



THE CORPORATION OF THE TOWN OF TECUMSEH

Planning Report

TO: Committee of Adjustment

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

HEARING DATE: November 25, 2019

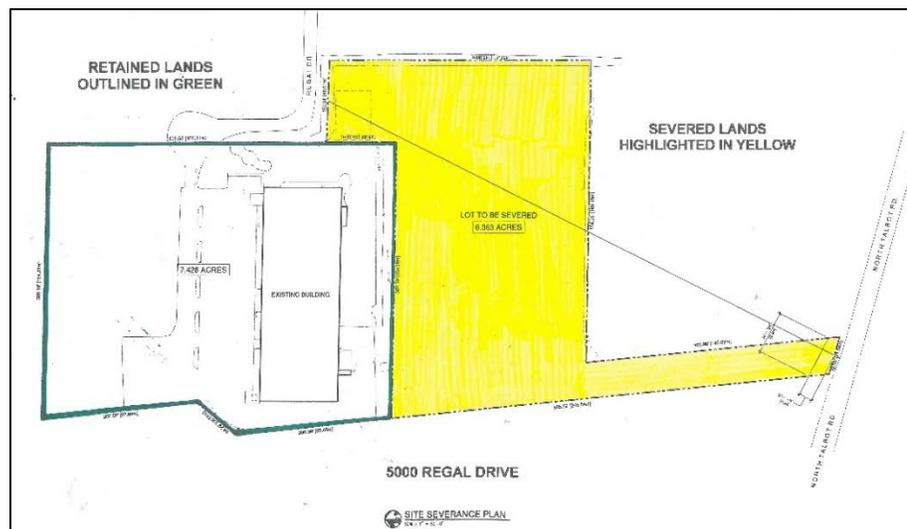
SUBJECT: Minor Variance Applications A-31/19 to A-32/19 and
Severance Application B-17/19

Please note that this Planning Report was prepared as of November 22, 2019. Any public comments received after this date have not been incorporated into this Report, however consideration of such public comments will be given at the Committee of Adjustment hearing on November 25, 2019 as the normal practice.

Application: Severance Application B-17/19
Applicant: 1147048 Ontario Limited
Location of Property: 5000 Regal Drive

The purpose of the Application is to request consent to sever a 2.6 ha (6.4 acre) parcel of land having a frontage of 23.8 metres (78 feet) on North Talbot Road highlighted in yellow on the attached sketch. The retained lands, containing an industrial building, will have a lot area of 3.0 ha (7.4 acres) outlined in green on the attached sketch.

The proposed severed and the retained lands are designated Business Park in the Sandwich South Official Plan and zoned Industrial Zone (M1) in the Sandwich South Zoning By-law 85-18.



Provincial Policy Statement

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*.

Subsection 1.3.1 b) establishes that planning authorities shall promote economic development and competitiveness by providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses.

County of Essex Official Plan (COP)

In the County of Essex Official Plan, the subject lands are located within a “Primary Settlement Area”. Subsection 3.2.4.1 a) establishes that Primary Settlement Areas shall be the focus of growth and public/private investment in each municipality.

Sandwich South Official Plan

The subject property is designated Business Park in the Sandwich South Official Plan. The following sections are relevant when reviewing the proposed application:

“4.0 Land Division Policies

4.1 General Policies

...
(e) *Consents shall be granted only if they comply with the provisions of the town's 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.”

The proposed severed lot is in compliance with the Town’s Zoning By-law.

Sandwich South Zoning By-law

The subject property is zoned Industrial Zone (M1) in the Sandwich South Zoning By-law. As noted above, the proposed lot will meet all the applicable zone provisions established in the M1 zone.

Administration/Agency Comments

1) Engineering

- That the Owner 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 advised that the 7th Concession Drain (open drain) is located along the east side of the portion of the property proposed to be severed. The 7th Concession Drain is an open drain that was constructed under the provisions of the *Drainage Act*. Any requested works to this open drain must follow *Drainage Act* procedures which are under the jurisdiction of the Town of Tecumseh. The current drainage report for the 7th Concession Drain specifies a 9.0 metre wide maintenance access corridor along the west side of the drain at this property. In addition, there are minimum setback requirements from municipal drains to proposed development.
- The parcel to be retained and the parcel to be severed are to be serviced with separate water supplies, storm sewer systems and sanitary facilities to the satisfaction of the Town of Tecumseh Public Works and Water Divisions prior to this severance being finalized. The following concerns are noted:
 - Based on the submitted information, it appears the existing septic system for 5000 Regal is located on the portion of the property to be severed and therefore a new septic system will be required for the retained parcel.
 - There is an existing private drainage ditch that extends across 5000 Regal in a west to east direction which outlets directly into the 7th Concession Drain. The proposed severance will cut off the portion of this ditch that connects to the 7th Concession Drain. On plan A1.1 included with the application, it appears that the existing private ditch is to be re-directed northerly around the severed parcel and then easterly within the Moynahan/Regal right of way to the 7th Concession Drain. As per the following air photo, there is a watermain (and potentially other utilities) within the Moynahan/Regal right of way that will be in conflict with the proposed open ditch relocation. In addition, an open ditch at this location

would require a culvert for access into the property. The Owner is to provide a drainage solution for this private ditch, to the satisfaction of the Town Engineer, prior to the severance being finalized.



- The Owner should be made aware that proposed development on both the severed and retained parcels will require site servicing drawings and detailed stormwater management reports (addressing quantity and quality to the satisfaction of the Town Engineer) to be submitted as part of Building Permit applications (or as part of site plan control), which will then be reviewed/approved by the Town Engineer prior to issuance of Building Permits (or approval of site plan control). This property drains into the Upper Little River Watershed. The allowable release rate for future development will be based on the capacity of the receiving watercourse. The Owner is advised that the release rates are very restrictive in the Upper Little River Watershed and that underground storage facilities may be required to adequately address stormwater quantity control for these sites.

- Stormwater management facilities servicing industrial land will require approval from the Ministry of Environment, Conservation and Parks under Section 53 of the *Ontario Water Resources Act*.
- Both the retained and severed parcels are located within the 8th Concession Road sanitary sewer service area. When sanitary sewers are installed on Moynahan/Regal, sanitary sewer assessments will be charged to these properties.

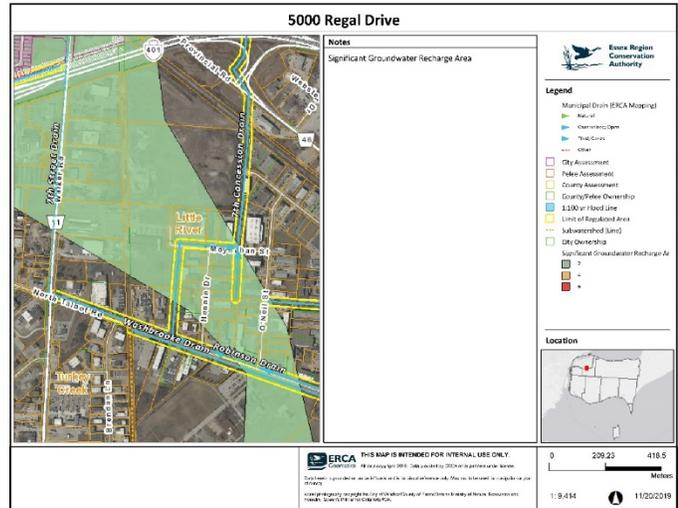
2) Essex Region Conservation Authority

- 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 7th Concession Drain and Robinson Drain

Extension. 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.

- The subject property is located within a significant groundwater recharge area (SGRA). Section 2.2.1 of the PPS states that: "Planning authorities shall protect, improve or restore the quality and quantity of water by:

“d) maintaining linkages and related functions among ground water features, hydrologic functions, natural heritage features and areas and surface water features including shoreline areas” and



e) implementing necessary restrictions on development and site alteration to:

1. protect all municipal drinking water supplies and designated vulnerable areas; and
2. protect, improve or restore vulnerable surface and ground water, sensitive surface water features and sensitive ground water features, and their hydrologic functions".

In addition to the policies of the PPS 2014, the County of Essex Official Plan identifies Significant Groundwater Recharge Areas (SGRA) on Schedule C5. Section 2.5.2 b) of the County of Essex Official Plan states that:

"Development and site alteration that may be a significant threat will only be permitted within an HVA or SGRA where it has been demonstrated by way of the preparation of a groundwater impact assessment that there will be no negative impact on the HVA or SGRA".

The Essex Chatham Kent Groundwater Study was completed in 2004 by Dillon Consulting Ltd and Golder Associates Ltd, which delineated the highly vulnerable aquifers and significant recharge areas and provides background information for any further water budget or hydrologic study requirements.

This study is available online:

<https://essexregionconservation.ca/resources/reports/essex-region-chatham-kent-regional-groundwater-study/>

In our advisory role to the Planning Authority we recommend that the Committee include the following condition of approval:

That the developer undertake a groundwater impact assessment to address the Significant Ground Water Recharge area associated with the proposed project to the satisfaction of the Municipality.

- No objection to the application for consent
- 3) Bell Canada
- No objection to the application.

Public Comments

- 1) Windsor Pallet Ltd
- No objection to the application. It should be noted that Windsor Pallet Ltd did have concerns with respect to the related minor variance application that Administration has deemed is no longer necessary as there was an incorrect interpretation of the Zoning By-law with respect to the determination of frontage. The proposed severed lot will fully comply with frontage requirements of the Zoning By-law.

Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, it is my opinion that the proposed severance is consistent with the PPS, conforms to the County OP, Sandwich South OP and the Sandwich South Zoning By-law and is in keeping with good planning principles.

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. The parcel to be retained and the parcel to be severed are to be serviced with separate water supplies, storm sewer systems and sanitary facilities to the satisfaction of the Town of Tecumseh Public Works and Environmental Services and Building Department prior to this severance being finalized;
6. 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;
7. The Owner is to provide a drainage solution for the private ditch, to the satisfaction of the Town Engineer, prior to the severance being finalized;
8. That at the time the conveyance is presented for certification an amount equal to two percent (2%) cash in lieu of parkland, based on the market value of the land

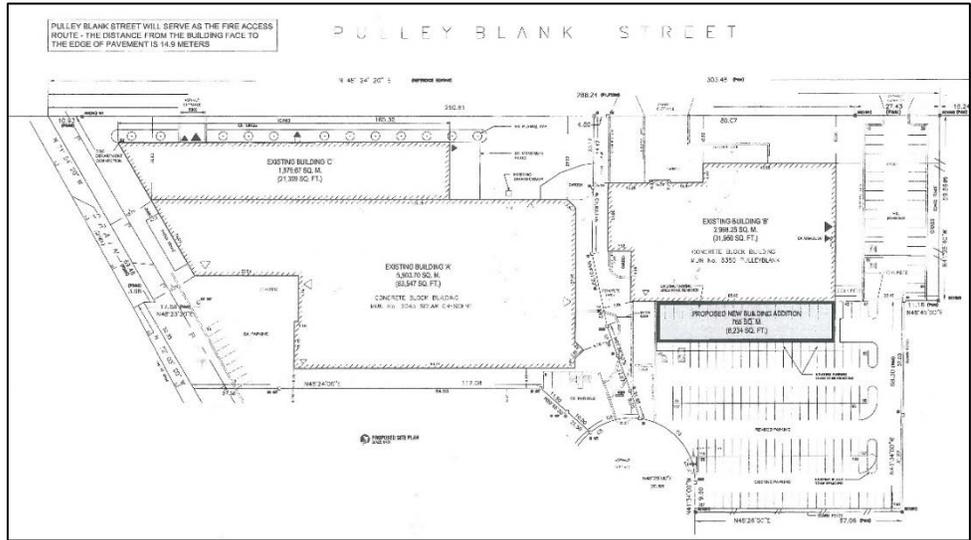
being conveyed the day immediately prior to the approval in principal having been granted, to be paid to the Town of Tecumseh; and

9. That the above conditions be fulfilled on or before November 26, 2020 prior to this severance being finalized.

Application: Minor Variance Application A-31/19
Applicant: NLC Management Limited
Location of Property: 2045 Solar Crescent & 5350 Pulleyblank Street

The purpose of the Application is to request relief from subsection 14.1.5 of Zoning By-law 85-18 which establishes a maximum lot coverage of 40 percent for all buildings and structures. The Applicant is proposing to construct a 765 square metre (8,234 square foot) addition resulting in 45 percent lot coverage. A variance for 42 percent lot coverage was previously granted by way of Minor Variance Application A-12/17.

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. The existing and proposed uses are permitted by this designation. 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 40 percent maximum total lot coverage is to ensure, among other things, that a sense of orderly development is maintained on a property, that the scale

and massing of buildings are appropriate, and that the lot will be able to provide adequate areas for landscaping and parking. The proposed maximum lot coverage of 45 percent will not result in any deficiencies in parking areas or landscaping requirements. Therefore, the additional area that will be occupied by building will not be at the expense of required parking or landscaped areas.

Given the foregoing, 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?

The proposed expansion to the existing industrial building will comply with all the minimum yard requirements established in the Zoning By-law. In addition, Administration has reviewed the proposed site plan and does not have any concerns with the layout or on-site works being proposed. Similar relief has been granted for industrial operations in the Oldcastle Hamlet when substantial additions are proposed. In permitting the proposed addition, the requested relief will allow the current industrial facility to optimize its operation on the existing site. Based on the foregoing, it is my opinion that the variance is desirable for the appropriate development and use of the land.

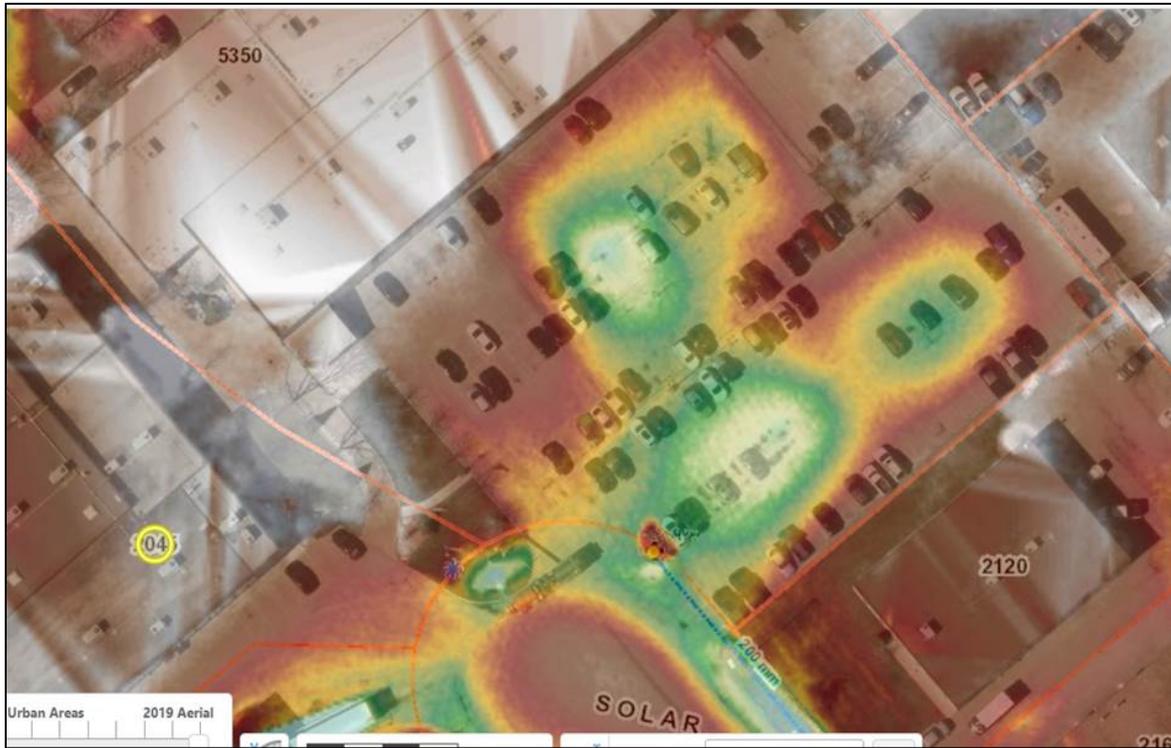
iv) Is the variance requested minor?

The proposed variance will result in an industrial expansion that that will not have any anticipated undue adverse impacts. It is therefore my opinion that the requested relief is minor in nature.

Administration/Agency Comments

1. Engineering

- The building addition is proposed within a portion of an existing asphalt parking lot. Based on the LIDAR information (see image below), the existing parking lot has the potential to provide temporary stormwater storage during large rainfall events. Any temporary on-site stormwater storage that will be lost by the construction of the addition must be replaced. The Owner will be required to complete a stormwater assessment (to the satisfaction of the Town Engineer) that demonstrates how all existing temporary stormwater storage, that will be removed by the construction of the addition, will be replaced (without adverse impacts) prior to the issuance of a Building Permit.



2. Essex Region Conservation Authority

- Portions of 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 parcels drain into the regulated area of the Wolfe Drain. 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.
- ERCA has concerns with the potential impact of the quality and quantity of runoff in the downstream watercourse due to the proposed development on this site. ERCA recommends that stormwater quality and stormwater quantity be addressed up to and including the 1:100 year storm event and be in accordance with the guidance provided by the Stormwater Management Planning and Guidance Manual, prepared by the Ministry of the Environment (MOE, March 2003) and the local Windsor-Essex Region Stormwater Management Standards Manual as this development proceeds to the Site Plan Control stage.
- No objections with 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, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act*. The intent of the Official Plan has been met, 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 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.

Based on the foregoing, the writer supports the minor variance application and believes it to be based on sound planning principles.

Recommended Conditions

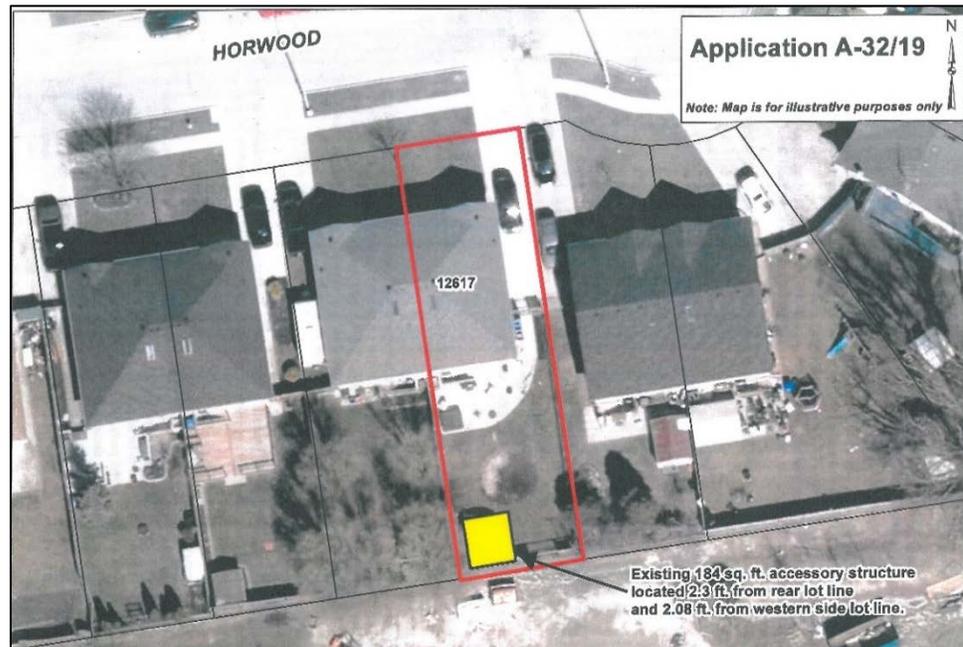
1. That the Owner be required to complete a stormwater assessment (to the satisfaction of the Town Engineer) that demonstrates how all existing temporary stormwater storage, that will be removed by the construction of the addition, will be replaced (without adverse impacts) prior to the issuance of a Building Permit.

Application:	Minor Variance Application A-32/19
Applicant:	Michelle Mulhall
Location of Property:	12617 Horwood Crescent

The purpose of the Application is to request relief from Subsection 5.25.1 c) of Zoning By-law 1746 which establishes that accessory buildings in residential zones shall not be closer than 1.22 metres (4 feet) to any lot line if greater than 10.0 square metres (107.6 square feet) in area or 2.5 metres (8 feet) in height. The Applicant is requesting relief to permit a 17.1 square metre (184 square foot), 3.0-metre (10-foot) high existing accessory building to be 0.71 metres (2.33 feet) from the rear property line and 0.63 metres (2.08 feet) from the westerly side yard property line.

The subject property is designated Residential in the Tecumseh Official Plan and zoned Residential Zone 3 (R3-2) in the Tecumseh 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 Residential in the Official Plan. The accessory structures associated with residential uses such as the subject structure are permitted by this designation. 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 1.22 metres (4 feet) minimum setback from side or rear lot lines is to ensure that there is sufficient separation between the accessory structure and the lot lines in order to provide adequate space for maintenance and to minimize potential for conflicts with the neighbouring property. The Applicant is requesting relief to permit an existing accessory building to be 0.71 metres (2.33 feet) from the rear property line and 0.63 metres (2.08 feet) from the westerly side yard property line.

The Zoning By-law uses a tiered approach with respect to the setback distance for accessory structures from lot lines – 1.22 metres (4 feet) for structures larger than 10.0 square metres or 2.5 metres in height and 0.61 metres (2 feet) for structures less than 10.0 square metres and 2.5 metres in height. This approach recognizes that larger structures may have more of an impact on abutting properties if located closer to the lot line.

Given that the existing structure is 17.1 square metres (184 square feet) in size and 3.0 metres (10 feet in height), the minimum setback is 1.22 metres (4 feet). The existing structure, however, includes a significant open-sided portion. The enclosed portion of the shed is 11.38 square metres (122.5 square feet) and 3.0 metres (10 feet) in height. This

reduces its massing and its impact on adjacent properties. The design of the building and the inclusion of details such as windows and doors also assists in reducing its massing.

Given the foregoing, 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?

The lands abutting to the immediate south are landscaped areas associated with the Bounduelle food processing plant. The existing accessory structure is abutting a mutual side lot line of another residential dwelling that also has an accessory structure located in the rear corner of its respective property. It is therefore not situated adjacent to the amenity area of the abutting property. The westerly abutting lot also has a number of mature trees that assist with mitigating the view of the structure from the west. Further, the roof of the existing accessory structure is sufficiently setback to avoid any stormwater draining onto the abutting properties.

Based on the foregoing, it is my opinion that the proposed variance is desirable for the appropriate use of the land.

iv) Is the variance requested minor?

Based on Administration's understanding, and due to the mitigating circumstances noted above, the existing structure has not had any undue adverse impact on abutting properties. It is therefore my opinion that the requested relief is minor in nature.

Administration/Agency Comments

1. Engineering
 - No concerns.
2. Essex Region Conservation Authority (refer to formal correspondence in Agenda package)
 - The property is not located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the Conservation Authorities Act). As a result, a permit is not required from ERCA for issues related to Section 28 of the Conservation Authorities Act, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservations Authorities Act, (Ontario Regulation No. 158/06).
 - No objections with 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, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act*. The intent of the Official Plan has been met, 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 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.