

**THE CORPORATION OF THE TOWN OF TECUMSEH
MINUTES OF THE COMMITTEE OF ADJUSTMENT MEETING**

A regular meeting of the Committee of Adjustment was held on Monday, September 23, 2019 at the Municipal Building, 917 Lesperance Road, Tecumseh, Ontario at 5:00 p.m.

I CALL TO ORDER

The Chairperson calls the meeting to order at 5:00 p.m.

II ROLL CALL

PRESENT:	Chairperson:	Tom Fuerth
	Vice-Chairperson:	Paul Morand
	Members:	Bill Altenhof
		Chris Carpenter
		Tom Marentette
		Tony Muscedere
	Director, Planning & Building Services	Brian Hillman (5:20 p.m.)
	Manager Planning	Chad Jeffery
	Secretary-Treasurer	Donna Ferris

ABSENT: Lori Chadwick

III DISCLOSURE OF PECUNIARY INTEREST

There is no disclosure of interest made.

IV MINUTES

1. Minutes of the regular Committee of Adjustment meeting held Monday, August 26, 2019.

Motion: (CA-50/19) Moved by Tony Muscedere
Seconded by Tom Marentette

That the Minutes of the regular Committee of Adjustment meeting held Monday, August 26, 2019 be adopted, as printed and circulated.

Carried

V SUBMISSIONS

The following submissions were heard:

Application for Minor Variance A-26/19 – Amicone Holdings Limited, 2155 Blackacre Drive

Interested parties present: Derek Amicone, Applicant
Cindy Prince, Agent for the Applicant

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.

Notice of hearing for the above submission was circulated to landowners within a radius of 60 metres (200 feet) of the subject property (a list of said owners is on file). Notice of Hearing with a sketch attached was sent to the Applicant, each Council Member, Clerk, Public Works and Engineering Department, Planning and Building Services, Fire Department and all required agencies and to each member of the Committee of Adjustment.

CORRESPONDENCE

ERCA: Consistency with Section 3.1 of the PPS has been demonstrated. Ontario Regulation 158/06 does not apply to the subject site. A permit from ERCA will not be required prior to any development taking place. No objection to the Application.

County of Essex: No response.

Town Engineer:

- 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.
- 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.

DISCUSSION

Derek Amicone, Applicant and Cindy Prince, Agent for the Applicant appear before the Committee to discuss the Application. Derek Amicone informs the Committee that he purchased the property approximately two years ago. Since that time, he has installed a driveway and a brick fence. The second and third driveway was to assist with the flow of traffic for transport trucks for shipping purposes while the first driveway would be for staff entering/exiting the site. As the storage of the pre-fabricated wall panels are stored outdoors, the brick fence was to constructed to hide the storage area.

Cindy Prince indicates that they accept the recommended condition outlined in the Planning Report whereby 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.

Neil Arnold, President of Neiman Family Holdings Ltd., 2130 Blackacre Drive appears before the Committee raising concern regarding the amount of green space on the site and that he believes the parking lot may be built over the septic system.

Tom Fuerth seeks advice from Administration and is informed that in accordance with the site plan, 10 percent of the site meets the greenspace provision as there is a 3 metre buffer in the front on Fasan Drive. Administration further advises that the site meets all the requirements of the M1 zone save and except the 3rd driveway access for which the Applicant is seeking a minor variance. Administration indicates that the septic system is govern under the Building Code and enforced by the Building Department. Further, the Application was circulated to the Building Department and no concerns or issues were raised with respect to the septic system. Cindy Prince acknowledges that there have been a number of permits obtained for various additions and works completed on the building.

Tom Marentette inquiries as to whether or not this area will be serviced by sanitary sewers in the near future. Tom Fuerth indicates that servicing of the area with sanitary sewers is a matter for Administration. Tom Marentette inquires as to whether or not the attached sketch is a preliminary plan or has the plan been approved by the Town Engineer. Cindy Prince advises that it has not been approved by the Town Engineer however the entrance location has been determined. Tom Marentette advises he is supportive of the Application as there is no adverse affect on neighbouring properties and it meets the four tests.

Motion: (CA-51/19) Moved by Tom Marentette
Seconded by Tony Muscedere

That Application A-26/19 is granted, subject to the Owner submitting to the Town 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.

Carried

REASONS

The Application meets the four tests of a minor variance in that it is desirable for the appropriate development or use of the land, building or structure, the general intent and purpose of the Official Plan and Zoning by-law is maintained and the variance is minor in nature.

Brian Hillman enters the room at 5:20 p.m.

Application for Severance B-12/19 – Del Duca Industrial Park Ltd., 5240 8th Concession Road

Interested parties present: Vince Del Duca, Owner and Applicant

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 (highlighted in yellow). The retained lands will have a lot area of 20.79 ha (51.37 acres). Parts 2, 3 and 4 (highlighted in pink) on the sketch attached will be conveyed to the Town for the purpose of 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.

Notice of hearing for the above submission was circulated to landowners within a radius of 60 metres (200 feet) of the subject property (a list of said owners is on file). Notice of Hearing with a sketch attached was sent to the Applicant, each Council Member, Clerk, Public Works and Engineering Department, Planning and Building Services, Fire Department and all required agencies and to each member of the Committee of Adjustment.

CORRESPONDENCE

ERCA: 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.

County of Essex: No response.

Town Engineer:

- 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.

DISCUSSION

Vince Del Duca appears before the Committee to discuss the Application. Vince Del Duca advises that approximately 3 years ago an Application for Severance was granted by the Committee but was appealed to the Ontario Municipal Board whereby it was determined that the owner of the lands work with the Planning Department of the Town of Tecumseh and the Resident's Group to develop the lands with mixed uses with the least amount of impact to the residential development in the area.

Tom Fuerth notes that there are a number of comments provided by the Town Engineer as well as from ERCA in the Planning Report. Further, Tom Fuerth advises that Town Administration has also outlined several recommended conditions, if the severance is granted. Administration advises that some of the conditions are standard while some of the comments made by the Town Engineer will be addressed through Site Plan Control. Administration indicates that the Town Engineer provides comments either as conditions or to give the Owner of the lands a head-ups with respect to anticipated works the Town will require during the development process. Chad Jeffery advises that the costs calculated in Condition #9 in the amount of \$1,393.00 is payable to the Town for 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. Chad Jeffery also advises that the calculation of the costs was predicated from the negotiated settlement of the OMB hearing that the development be obligated to contribute to the construction of the trails which will inter link to Weston Park. Chad Jeffery informs the Committee that Brian Hillman, Director of Planning and Building Services was more involved with the OMB hearing. Chad Jeffery also advises that there was a lot of discussion with respect to the amount to be allocated from the Owner/Developer of the lands and the amount calculated was determined to be a fair evaluation of the costs for the Owner-Developer based on the uncertainty of storm drainage, etc. Chad Jeffery reads out the conditions outlined in the Planning Report so that all parties, including the Committee Members, are clear as to the conditions that Administration is recommending to be imposed on the severance application.

Tom Fuerth commends all parties in reaching an agreement for the development of the subject lands.

Motion: (CA-52/19) Moved by Tony Muscedere
Seconded by Paul Morand

That Application B-12/19 is granted.

Carried

REASONS

The Application is in keeping with the Official Plan policies for the Town of Tecumseh as well as Zoning By-law 85-18.

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;

Please note: The Town of Tecumseh requires 30-day notice from the Owner for the preparation of the Apportionment Agreement.

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 \$1393.00 to the Town towards the future construction of a multi-purpose pathway and associated works along 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.

VI DEFERRALS

VII NEW BUSINESS

VIII UNFINISHED BUSINESS

IX ADJOURNMENT

Motion: (CA-53/19) Moved by Bill Altenhof
Seconded by Tom Marentette

That there being no further business the September 23, 2019 regular meeting of the Committee of Adjustment now adjourn at 5:33 p.m.

Carried

Tom Fuerth, Chairperson

Donna Ferris, Secretary-Treasurer