



THE CORPORATION OF THE TOWN OF TECUMSEH

Planning Report

TO: Committee of Adjustment

FROM: Chad Jeffery, MA, MCIP, RPP
Manager, Planning Services

HEARING DATE: September 23, 2019

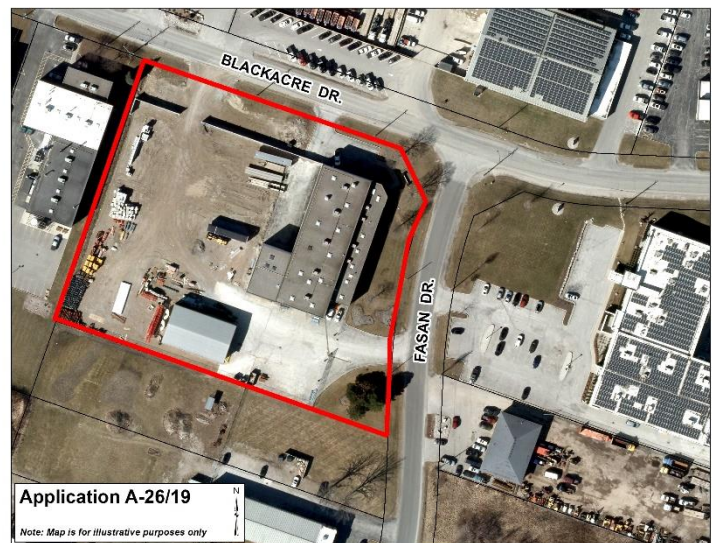
SUBJECT: Minor Variance Application A-26/19 and
Severance Application B-12/19

Please note that these Planning Comments were prepared as of September 20, 2019. Any public comments received after this date have not been incorporated into the following comments, however consideration of such public comments will be given at the Committee of Adjustment hearing on September 23, 2019 as the normal practice.

Application: Minor Variance Application A-26/19
Applicant: Amicone Holdings Limited
Location of Property: 2155 Blackacre Drive

The purpose of the Application is to request relief from subsection 5.37 e) of Zoning By-law 85-18 which establishes that every lot shall have a minimum of one driveway and a maximum of two driveways for any permitted use. As a result of the recent construction of a third driveway to/from the subject lot, relief is being requested.

The property is designated Business Park in the Sandwich South Official Plan and zoned Industrial Zone (M1) in the Sandwich South Zoning By-law.



In accordance with the *Planning Act*, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:

i) Is the intent of the Official Plan maintained?

The subject property is designated Business Park in the Official Plan. This designation permits the contractor's yard and associated office use that currently occupies the subject property. Accordingly, it is my opinion that the intent of the Official Plan is maintained.

ii) Is the intent of the Zoning By-law maintained?

The purpose of the driveway regulation is to ensure adequate access to industrial properties while minimizing the number of access points along municipal roads. Too many access drives in close proximity to one another can contribute to traffic conflicts. Given the relatively large size of the subject property, and the fact that it is a corner lot abutting two roads, it can readily accommodate three access drives without undermining this objective.

Given the foregoing rationale, it is my opinion that the intent of the By-law will be maintained.

iii) Is the variance desirable for the appropriate development or use of the land?

It is acceptable, and sometimes preferable, for larger properties, such as the subject lot, to have more than two access drives to facilitate larger volumes and different forms of traffic to/from the site. The applicant owns lots on the opposite side of both Fasan and Blackacre Drives from the subject property. These lots each have three access drives and the lot to the north has a similar parking lot configuration. The Town has received no complaints regarding these sites and it is understood that they are functioning well.

In addition, there are numerous smaller lots along Blackacre Drive that have two access points. On these lots, the access drives are situated much closer to one another than the ones on the subject property. Again, the Town is not aware of any issues related to these smaller lots and their associated accesses.

It also appears that the second access facilitates one-way movement of traffic through the parking lot abutting Blackacre Drive. This controlled traffic circulation will assist with minimizing conflicts on this road.

Based on the foregoing and on the comments in item ii) above, it is my opinion that the proposed third access will result in the appropriate use of the land.

iv) Is the variance requested minor?

The three driveways on the subject lot are separated from one another and from the intersection of Blackacre and Fasan Drives at an adequate distance. The second access along Blackacre appears to facilitate one-way movement of traffic through the parking lot thereby reducing the potential for conflicts along Blackacre Drive. Accordingly, there is no anticipated adverse impact and it is my opinion that the proposed variance is minor in nature.

Administration/Agency Comments

1. Engineering

- The requested third entrance is to a portion of the subject property that was recently developed (placement and grading of fill) without the required permit from the Town Building Department. A condition of the minor variance should be that the owner is required to submit site service drawings and detailed stormwater management reports (addressing quantity and quality) to address the recent site alterations which will be reviewed/approved by the Town Engineer and that the owner be required to construct the related stormwater facilities prior to construction of the third entrance.

2015

2019



- The stormwater management facilities will require approval from the Ministry of Environment, Conservation and Parks (MECP) under Section 53 of the Ontario Water Resources Act.

2. Essex Region Conservation Authority (refer to formal correspondence in Agenda package)
 - No concerns relating to stormwater management.

Public Comments

To date, none received on this application.

Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act* in that the intent of the Zoning By-law has been met, the variance will result in appropriate development, the variance will not create undue adverse impact on adjacent properties and the variance is minor in nature.

The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear additional concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. Given the nature of this variance request and the purpose of the provision from which relief is being requested, it is particularly important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

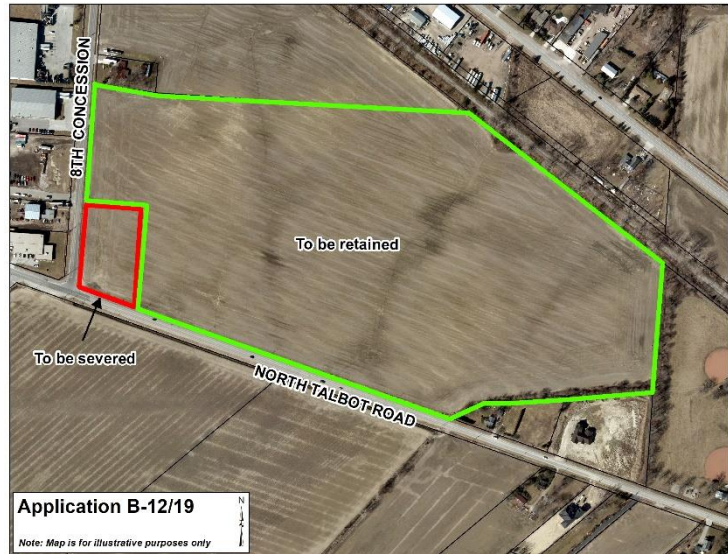
Recommended Conditions

That the owner submit site service drawings and a detailed stormwater management report (addressing quantity and quality) to address the recent site alterations which will be reviewed/approved by the Town Engineer and that the owner be required to construct the related stormwater facilities prior to the approval of the third entrance coming into effect.

Application: Severance Application B-12/19
Applicant: Del Duca Industrial Park Ltd.
Location of Property: 5240 8th Concession

The purpose of the Application is to request consent to sever a 0.74 ha (1.84 acre) parcel of land having an approximate frontage of 72.43 metres (237.63 feet) on North Talbot Road designated as Part 1 on the sketch attached to the agenda (highlighted in yellow). The proposed retained lands have an area of 20.79 ha (51.37 acres). Parts 2, 3 and 4 (highlighted in pink) on the sketch attached to the agenda will be conveyed to the Town for a road widening to facilitate a daylight corner and a multi-use pathway.

The proposed severed land is designated General Commercial in the Sandwich South Official Plan and zoned Holding General Commercial Zone (H) C1-9 in the Sandwich South Zoning By-law 85-18. The proposed retained land is designated Low Density Residential and zoned Holding Residential Zone 2 (H) R2-4 and Holding Parks and Open Space Zone (H)P-5.



The land use designations and zones that apply to the subject land came into effect by way of an Order of the Ontario Municipal Board (now the Local Planning Appeal Tribunal). This Order was issued after the original applications to permit the lands to development industrially were denied by the OMB. As part of that decision, the OMB directed that the Town, Owner and resident group work towards an alternative land use plan that included Commercial land (as proposed in this severance application), residential land (the bulk of the retained land) and a “buffer strip” between the residential land and the industrial development to the west across the 8th Concession Road. Ultimately, Town Council endorsed an alternative land use plan that was consistent with the OMB’s direction and which was then approved by the issuance of Order of the OMB. In summary, the severance application before the Committee of Adjustment is in keeping with the land use designations and zoning that was ultimately approved by the Board, subject to the inclusion of appropriate conditions.

Provincial Policy Statement (PPS)

The Planning Act establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2014 Provincial Policy Statement (“PPS”) issued under *The Planning Act*.

The OMB determined that the Commercial designation at this location (and its severance from the balance of the subject land in accordance with the appropriate Official Plan Land Use Policies), was consistent with the PPS.

County of Essex Official Plan (COP)

The subject lands are within a Primary Settlement Area, as identified in the County of Essex Official Plan.

The OMB determined that the Commercial designation at this location (and its severance from the balance of the subject land in accordance with the appropriate Official Plan Land Use Policies), was in conformity with the COP.

Sandwich South Official Plan

The subject property is designated General Commercial in the Sandwich South Official Plan. The following sections of the Sandwich South OP are relevant in the evaluation of the proposed severance:

4.1 GENERAL POLICIES

- (e) *Consents shall be granted only if they comply with the provisions of the zoning by-law. Where a by-law amendment or minor variance is necessary, it shall be a condition of the decision.*

4.5 GENERAL COMMERCIAL, NEIGHBOURHOOD COMMERCIAL AND BUSINESS PARK

On those lands designated "General Commercial", "Neighbourhood Commercial" or "Business Park", consents will be granted for the creation of a new lot for a permitted use as outlined in this Plan, provided the consent is in compliance with the Town's zoning by-law and a registered plan of subdivision is deemed not to be required.

Commercial uses are proposed for the severed property in accordance with the current General Commercial Zone C1-9 zoning, subject to the approval of a site plan control agreement and the removal of the Holding (H) symbol by way of Council by-law.

Sandwich South Zoning By-law

The subject property is zoned Holding General Commercial Zone (H) C1-9 in the Sandwich South Zoning By-law. The C1-9 Zone permits various commercial uses.

Administration/Agency Comments

1) Engineering

- The Owners must enter into, and provide the Town of Tecumseh, a written agreement for the reapportionment of the drainage assessment for the subject lands, in accordance with Section 65(2) of the Ontario Drainage Act, RSO. 1990, as amended and that the associated costs of same be borne solely by the Applicant.
- The owner should be made aware that site service drawings and detailed stormwater management reports (addressing quantity and quality to the satisfaction of the Town's Engineer) will need to be submitted for future developments on these lands as part of site plan control processes or Building Permit application processes, which will then be reviewed/approved by the Town Engineer prior to issuance of site plan control approvals and/or Building Permits.
- That the parcel to be retained and the parcel to be severed are to be serviced with separate water supplies and sanitary sewer systems to the satisfaction of the Town of Tecumseh Public Works and Water Departments prior to this severance being finalized. Please note that the Town installed existing sanitary service connections to both the retained and severed portions of this property as part of the Oldcastle Hamlet Sanitary Sewer Improvements (Phase 1) project. Cost related to the installation of these service connections has not yet been assessed to the subject property. Prior to this severance being finalized, the Town is to be reimbursed the cost of the previously installed sanitary service connection to the severed lot.
- At this time, it is unknown if storm drainage for the severed lot will be provided by future development on the retained property or if a site specific storm drainage system will be required. If development on the severed lot proceeds on its own, it is anticipated that a new storm service connection will be required across North Talbot Road and into the open drain located on the south side of North Talbot Road and that the costs related to same will be the responsibility of the owner of the severed property.

2) Essex Region Conservation Authority

- The property is subject to the 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 Washbrooke Drain, Hurley Drain and the 8th Concession Drain.
- Consistency with Section 3.1 of the PPS has been demonstrated.

- Ontario Regulation (158/06) applies to the retained lands. A permit or clearance from ERCA will be required prior to any development taking place. Ontario Regulation 158/06 does not apply to the severed lands associated with Parts 1, 2, 3 and 4 of the application. No further permit or clearance is required prior to further development taking place.
- No objection to the application.

Public Comments

To date, none received on this application.

Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, and given that the OMB has determined the proposed commercial land use to be consistent with the PPS and County OP, it is my opinion that the proposed severance conforms to the Sandwich South OP and the Sandwich South Zoning By-law.

The public hearing, in accordance with the requirements of *the Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

Recommended Conditions

Based on the information provided within this Application and in this report, it is recommended that this Application, if approved, be subject to the following conditions:

1. That at the time the conveyance is prepared for certification, two (2) copies of the reference plan by an Ontario Land Surveyor as well as digital files (.pdf and .dwg) with the .dwg files being in NAD 83 format (UTM Zone 17 Metric), which has been numbered, dated, signed and registered must be submitted to the Town;
2. That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year paid in full, as well as any and all arrears owing on the total parcel;
3. That the appropriate documents for the conveyance be prepared in triplicate (3) suitable for registration, all copies to have original signatures, with one copy to remain as a record with the Town;

4. That any cost in excess of the \$600.00 non-refundable application fee, incurred to process this application such as legal and engineering fees, appraisal reports, etc. shall be the responsibility of the applicant and shall be payable to the Town of Tecumseh where applicable, prior to final consent;
5. That the Owners enter into, and provide the Town of Tecumseh, a written agreement for the 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 that the associated costs of same be borne solely by the Applicant. Apportionments for affected Municipal Drains are required and are to be assessed against the lands affected in accordance with any past, current or future drainage by-laws, until otherwise determined under the provisions of the Drainage Act;
6. That the parcel to be retained and the parcel to be severed are to be serviced with separate water supplies and sanitary sewer systems to the satisfaction of the Town of Tecumseh Public Works and Water Departments prior to this severance being finalized. Please note that the Town installed existing sanitary service connections to both the retained and severed portions of this property as part of the Oldcastle Hamlet Sanitary Sewer Improvements (Phase 1) project. Cost related to the installation of these service connections has not yet been assessed to the subject property. Prior to this severance being finalized, the Town is to be reimbursed the cost of the previously installed sanitary service connection to the severed lot;
7. That the Owner convey to the Town Part 2 on the draft plan, being a 9.0 metre X 9.0 metre daylight corner at the southwest corner of the severed lot, where it abuts the northeast corner of the 8th Concession/North Talbot Road intersection;
8. That the Owner convey to the Town Parts 3 and 4 on the draft plan, being a 3.0 metre strip of land along the north side of North Talbot Road and the east side of the 8th Concession Road for the extent of the severed lot for the purpose of a road widening to facilitate a multi-use pathway;
9. That the Owner pay a proportionate cash contribution toward the future construction of a multi-purpose pathway and associated works along the north side of North Talbot Road and the east side of the 8th Concession Road for the extent of the severed lot;
10. That the above conditions be fulfilled on or before September 24, 2020 prior to this severance being finalized.