



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF DEVELOPMENT SERVICES

MISSION STATEMENT: Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.

Author's Name: Janine Mastronardi	Report Date: January 30, 2025
Author's Phone: 519 736-5408 ext. 2134	Date to Committee: February 5, 2025
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To: Chair and Members of the Committee of Adjustment

Subject: B/03/25, 3465 Concession 3 N, Nick Carosella, c/o Donato DiGiovanni, Agent

1. **RECOMMENDATION:**

It is recommended that:

1. Subject to the Committee's consideration of written and oral submissions at the public meeting that application B/03/25 **BE APPROVED** subject to the recommended conditions.

2. **PROPOSAL:**

The applicant is proposing to sever a parcel of land being 33.5 m (110 ft) ± width by 24.4 m (80 ft) ± depth with an area of 817.5 sq m ± to merge with the abutting property at 3471 Concession 3 N.

The retained parcel being 102 m +/- of frontage by an irregular depth with an area of 8.256 ha is an existing undersized lot which contains a single detached dwelling, two accessory structures and approximately 6 ha of woodlot.

3. **BACKGROUND:**

On August 30, 2016 the Committee of Adjustment approved a technical severance, consent file number B/24/16, for the lot at 3471 Concession 3 N.

4. PLANNING INFORMATION:

Official Plan designation: Agricultural
By-law No. 1999-52: Agricultural (A) Zone
Existing Use: Agricultural and Rural Residential
Neighbouring Uses: Agricultural and Rural Residential
Access: Concession 3 N

TECHNICAL INFORMATION

Property Size of Entire Parcel: 8.338 ha
Proposed Size of Severed Parcel B/03/25: 0.082 ha
Proposed Size of Retained Parcel: 8.256 ha

5. PLANNING ANALYSIS:

In the review of the subject applications, a number of points have been reviewed:

1. PLANNING ACT REQUIREMENTS

The purposes of the Planning Act are;

- “ (a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
(b) to provide for a land use planning system led by provincial policy;
(c) to integrate matters of provincial interest in provincial and municipal planning decisions;
(d) to provide for planning processes that are fair by making them open, accessible, timely and efficient;
(e) to encourage co-operation and co-ordination among various interests;
(f) to recognize the decision-making authority and accountability of municipal councils in planning. 1994, c. 23, s”

The proposal is consistent with Section 2 of the Planning Act which requires that the Committee of Adjustment have regard to matters of provincial interest including (the following are excerpts from Section 2 of the Planning Act that apply to this development):

- the protection of the agricultural resources of the Province;
- the appropriate location of growth and development;

When considering the severance application, under Section 53 of the Planning Act, R.S.O. 1990, as amended, the Committee may consider an application for consent if they are satisfied that a plan of subdivision is not necessary for orderly development of the land. In this case, the applicant is applying for a lot addition to merge with the adjacent

existing parcel. The severance will not create a new building lot. A plan of subdivision is not necessary.

2. PROVINCIAL PLANNING STATEMENT

The Planning Act R.S.O 1990, C.P.13, requires that the Council of a local Municipality and Committees of a local Municipality shall have regard to matters of Provincial interest in carrying out applications such as a severance application. Items of Provincial interest are outlined in the Provincial Planning Statement (PPS) issued by the Ministry of Municipal Affairs and Housing.

“Legislative Authority

The Provincial Planning Statement is a policy statement issued under the authority of section 3 of the Planning Act and came into effect on October 20, 2024. The Provincial Planning Statement applies to all decisions in respect of the exercise of any authority that affects a planning matter made on or after October 20, 2024.

In respect of the exercise of any authority that affects a planning matter, section 3 of the Planning Act requires that decisions affecting planning matters shall be consistent with policy statements issued under the Act.

Comments, submissions or advice that affect a planning matter that are provided by the council of a municipality, a local board, a planning board, a minister or ministry, board, commission or agency of the government shall be consistent with the Provincial Planning Statement.”

The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety and the quality of the natural and built environment. These policy directives include the protection of ecological and natural systems, providing cost-effective and orderly development, the protection and enhancement of the quality and quantity of ground water and surface water and the function of sensitive ground water recharge/discharge areas, aquifers and headwaters to name a few.

Section 4.3.3 being Lot Creation and Lot Adjustments in the Agricultural areas, specifically 4.3.3.2 provides that “Lot adjustments in *prime agricultural areas* may be permitted for *legal or technical reasons*.”

Legal or technical reasons is defined in the PPS as, “severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot.”

No new lots are being created. The proposed lot addition is proposed to be merged with an existing lot.

In the opinion of the author of this report the requested consent is consistent with the Provincial Policy Statement.

3. COUNTY OF ESSEX OFFICIAL PLAN:

The subject lands are located within the Agricultural area in the County of Essex Official Plan. Section 3.3 of the County Plan sets out the policy directives within the designation.

Section 3.3.3.4 set out the polices with respect to lot creation in the agricultural area. Subsection (e) permits lot adjustments for legal or technical reasons, such as for easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot are also permitted. The purposed consent is for a lot addition and will not result in the creation of a new building lot.

The minor variance would provide for relief from the minimum lot size of agricultural lands as per section 3.3.2 (f) of the County Official Plan.

4. TOWN OF AMHERSTBURG OFFICIAL PLAN:

The subject property is designated Agricultural in the Town's Official Plan.

The requested consent conforms with the relevant policies of the Official Plan specifically Section 3.2.2 being the Land Severance policies applicable in the Agricultural designation.

The applicant has identified that the severed parcel is for a lot addition, to merge with existing rural residential lot (3471 Concession 3 N). The consolidated parcel will provide an adequate lot size to accommodate the existing house and a septic system and accessory structures. The retained parcel will remain as agricultural land used for rural residential and farming while also containing a woodlot. The proposed severance is consistent with the above noted policies; therefore, is deemed to be in conformity with the Official Plan.

After the proposed severed parcel merges with the existing rural residential parcel the resulting undersized lot parcel size at 3471 Concession 6 S will be 0.592 ha. Looking to Section 6.1.2(10) which states, "In areas designated in whole or in part as "Agricultural", or "Natural Environment", or "Wetland", minor boundary adjustments may be permitted that could have the effect of creating a lot of less than 40 hectares, conditional on one of the parcels being added to an adjacent property and the existing dwelling remaining on the remnant parcel so that no new building lots have been created. Generally, the remnant lot must be either a viable farm parcel size or follow the policy of the surplus farm unit and be generally less than one (1) hectare in size." The consolidated parcel is well under the permitted 1 ha lot area.

In my opinion the proposed severance is consistent with the above noted policies; therefore, is deemed to be in conformity with the Official Plan.

5. COMPREHENSIVE ZONING BY-LAW 1999-52:

The subject property is zoned Agricultural (A) Zone in Bylaw 1999-52, as amended. The A Zone allows for all uses permitted in Subsection 26(2) being the Agricultural (A) Zone provisions. The consent is not in contravention to the Zoning Bylaw.

The proposed lot sizes are already considered undersized lots by the Zoning By-law, therefore a minor variance is not being recommended to acknowledge the very small change in lot area. The location of buildings and structures as well as the intended land uses for the severed and retained parcels appear to comply with the zone requirements for the Agricultural Zone.

In the opinion of the author of this report the proposed severance maintains the intent of the Zoning By-law.

6. AGENCY COMMENTS:

See attached.

7. RISK ANALYSIS:

As with all Committee of Adjustment decisions there is a risk that the decision is appealed. As a result of changes in Bill 23, decisions by a CoA can no longer be appealed by a third party. Decisions which are to support or refuse the consent or minor variance request, can only be appealed by the applicant, the Municipality, the Minister, a specified person or any public body. In the case of a consent decision the appeal must be filed within 20 days after the giving of notice of the decision of the committee, whereas for a minor variance an appeal must be filed within 20 days of the making of the decision of the committee. It is important to note that a tied vote is deemed to be a decision to deny the consent or minor variance request. If there is an appeal to the OLT the Town will incur costs.

8. RECOMMENDATIONS:

Based on the foregoing and subject to the Committee's consideration of written and oral submissions at the public meeting it is recommended that application **B/03/25 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; a copy to be provided to the municipality.
2. The applicant to submit to the municipality the deed acceptable for registration in order that consent may be attached and a copy be provided to the municipality.
3. That all property taxes be paid in full.
4. Subsection 3 of Section 50 of the Planning Act applies to any subsequent conveyance or transaction of or in relation to the parcels of land being the subject of the consent (severed and retained parcels).
5. That prior to the stamping of deeds the owner is to provide satisfactory evidence that the adjacent parcel is under consolidation relative to the parcels which are the subject of the consent.
6. That a grade design demonstrating that the severed (resulting consolidated parcel) will maintain its own surface water be submitted and implemented to the satisfaction of the municipality.

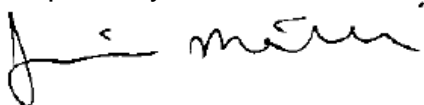
7. Surface water and subsurface drainage tiles and water shall be redirected around the severed parcel to the satisfaction of the municipality.
8. The applicant shall submit a tiling plan of the entire parcel satisfactory to the municipality.
9. The applicant/owners shall enter into a reapportionment of the drainage assessment for the subject lands in accordance with Section 65(2) of the Ontario Drainage Act, R.S.O. 1990 as amended and provide the Town of Amherstburg, a signed agreement and that any associated cost of same be borne solely by the applicant. The reapportionment for any affected Municipal Drains be required and are to be assessed against the affected lands in accordance with any past, current or future drainage bylaws, until such time as otherwise determined under the provisions of the Drainage Act. The severance shall not be granted until a Council resolution is passed to execute the reapportionment agreement.
10. This consent will be deemed to be refused in accordance with the Planning Act if the above noted conditions are not met within two years from the date of this notice.

NOTE: All conditions are subject to the approval of The Town of the Amherstburg, but at no cost to the municipality.

9. CONCLUSION:

In the opinion of the author of this report the request for a lot addition for a minor lot boundary adjustment is in conformity with Sections 6.1.2 and 6.1.2(6) of Amherstburg's Official Plan and is consistent with the Provincial Planning Statement.

Respectfully submitted,



Janine Mastronardi
Secretary-Treasurer Committee of Adjustment

Report Approval Details

Document Title:	B-03-25, 3465 Concession 3 N, Nick Carosella, c.o Donato DiGiovanni.docx
Attachments:	<ul style="list-style-type: none">- B-03-25- Notice- 3465 Concession 3 N.-RM.pdf- B-03-25 - Application_Redacted-RM s.pdf- B-03-25- Site Photo-RM.pdf- Summary of Correspondence Received on B-03-25-RM.pdf- B-03-25 PowerPoint-RM.pdf
Final Approval Date:	Jan 30, 2025

This report and all of its attachments were approved and signed as outlined below:

Chris Aspila