

MINUTES

County of Lambton
Meeting for the Committee "Land Division Committee"
on
Tuesday January 10, 2006 09:00 AM
Committee Room #1
Chair: William Bilton

Orders of the Day:

Review Applications

The Land Division Committee of the County of Lambton met at the Lambton County Building at 9:00 a.m. Tuesday, January 10, 2006, to hold a hearing into applications for consent.

Present: Chair B. Bilton, Warden Jim Burns. Members: J. Dedecker and B. MacDougall. Also present were Deputy-Secretary-Treasurer M. Pauschenwein, Planner Maria Cossa-Rossi and Private Sewage Co-ordinator Corinne Nauta.
Absent: None.

Applications

B-001/06	Nancy Myers Concession 7, East Part Lot 34 Township of Dawn-Euphemia
B-002/06	Timothy and Kathleen Myers Concession 7, Part Lot 34 Part 1 of 25R 4780 2185 Cairo Road Township of Dawn-Euphemia

A consent application has been made by Nancy Myers on lands measuring an approximate 47.61 acre (19.27 ha) farm. The proposed severed parcel would have a width of 121.23m, a depth of 9.14m and an area of 1108.52m² (0.273 ac). The proposed retained portion would be approximately 47.34 acres (19.16 ha). The proposed severed parcel is to be added to the abutting property owned by her son Timothy and daughter-in-law Kathleen Myers. Nancy Myers would like to sell the farm but Timothy and Kathleen's pool encroaches the lot line and therefore a minor lot boundary adjustment is being sought.

A severance of 1.48 acres had already been granted on Nancy Myers' property for conveyance to her son in 1987 (File # B-018/87). Since Timothy and Kathleen Myers' lot was created by consent after March 31, 1979, lands cannot be added to it unless specifically provided for by a condition of the original severance approval. Their lot must be made the subject of a further technical severance and a merging condition applied before any lands can be added. Therefore, Timothy and Kathleen Myers have applied to sever a 0.3m by 0.3m section on the southwest corner of their property to be added to the part severed by Nancy Myers. The two severed parcels will later be merged with Timothy and Kathleen Myers' lot.

The lands in both applications are designated "Agriculture" in the *Township Dawn-Euphemia Official Plan* and they are zoned "Agricultural (A1)" in the *Township of Dawn-Euphemia Zoning By-law 25 of 2002*.

The *Official Plan (OP)* for the Township of Dawn-Euphemia permits severances in the Rural Area to allow for minor lot line adjustments. Nancy Myers' application requests approval for a minor lot line adjustment to correct the encroachment of her son's pool onto her property. Timothy and Kathleen's application addresses the requirement for a technical severance because under the *Planning Act*, a lot severed after March 31, 1979, cannot be merged with an abutting parcel unless a condition of the original severance approval specifically provided for merging. Since no provision for merging was made, a lot severed after March 31, 1979, must be made the subject of a further consent (technical severance) at which time a merging condition could be imposed.

Attending the meeting was Tim Myers who explained to the Committee that his mother owns the abutting farmland and wishes to sell. The property on which he lives was severed from the agricultural lot in 1987 and the lot now is too small. They have planted a row of trees which are on the agricultural portion and would like to add lands to that previously severed portion.

The Planner read the planning report.

Mr. Myers had questions regarding septic conditions which were answered by the Private Sewage Co-ordinator.

#1: Dedecker/Burns: That Applications B-001/06 and B-002/06 be approved with conditions.

Carried.

Conditions - B-001/06

1. That a copy of the deed and R.D. Plan or survey in a form suitable for registration be deposited with the Secretary-Treasurer.
2. That a fee of \$500.00 be paid to the County of Lambton by cash or certified cheque.
3. That all conditions be fulfilled within one year of the notice of decision of this consent. That the certificate of consent required by Sections 53(42) of the Planning Act, be obtained within one year of the notice of decision of this consent. *The County will endeavour to send the applicant a reminder that the Provisional Consent is approaching its lapsing date. However, **each applicant is responsible for ensuring that the Provisional consent does not lapse.** If the Provisional Consent does lapse (meaning the deeds have not been stamped within one year of the granting of the consent), a new application will be required. There is no provision in the Planning Act for extensions to Provisional Consents.*
4. That the applicant enter into an agreement with the Township of Dawn-Euphemia for the apportionment of drainage assessments on the involved properties.
5. That if either the severed portion or the retained portion does not have an access culvert, then the applicant is responsible for the cost of the Township of Dawn-Euphemia providing such access.
6. That the septic system for Application B-002/06 meets the requirements of the County Private Sewage System Co-ordinator (CPSSC) and that the applicants partially uncover the septic bed for inspection by the CPSSC or provide the CPSSC with an Engineer's report regarding the status/condition of the septic system.
7. That minor variances be obtained for both applications B-001/06 and B-002/06 at the applicant's expense, from the Township of Dawn-Euphemia to recognize their undersized lots.

8. That the severed lands are deeded in the same name and interest as the lands to which they are being added and that *Section 50(3)* of the *Planning Act* applies to any future conveyances or transactions.
9. That the deeds for both Application B-001/06 and B-002/06 be presented at the same time for stamping.

Conditions - B-002/06

1. That a copy of the deed and R.D. Plan or survey in a form suitable for registration be deposited with the Secretary-Treasurer.
2. That all conditions be fulfilled within one year of the notice of decision of this consent. That the certificate of consent required by Sections 53(42) of the Planning Act, be obtained within one year of the notice of decision of this consent. *The County will endeavour to send the applicant a reminder that the Provisional Consent is approaching its lapsing date. However, **each applicant is responsible for ensuring that the Provisional consent does not lapse.** If the Provisional Consent does lapse (meaning the deeds have not been stamped within one year of the granting of the consent), a new application will be required. There is no provision in the Planning Act for extensions to Provisional Consents.*
3. That the applicant enter into an agreement with the Township of Dawn-Euphemia for the apportionment of drainage assessments on the involved properties.
4. That if either the severed portion or the retained portion does not have an access culvert, then the applicant is responsible for the cost of the Township of Dawn-Euphemia providing such access.
5. That the septic system for Application B-002/06 meets the requirements of the County Private Sewage System Co-ordinator (CPSSC) and that the applicants partially uncover the septic bed for inspection by the CPSSC or provide the CPSSC with an Engineer's report regarding the status/condition of the septic system.
6. That minor variances be obtained for both applications B-001/06 and B-002/06 at the applicant's expense, from the Township of Dawn-Euphemia to recognize their undersized lots.
7. That the severed lands are deeded in the same name and interest as the lands to which they are being added and that *Section 50(3)* of the *Planning Act* applies to any future conveyances or transactions.
8. That the deeds for both Application B-001/06 and B-002/06 be presented at the same time for stamping.

B-003/06

John & Helen Misek a/f 1432234 Ontario Ltd.
(Rick Podolinsky)
Concession 7, South Part Lot 15
7674 Shiloh Line, Geographic Township of Brooke
Township of Brooke-Alvinston

An application has been made by John and Helen Misek, agents for 1432234 Ontario Ltd. (Rick Podolinsky), with the intent to sever a lot with dimensions of 79.25m x 74.68m and an approximate area of 0.59 ha (1.5 ac). The retained portion, which is vacant except for a former chicken coop and not suitable for habitation, would have an area of 39.86 ha (98.5 ac).

This is a farm consolidation and the dwelling is surplus to the needs of the farm corporation. This farm was formerly owned by John and Helen Misek and they are acting as agents to sever the lot containing the surplus dwelling, a garage and four non-livestock sheds. The Miseks are proposing that the ownership of the severed portion be transferred into their name and interest.

The *Official Plan (OP)* for the *Township of Brooke-Alvinston* designates the subject lands "Rural Area" and the subject lands are zoned "Agricultural 1 (A1) Zone" in the *Township Zoning By-law 11 & 22 of 2000*.

Section 1A.11, subsection d) of the Township's *OP* permits a severance to create a new rural residential lot to dispose of a surplus farm residence rendered surplus as a result of farm consolidation.

As of March 1, 2005, the *Provincial Policy Statement (PPS)* permits lot creation in prime agricultural land only for a residence surplus to a farming operation as a result of farm consolidation, provided that the planning authority ensures that new residential dwellings are **prohibited** on any vacant remnant parcel of farmland created by severance. The Township *OP* also requires that the remnant farm parcel be rezoned to ensure that the erection of a new dwelling thereon is prohibited.

The Township's *OP* also requires that the size of the severed and retained lots conform to the requirements of the Zoning By-Law. The Zoning By-Law requires a minimum area of 94ac (38ha) for the proposed retained parcel and 1ac to 2.47ac (0.4 to 1ha) for the proposed severed parcel. The proposed parcels conform to the minimum requirements of the Township's Zoning By-Law.

Attending the meeting were John and Helen Misek, their daughter Marg Evans and the owner of the property Rick Podolinsky.

M. Evans, speaking on behalf of her parents stated that they would like to sever a 1.5 acre lot from a 100 acre farm property. This lot contains a residence and is surplus to the farming operating. Mr. and Mrs. Misek sold their farm to Mr. Podolinsky in 2003. There are a few small sheds on the property which will stay with the lot. An old chicken coop will go with the Podolinsky property.

Burns/MacDougall: That Application B-003/06 be approved with conditions.

Carried.

Conditions:

1. That a copy of the deed and R.D. Plan or survey in a form suitable for registration be deposited with the Secretary-Treasurer.
2. That a fee of \$500.00 be paid to the County of Lambton by cash or certified cheque.

3. That all conditions be fulfilled within one year of the notice of decision of this consent. That the certificate of consent required by Sections 53(42) of the Planning Act, be obtained within one year of the notice of decision of this consent. *The County will endeavour to send the applicant a reminder that the Provisional Consent is approaching its lapsing date. However, **each applicant is responsible for ensuring that the Provisional consent does not lapse.** If the Provisional Consent does lapse (meaning the deeds have not been stamped within one year of the granting of the consent), a new application will be required. There is no provision in the Planning Act for extensions to Provisional Consents.*
4. That the severed portion contain the water well for the residence or the severed portion be connected to a municipal waterline if available.
5. That the applicant enter into an agreement with the Township of Brooke-Alvinston for the apportionment of drainage assessments on the involved properties.
6. That the applicant is responsible for the cost to the Township of Brooke-Alvinston of providing and installing an access culvert on the severed (and/or retained) portion.
7. That the retained farm lot be rezoned to prohibit a dwelling.
8. That the existing septic system either meets the requirements of the County Private Sewage System Coordinator (CPSSC) or the applicants provide a retainer in the form of a letter of credit or certified cheque in the amount of \$15,000. The retainer would be refundable upon:
 - the septic system being partially uncovered and determined by the CPSSC to comply with the Building Code; or
 - an engineer's report being submitted that approves the existing system; or
 - the installation of a new system that conforms to the Building Code.

Adjournment

The Chair declared the meeting adjourned to meet again on February 14, 2006.

Time: 10:45 a.m.

Bill Bilton
Chair

Madeline Pauschenwein
Deputy-Secretary-Treasurer