at the address below.

**DATED** at the Town of Amherstburg this 6<sup>th</sup> day of November, 2019.

**KEY MAP**



Frank Garardo, MCIP, RPP  
Manager of Planning Services  
Town of Amherstburg  
Libro Centre  
3295 Meloche Road  
Amherstburg, Ontario N9V 2Y8  
Telephone: (519) 736-5408  
Fax No. (519) 736-9859  
Website: [www.amherstburg.ca](http://www.amherstburg.ca)

Application No. ~~ZBA-21-19~~  
ZBA-19-19

**FORM 1  
PLANNING ACT  
APPLICATION FOR ZONING BY-LAW AMENDMENT  
TOWN OF AMHERSTBURG**

1. Name of approval authority Town of Amherstburg
2. Date application received by municipality \_\_\_\_\_
3. Date application deemed complete by municipality \_\_\_\_\_
4. Name of registered owner George H VandenBrink / Ruth A. VandenBrink  
 Telephone number 519-736-6977  
 Address 302 Knapps Island Rd., Amherstburg, ON N9V 2Y8  
 Email ruth@gushueone.com  
 Name of registered owner's solicitor  
 or authorized agent (if any) \_\_\_\_\_  
 Telephone number \_\_\_\_\_  
 Address \_\_\_\_\_  
 Email \_\_\_\_\_

Please specify to whom all communications should be sent:

☒ registered owner      ☐ solicitor      ☐ agent

5. Name and address of any mortgages, charges or other encumbrances in respect of the subject land:  
Libro Credit Union, 147 Talbot St. N. Essex, ON  
N8M 2C6
6. Location and description of subject land:  
 Concession No. 3 (Naden) Lot(s) No. 32  
 Registered Plan No. R355736/ Lot(s) No. \_\_\_\_\_  
R875462  
 Reference Plan No. 12R14151 Part(s) No. MLB 11991, MLB 11396  
E of Creek Rd, Except PT 1  
 Street Address 3671 Creek Rd, Amherstburg, ON Assessment Roll No. 372959000000800
7. Size of subject parcel:  
 Frontage 1788.89 Ft Depth 3031.52 Ft Area 92.16 A  
2082.94 Ft
8. Access to subject parcel:  
☒ Municipal Road      ☐ County Road      ☐ Provincial Highway  
☐ Private Road      ☐ Water

If access to the subject land is by water only, state the parking and docking facilities used or to be used and the approximate distance between these facilities and the nearest public road

9. (a) Current Official Plan Land Use designation of subject land Agricultural  
 (b) Explanation of how application conforms to the Official Plan From section 26(3)(4) allowing an undersized agricultural lot of 36.95 ha. Relief of 3.05 ha.

- (c) Does the application implement an alteration to the boundary of an area of settlement or implement a new area of settlement?

☐ Yes ☒ No

If yes, provide details of the official plan or official plan amendment that deals with this matter:

\_\_\_\_\_

\_\_\_\_\_

10. Current Zoning of subject land Agriculture (A)
11. Nature and extent of rezoning requested Agriculture A-36  
for undersized Ag lot after consent
12. Reasons why rezoning is requested -Severed Surplus  
dwelling to farming operation, no future development
13. Current use of subject land Agriculture
14. Length of time current use of subject land has continued 100 years +
15. Is the subject land within an area where the municipality has pre-determined:
- (a) minimum and maximum density requirements
- ☐ Yes ☒ No
- (b) minimum and maximum height requirements
- ☐ Yes ☒ No

If yes, state the requirements \_\_\_\_\_

\_\_\_\_\_

16. Number and type of buildings or structures **existing** on the subject land and their distance from the front lot line, rear lot line and side lot lines, their height and their dimensions/floor area:

Pole Barn (to be retained) 48' x 96' = 4608 sq ft  
Distance from existing lot lines: Back - 2,385 ft,  
Front - 135 ft, Northside - 647 ft, South side - 874 ft.

17. Date of construction of existing buildings and structures on the subject land:

1932

\_\_\_\_\_

18. Date subject land acquired by current registered owner 2013

19. Proposed use of subject land Agricultural

20. Number and type of buildings or structures **proposed** to be built on the subject land and their distance from the front lot line, rear lot line and side lot lines, their height and their dimensions/floor area:

N/A

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

21. Type of water supply:

- ☒ municipally owned and operated piped water supply  
☐ well  
☐ Other (specify) \_\_\_\_\_

22. Type of sanitary sewage disposal:

- ☐ municipally owned and operated sanitary sewers  
☐ septic system  
☒ Other (specify) N/A - Agricultural

If the requested amendment permits development on a privately owned and operated individual or communal septic system and more than 4,500 litres of effluent will be produced per day as a result of the development being completed the applicant is required to submit a:

- (i) servicing options report, and  
(ii) a hydrogeological report

23. Type of storm drainage:

- ☐ sewers  
☒ ditches  
☐ swales  
☐ Other (specify) \_\_\_\_\_

24. If known, indicate whether the subject land is the subject of an application under the Planning Act for:

- ☒ consent to sever ☐ approval of a plan of subdivision

If known, indicate the file number and status of the foregoing application:

A115/19 - Processing.

25. If known, indicate if the subject land has ever been the subject of an application for rezoning under Section 34 of the Planning Act:

N/A

If known, indicate whether the subject land has ever been the subject of a Minister's Zoning Order and, if known, the Ontario Regulation number of that order.

N/A

26. Does the requested amendment remove the subject land from an area of employment in the official plan?

- ☐ Yes ☒ No

If yes, state the current official plan policies, if any, dealing with the removal of land from an area of employment.

27. Is the subject land within an area where zoning with conditions may apply?

- ☐ Yes ☒ No

If yes, how does this application conform to the official plan policies relating to zoning with conditions?

28. Is the requested amendment consistent with policy statements issued under subsection 3(1) of the Planning Act (i.e. 2005 Provincial Policy Statement)?

☐ Yes ☒ No

Comments \_\_\_\_\_

29. Is the subject land within an area of land designated under any provincial plan or plans?

☐ Yes ☒ No

If yes, does the requested amendment conform to or does not conflict with the provincial plan or plans?

\_\_\_\_\_

30. Is the land associated with any natural environment area or adjacent to or abutting lands that are designated as a Wetland or Natural Environment?

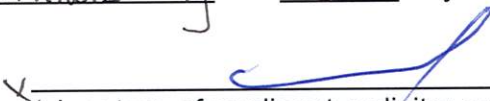
☐ Yes ☒ No

If yes, an Environmental Impact Assessment is required, for approval by the Town and Essex Region Conservation Authority, to be completed in accordance with the County of Essex Guidelines for Environmental Impact Assessments or when Council considers it appropriate, additional requirements may be made to the Guidelines in accordance with more detailed locally adopted terms of reference for an Environmental Impact Assessment.

31. Will the proposed project include the addition of permanent above ground fuel storage?

☐ Yes ☒ No

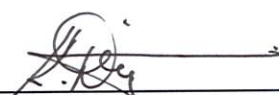
Dated at the Town of Amherstburg this 30<sup>th</sup> day of October, 2019.

  
(signature of applicant, solicitor or authorized agent)

I, George VanderBrink of the Town of Amherstburg  
in the County/District/Regional Municipality of Essex solemnly declare that  
all the statements contained in this application are true, and I make this solemn declaration  
conscientiously believing it to be true, and knowing that it is of the same force and effect as if  
made under oath and by virtue of the Canada Evidence Act.

Declared before me at the Town of Amherstburg in the County  
of Essex this 30<sup>th</sup> day of October, 2019.

  
Applicant, Solicitor or Authorized Agent

  
A Commissioner, etc.

Katrina Marie DiGiovanni, a Commissioner, etc.,  
Province of Ontario, for the  
Corporation of the Town of Amherstburg.  
Expires April 3, 2022.

NOTES:

Each copy of the application must be accompanied by a sketch, drawn to scale, showing:

- a) the boundaries and dimensions of the subject land;
- b) the location, size and type of all existing and proposed buildings and structures on the subject land, indicating the distance of the buildings or structures from the front yard lot line, rear yard lot line and the side yard lot lines;
- c) the approximate location of all natural and artificial features on the subject land and on land that is adjacent to the subject land that, in the opinion of the applicant, may affect the application. Examples of features include buildings, railways, roads, watercourses, drainage ditches, river or stream banks, wetlands, wooded areas, wells and septic tanks/tile fields;
- d) the current uses on land that is adjacent to the subject land;
- e) the location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public travelled road, a private road or a right of way;
- f) if access to the subject land is by water only, the location of the parking and docking facilities to be used;
- g) the location and nature of any easement affecting the subject land.

**NOTE:** A deposit of \$2,000.00, along with an ERCA development review fee of \$300.00 for major ZBA applications or \$200.00 for minor ZBA applications, must accompany your completed application for a zoning by-law amendment.

A deposit of \$1000.00, along with an ERCA development review fee of \$200.00, must accompany your completed application for a Holding (h) Removal zone change.

A deposit of \$1000.00 must accompany your completed application for a zone change from A to A-36.

AUTHORIZATION

(Please see note below)

To: Clerk  
Town of Amherstburg

Description and Location of Subject Land:

Concession: Con 3 Pt Lot 32, Amherstburg  
\_\_\_\_\_

I/We, the undersigned, being the registered owner(s) of the above lands hereby  
authorize \_\_\_\_\_ of the \_\_\_\_\_  
\_\_\_\_\_ of \_\_\_\_\_ to:

- (1) make an application on my/our behalf to the Council for the Town of Amherstburg;
- (2) appear on my behalf at any hearing(s) of the application; and
- (3) provide any information or material required by Town Council relevant to the application.

Dated at the \_\_\_\_\_ of \_\_\_\_\_ in the  
\_\_\_\_\_ of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Owner

\* Note: This form is only to be used for applications which are to be signed by  
someone other than the owner.

Moved by: Sherry Ducedre  
Seconded by: Don Shaw

-carried-

Reasons of Committee – The Committee, having considered the evidence presented, and having reviewed the plans and correspondence on file, are satisfied that the variance request is minor in nature, will not impact the character of the neighbourhood, and is keeping with the intent of the Official Plan and Zoning By-law. The approved variances to the by-law represent the existing configuration of the dwelling on the subject lands.

**5.3 Application B/28/19 and A/15/19-George & Ruth VandenBrink-3671 Creek Road (3729-590-000-00800-0000)**

Public in Attendance: George & Ruth VandenBrink

The applicant is proposing to sever a parcel of land being 65.44 m (214.7 ft.) ± frontage by an irregular depth with an area of 37,026 sq. m (0.85 acres) ± which includes a single detached dwelling which is surplus to the needs of the farming operation. The remaining parcel being 479.81 m (1,574.19 ft.) ± frontage by an irregular depth with an area of 36.95 hectares (91.31 acres) ± is vacant agricultural land with one accessory building to be used for farm storage. The subject parcel is zoned Agriculture in the Zoning By-Law and Agriculture in the Town's Official Plan.

The following correspondence was received from the various agencies and residents circulated:

- i) Letter dated October 21, 2019 from the Essex Region Conservation Authority:

*The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance under the Provincial Policy Statement (PPS 2014). Based on our review, we have no objection to the application with respect to natural heritage policies.*

- ii) Email dated October 15, 2019 from the Public Works Department indicating:

- A new access driveway/bridge may be required to access the retained (farm) parcel if one does not exist already.
- A Right-of-Way permit from EPW will be required if this is the case.

- iii) Planning Report dated October 16, 2019 from Frank Garardo, Secretary Treasurer.

Committee Discussion:

**B/28/19**

Chair Cozens introduced the application. Mr. VandenBrink stated that they would like to sever a house that is surplus to their farming operation. He stated that they had rented the house for a short period of time but would like for someone to be able to use the house full-time. He stated that the lot shape was irregular but it was the most logical to accommodate for the well and the placement of the barn for farm storage.

Mr. Buchanan asked about adding a condition for the inspection, certification and/or removal of the propane tank. Mr. Shaw moved to accept the application with the added condition. Mr. Garardo reviewed the conditions with the Committee and applicant.

The following resolution was put forth:

That application B/27/19 be approved, subject to the following conditions:

1. That a Reference Plan of the subject property satisfactory to the municipality be deposited in the Registry Office; an electronic and paper copy to be provided to the municipality.
2. The applicant to submit to the municipality the deed, in triplicate, acceptable for registration in order that consent may be attached to the original and duplicate and a copy be provided to the municipality.
3. That all property taxes be paid in full.
4. That an assessment apportionment for any and all drains affected by the severance be completed in accordance with the provisions of the Drainage Act and that all costs associated with said apportionment be paid by the applicant.
5. That the retained farmland to be rezoned to ensure that no new dwelling units shall be permitted and the requirement for this non-development be registered against the title of the property.
6. That the applicants obtain a confirmation that the current well is in working order and that its operation will not be affected by the severance.
7. That the applicants obtain a report from a certified designer/installer that the existing private septic system serving the surplus dwelling does not cross the property lines, that the system is in working order and that its operation will not be affected by the severance. Further the Chief Building Official or his designate is to be onsite for inspection purposes when the field investigation is conducted by the designer/installer.
8. That the applicant obtain a report from a certified installer that the existing propane tank is in good working order and in operation or have the propane tank removed at the applicant's expense.
9. That a minor variance be obtained from the provisions of Bylaw 1999-52, as amended, Section 26(3)(a)(i) which requires a minimum lot area of 40 hectares in an Agricultural (A) Zone regarding the retained farm parcel.
10. This consent will be deemed to be refused in accordance with the Planning Act if the above noted conditions are not met within one year from the date of this notice.

Moved by: Don Shaw

Seconded by: Josh Mailloux

-carried-

Reasons of Committee – The Committee, having considered the evidence presented, and having reviewed the plans and correspondence on file, are satisfied that the request is in conformity with Sections 6.1.2 and 6.1.2(6) of Amherstburg's Official Plan and is consistent with the Provincial Policy Statement. The approval allows for responsible development of land with appropriate drainage.

#### **A-15-19**

Public in Attendance: George and Ruth VandenBrink

The applicant is requesting relief from Zoning By-law 1999-52, as amended, Section 26(3)(a)(i) which requires a minimum lot area of 40 ha in an Agricultural (A) Zone. Subsequent to a severance from an existing 37.29 hectares (92.16 acres) parcel the retained farm parcel will have an area of 36.95 hectares (91.31 acres). Therefore the amount of relief requested is 3.05 hectares (7.53 acres).





The following correspondence was received from the various agencies and residents circulated:



**Town of Amherstburg**  
**B-28-19**  
**3671 Creek Road**

**A-12**

## Legend

-  Zoning
-  Agricultural
-  Natural Environment
-  Provincially Significant Wetlands



CONCESSION 3 S

**EP**

**W**

**A**  
**A**

**A-36**

**EP**

**A**

**EP**



planning@erca.org

P.519.776.5209

F.519.776.8688

360 Fairview Avenue West  
Suite 311, Essex, ON N8M 1Y6

November 08, 2019

Mr. Frank Garardo  
Manager of Planning Services  
3925 Meloche Road  
Amherstburg, ON N9V 2Y8

Dear Mr. Garardo:

RE: Zoning By-Law Amendment ZBA-19-19 3671 CREEK RD  
ARN 372959000000800; PIN: 015395765  
Applicant: VANDENBRINK GEORGE

The following is provided as a result of our review of Zoning By-Law Amendment ZBA-19-19. The purpose of the application is to change the zoning of the subject parcel to prohibit future new dwelling units on the land. This application is a condition of the approval for the consent application that allowed for the creation of a lot that includes a dwelling surplus to the needs of the farming operation.

## **DELEGATED RESPONSIBILITY TO REPRESENT PROVINCIAL INTEREST IN NATURAL HAZARDS (PPS) AND REGULATORY RESPONSIBILITIES OF THE CONSERVATION AUTHORITIES ACT**

The following comments reflect our role as representing the provincial interest in natural hazards as outlined by Section 3.1 of the Provincial Policy Statement of the *Planning Act* as well as our regulatory role as defined by Section 28 of the *Conservation Authorities Act*.

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the *Conservation Authorities Act* (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Atkinson Drain and Big Creek. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the *Conservation Authorities Act*.

It is the opinion of ERCA that this application to re-zone the subject lands is consistent with the natural hazards policies of the PPS and with Section 28 of the *Conservation Authorities Act*.

## **WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

The following comments are provided in an advisory capacity as a public commenting body on matters related to watershed management.

## **SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**



Mr. Garardo  
November 08, 2019

Our office has reviewed the proposal and has no concerns relating to stormwater management.

**PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS**

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

It is the opinion of ERCA that this application for res-zoning is consistent with the natural heritage policies of the PPS.

**FINAL RECOMMENDATION**

ERCA has no objection to this application for re-zoning.

If you have any questions or require any additional information, please contact the undersigned.

Sincerely,



Sincerely,  
[insertsig]

Michael Nelson, BSc, MSc (Planning)  
*Watershed Planner*  
/mn

