

**Monday, November 25**  
**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, November 25, 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**

<b>PRESENT:</b>	Chairperson:	Tom Fuerth
	Vice-Chairperson:	Paul Morand
	Members:	Lori Chadwick
		Tom Marentette
		Tony Muscedere
	Manager Planning	Chad Jeffery
	Secretary-Treasurer	Donna Ferris

**ABSENT:** Bill Altenhof & Chris Carpenter

**II DISCLOSURE OF PECUNIARY INTEREST**

There is no disclosure of interest made.

**IV MINUTES**

1. Minutes of the regular Committee of Adjustment meeting held Monday, October 28, 2019.

Motion: (CA-61/19) Moved by Tony Muscedere  
Seconded by Paul Morand

**That the Minutes of the regular Committee of Adjustment meeting held Monday, October 28, 2019 be adopted, as printed and circulated.**

Carried

**V SUBMISSIONS**

The following submissions were heard:

**Application for Severance B-17/19 – 1147048 Ontario Limited, 5000 Regal Drive**

Interested parties present: William Good, Rosati Construction, Agent

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.

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: No objection.

Bell Canada: No comments.

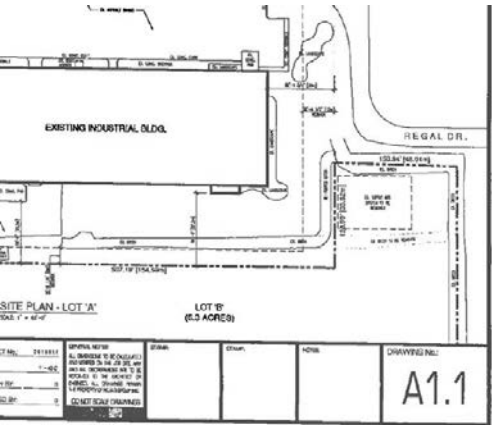
County of Essex: No response.

Town Engineer:

- 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 7<sup>th</sup> Concession Drain (open drain) is located along the east side of the portion of the property proposed to be severed. The 7<sup>th</sup> 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 7<sup>th</sup> 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 7<sup>th</sup> Concession Drain. The proposed severance will cut off the portion of this ditch that connects to the 7<sup>th</sup> 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 7<sup>th</sup> 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 8<sup>th</sup> Concession Road sanitary sewer service area. When sanitary sewers are installed on Moynahan/Regal, sanitary sewer assessments will be charged to these properties.

### **DISCUSSION**

William Good, Solicitor at Rosati Construction, Agent for the Applicant appears before the Committee to discuss the Application. The Committee is informed that the related Minor Variance under Application A-30/19 has been deemed no longer necessary by Administration as there was an incorrect interpretation of the Zoning By-law with respect to the frontage of the severed land. The proposed severed lot will fully comply with frontage requirements of the Zoning By-law. William Good advises that he is agreement with the contents of the Planning Report and that further he has had an opportunity to consult with Town Administration with respect the contents of the Report. William Good also informs the Committee that the severance is in keeping with the Provincial Policy Statement in promoting economic development and competitiveness by providing opportunities for a diversified economic base. William Good also acknowledges that the Minor Variance Application is no longer required. William Good also speaks to the concerns raised by Windsor Pallet Ltd. and he advises the Committee that it is not their intention to have an access of North Talbot Road but having said that, it is not to guarantee that it may not happen in the future. William Good also indicates that they will meet with the Town to address concerns raised with respect to the Engineer's comments regarding stormwater management and drainage.

Tom Fuerth questions Administration with respect to drainage on the property. More specifically, who does the drain service, is it on Town property and who is responsible for the maintenance of the drain? Administration advises that drain only services the retained lot. Stormwater management on the new lot will have to be addressed. Chad Jeffery informs the Committee that changes to the drain that runs east and west on the severed lands has been discussed with the Agent's Solicitor and they understand the drain will have to be relocated to the retained lands and connected to the 7<sup>th</sup> Concession Drain extension. Chad Jeffery also advises that this drain will have to be relocated prior to finalizing the severance and as such is included in the conditions of the severance. Specifics with respect to location, culverts, overland drainage, etc. will all be part of the discussion in addressing drainage with the Town Engineer. Tom Fuerth questions the mechanism in place for future charges on the drain. Chad Jeffery states that although he is not an expert in this field, advises that the Drainage Engineer would ensure that the drainage works would be in compliance with the *Drainage Act* and acceptable to the Town. Tom Fuerth inquires as to where the water goes currently and is inform that it goes to the right of way and that a portion drains northerly thru the old railway corridor. Chad Jeffery also informs the Committee that a condition of the severance is that the Applicant enter into an agreement with the Town for the reapportionment of drainage.

Lori Chadwick confirms with Administration that the entrance will be off Regal Drive. Chad Jeffery confirms that the entrance is off Regal Drive and points out that the separate servicing is also a condition of severance which is acknowledged by William Good. Chad Jeffery further points out that although Condition #5 speaks to sanitary service, the septic system will be installed at the time of construction. Chad Jeffery indicates that there is no storm connection and that both the severed and the retained lot will have independent water services.

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William Good informs the Committee that the relocation of the septic system to the retained lot and associated costs was included in the agreement of purchase and sale. Lori Chadwick inquires as to whether or not the property is subject to Site Plan Control and is advised that currently it is not subject to Site Plan Control but the municipality is moving toward having all lands zoned commercial and industrial be subject to Site Plan Control. Lori Chadwick inquires, in the absence of site plan control, how will onsite parking, fire route, etc. be addressed. The Committee is informed the Building Department will ensure compliance with the Zoning By-law prior to issuing a permit. The Building Department will also be responsible for inspections and permits for the septic system.

Tom Marentette requests Administration to explain the letter submitted by Windsor Pallet Ltd. Chad Jeffery indicates that he does not believe the letter addressed any specific concern other than they did not want an entrance off North Talbot Road but states no reason for same. Chad Jeffery advises that the letter submitted states that Windsor Pallet Ltd. had no objection to the severance but objected to the minor variance which is no longer required. Chad Jeffery indicates that presumably it is because he has pallets stacked along the narrow strip of land which may result in damage to his skids. Chad Jeffery indicates that he does not believe their concern is valid as it is a thru lot, and even in its current status without a severance, there is nothing to prohibit the Applicant from having an access off North Talbot Road. William Good confirms again that the access will be off Regal Drive. Tom Fuerth inquires as to when sanitary sewers will be in the area and is advised by Chad Jeffery that it will be approximately five years indicating that if it were only one year, perhaps a holding tank would suffice until the sanitary service is brought to the subject property.

Lori Chadwick advises she is in agreement with the severance with the conditions as outlined in the Planning Report.

Motion: (CA-62/19)      Moved by      Lori Chadwick  
Seconded by      Tony Muscedere

**That Application B-17/19 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*;
6. 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;
7. 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 principle having been granted, to be paid to the Town of Tecumseh;

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

**Application for Minor Variance A-31/19 – NLC Limited, 2045 Solar Crescent & 5350 Pulleyblank Street**

Interested parties present: Mike Schincariol, Wincon Construction 1986 Limited, Agent

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.

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.

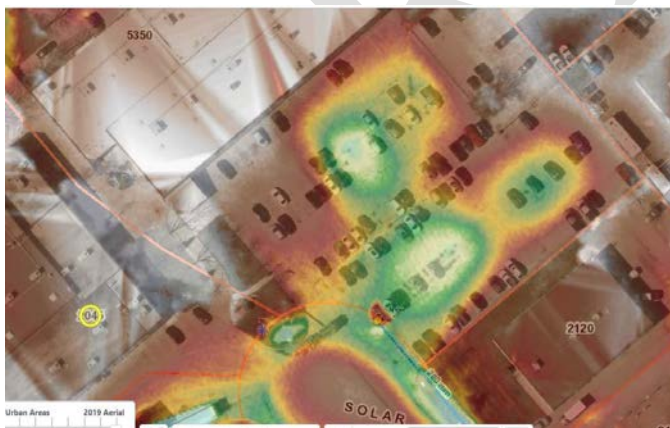
**CORRESPONDENCE**

ERCA: No objection.

County of Essex: No response.

Town Engineer:

- The building addition is proposed within a portion of an existing asphalt parking lot. Based on the LIDAR information, 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.



**DISCUSSION**

Mike Schincariol, Wincon Construction 1986 Limited, Agent for the Applicant appears before the Committee to discuss the Application. Mike Schincariol indicates that they are aware of the stormwater management requirements under municipal guidelines that need to be addressed with the proposed addition. Lori Chadwick questions why 42 percent lot coverage is not sufficient and what necessitated the Applicant to come before the Committee within a time frame of two years seeking additional relief for lot coverage in the amount of 45 percent. Mike Schincariol advise

that NLC Management Limited is Omega Tool who is one of the top five mould makers in Canada. He further advises that the expansion is to accommodate additional space required for the purchase of machinery. Mike Schincariol also advises that the previous addition was to a different building on the same site. Lori Chadwick refers back to the previous minor variance in 2017 and questions as to why additional relief to parking and landscaping is not being requested as the addition will be constructed over a portion of the parking area. Chad Jeffery advises that the previous parking on the property exceeded the requirements outlined in the Zoning By-law and that the current landscaping also meets the requirements of the Zoning By-law.

Motion: (CA-63/19) Moved by Tony Mucedere  
Seconded by Tom Marentette

**That Application A-31/19 is granted.**

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.

### **Application for Minor Variance A-32/19 – Michelle Mulhall, 12617 Horwood Crescent**

Interested parties present: Michelle Mulhall, Applicant

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. The Applicant is requesting relief to permit a 17.1 square metre (184 square foot) 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.

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: No objection.  
County of Essex: No response.  
Town Engineer: No comments.

### **DISCUSSION**

Michelle Mulhall, Applicant appears before the Committee to discuss the Application. Michelle Mulhall starts off by apologizing for having constructed a shed without a permit and without being in compliance with the zoning by-law. She advises that she is a single mom and relies on other to assist with construction projects. She informs the Committee that the individual contracted to construct the shed indicated that as it was being built in the same location as the previous shed, no permit was required therefore she assumed he knew what he was doing.

Lori Chadwick inquires as to whether or not there is a penalty for having built without a permit and Chad Jeffery advises he is not aware of a penalty but if granted, the minor variance should be subject to the Applicant obtaining a permit to ensure that the structure has been constructed in accordance with the Ontario Building Code. Lori Chadwick confirms with Administration that the property to the rear of the subject lands is zoned Industrial (M1) and is owned by Bonduelle North America, a food processing plant. Chad Jeffery indicates that the property to the west has

Carried

## Carried