

# MUNICIPALITY OF LEAMINGTON AGENDA



## PUBLIC MEETING

ZONING BY-LAW AMENDMENT #18  
S/S MERSEA ROAD 6  
AGRICULTURAL ZONING

MONDAY, APRIL 19, 2010  
COMMENCING AT 7:00 P.M.  
IN THE COUNCIL CHAMBERS

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### ITEMS FOR CONSIDERATION:

1. Notice of Public Meeting.  
Pages 2-3
  - Peter Neufeld, Solicitor for the Applicant
2. Report PLA 12/10 dated February 25, 2010 re: Zoning By-law Amendment - Proposed Agricultural Zoning - S/S Mersea Road 6 (R. Driedger)  
(Previously considered at the March 15, 2010 Council Meeting)  
Pages 4-7

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THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

**NOTICE OF PUBLIC MEETING**

**ZONING BY-LAW AMENDMENT**

(ZBA #18 - S/S Mersea Road 6 - Agricultural Zoning)

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**TAKE NOTICE** that the Council of the Corporation of the Municipality of Leamington will hold a public meeting concerning a proposed zoning by-law amendment under the provisions of the Planning Act, R.S.O. 1990 on **Monday, April 19<sup>th</sup>, 2010 at 7:00 pm** in the Council Chambers at the Municipal Building.

The subject property is described as Concession 5 North Part Lot 12, Registered Plan 12R-3719 Part 1 and locally known as S/S Mersea Road 6 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map). The subject property is currently zoned Agricultural General (A1) on Map 25 in Zoning By-law #890-09.

The property owner requested that the Committee of Adjustment consider a lot line adjustment to sever a 200' x 140' (0.645 ac) irregular shaped parcel to be added to the existing residential lot to the north (1210 Mersea Road 6 - Roll 3706 680 000 08150) and retain a 10.07 ha (24.89 acre) farm parcel. The application was supported on condition that a favourable rezoning amendment shall be processed to change the zoning classification of the severed land from Agricultural General (A1) to Agricultural Residential Zone (A5) and relief is requested for the maximum height of the 160 sq m barn from 6 m to 7.6 m.

The subject lands are currently designated Agricultural on Schedule "A-3" of the Leamington Official Plan (approved 2008).

**ANY PERSON** may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed zoning by-law amendment.

If a person or public body that files an appeal to a decision of the Municipality of Leamington in respect of the proposed zoning by-law amendment does not make oral submission at a public meeting or make written submissions to the Municipality before the proposed by-law is adopted, the Ontario Municipal Board may dismiss all or part of the appeal.

**ADDITIONAL INFORMATION** relating to this matter is available for review at the Municipal Office for the Corporation of the Municipality of Leamington, 38 Erie Street North, during regular office hours. Please contact Tracey Pillon-Abbs, Manager of Planning Services, for further information.

**DATED** at the Municipality of Leamington this 16<sup>th</sup> day of March 2010.

**BRIAN R. SWEET, CLERK**  
MUNICIPALITY OF LEAMINGTON  
38 ERIE STREET NORTH  
LEAMINGTON, ONTARIO N8H 2Z3  
TELEPHONE: (519) 326-5761



## REPORT

**TO:** MAYOR AND MEMBERS OF COUNCIL  
**FROM:** TRACEY PILLON-ABBS, MANAGER OF PLANNING SERVICES  
**DATE:** FEBRUARY 25, 2010  
**SUBJECT:** ZONING BY-LAW AMENDMENT  
PROPOSED AGRICULTURAL ZONING  
S/S MERSEA ROAD 6 (R. DRIEDGER)

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### AIM:

To report upon a request to schedule the required public meeting to consider a proposed zoning by-law amendment for property located on the S/S Mersea Road 6.

### BACKGROUND:

#### Purpose of Application:

Staff has received an application for re-zoning by the owner(s) of the property, to amend the agricultural zoning for the subject lands in addition to requesting relief for the maximum height of an accessory structure as part of a condition of approval for consent application (B/122/09) on the subject lands.

It should be noted that the decision of the Committee of Adjustment was different than the recommendations from Administration and will be explained further below.

#### Property Description:

The subject property is described as Concession 5 North Part Lot 12, Registered Plan 12R-3719 Part 1 and locally known as S/S Mersea Road 6 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).



Currently, the subject property has 2 barns (a 500 sq m/6 m in height and a 160 sq m/7.3 m in height) located immediately to the south of 1210 Mersea Road 6 with access and frontage on Mersea Road 6. There is a mix of residential and agricultural uses abutting the land.

### **COMMENTS AND ANALYSIS:**

#### **Provincial Policy Statement (PPS):**

According to section 2.3.3.1 of the PPS, in prime agricultural areas, permitted uses and activities include agricultural uses, secondary uses and agriculture-related uses.

Based on correspondence received by the Ontario Ministry of Agriculture Food and Rural Affairs (OMAFRA) dated February 18, 2010, it has been confirmed that surplus dwelling lots are for residential purposes, not for creating small hobby farms. This is evident in Section 2.3.4.3 of the PPS which states that ‘the creation of new residential lots in prime agricultural areas shall not be permitted, except in accordance with policy 2.3.4.1(c).’

Therefore, in order to ensure that the lot is truly for residential purposes, most municipalities require that the barn stay with the remnant farm parcel or that it be demolished.

If the barn were to stay with the house, then arguably all you’ve really done is a farm split, which would not meet the municipal minimum farm parcel size or the tests of Section 2.3.4.1 (a) of the PPS.

#### **County of Essex Official Plan 2005 (OP):**

The subject land is designated within the County of Essex Agricultural Area on Schedule “A” in the County OP.

The goal is to protect prime agricultural areas for agricultural purposes to ensure the continued long term availability of this resource;

#### **Leamington Official Plan, 2008 (OP):**

The subject property is designated Agricultural on Schedule “A-3” the Leamington OP. The goal is to preserve prime agricultural land for agricultural purposes and to restrict the type and amount of non-farm development.

As set out in section 5.4.2 (g), barns that are in close proximity to surplus dwellings are encouraged, where feasible and warranted in terms of future farm operations and options, to be demolished or removed or remain with the farmland.

#### **Leamington Zoning:**

The subject property is currently zoned Agricultural General (A1) and Agricultural Hobby Farm (A3) on Map 25 in Zoning By-law #890-09.

The property owner requested that the Committee of Adjustment consider a lot line adjustment to sever a 200’ x 140’ (0.645 ac) irregular shaped parcel (which contained 2 barns) to be added to the existing residential lot to the north (1210 Mersea Road 6 - Roll 3706 680 000 08150) and retain a 10.07 ha (24.89 acre) farm parcel.

Lot adjustments may be permitted for legal or technical reasons provided that both parcels (severed and retained) comply with the provisions of the implementing Zoning By-law and the lot adjustment does not result in the creation of a ‘residential lot’ that would not have otherwise been allowed.

In this case, one of the existing barns (160 sq m) are greater than 6 m in height and is proposed to be conveyed, which does not comply with the Zoning By-law for an accessory structure nor does it conform to the Official Plan as barns are encouraged to remain with the farm. It was recommended by Administration that the application for consent be denied.

However, it was the decision of the Committee of Adjustment to approve the application on condition that a favourable rezoning amendment shall be processed to change the zoning classification of the severed lands from Agricultural General (A1) to Agricultural Residential Zone (A5) and relief is requested for the maximum height of the 160 sq m barn from 6 m to 7.6 m.

### **CONSULTATION:**

Administration has completed their review of the proposed application as part of the pre-consultation process.

The Official Plan policy for barns remaining with the farmland has been followed since the former Township of Mersea 1987 Plan.

Since the approval of the new Leamington Official Plan (2008) and the new Leamington Zoning By-law (2009), this is the first request to Council to allow a barn to be permitted on a residential lot as an accessory structure.

It is suggest by Administration that barns and any other accessory farm structures (silo, grain elevator, water storage, etc), need to be kept with the farm so that future owners will not be tempted to use them for non-agricultural purposes (housing animals, farm occupations, etc), which are uses that are not permitted under the regulations of the Zoning By-law.

If barns are added to a surplus dwelling lot, the structure would no longer be a main use for the farm property but rather an accessory use to a residential property and therefore the zoning requirements change and a maximum height is applied. A residential lot is not an appropriate size required under the Zoning Bylaw for any type of farm structure.

As set out in the Planning Act, a complete application includes any 'prescribed information' identified in the regulations of the Planning Act and any 'additional information' required by the municipality, as identified in its official plan.

Due to the nature of the proposed zoning change it is Administration's position that additional information is not required.

### **CONCLUSION:**

As part of the new Bill 51 regulations of the Planning Act, pre-consultation was used to review all the 'prescribed information' and any 'additional information' required in order to consider the application complete. Prior to deeming the application complete, Section 34 (10.3) of the Act sets out that Council must receive all the information or material it needs to make a decision.

Administration suggests that this matter should not proceed to a public meeting and that Council refuse the request.

It is administration's opinion that;

- i) The application is not consistent with the policy statements issued under subsection 3 (1) of the Planning Act.
- ii) The application does not conform to or does conflict with any applicable provincial plan or plans.
- iii) The development proposed is not in keeping with the overall goals and policies of the Official Plan.
- iv) The proposed amendment does not meet the criteria used when considering applications to amend the zoning by-law.

The owner can appeal to the Ontario Municipal Board (OMB) under Section 34 (11).

**RECOMMENDATION:**

THAT Council receives the information, as outlined in Report PLA 12/10;

AND further that Council refuses the application for a zoning by-law amendment for property located at S/S Mersea Road 6 to change the zoning from Agricultural General (A1) to Agricultural Residential Zone (A5) and to request relief for the maximum height of the 160 sq m accessory structure from 6 m to 7.6 m

Respectfully submitted,

Tracey Pillon-  
Abbs,  
Manager of  
Planning  
Services

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by Tracey Pillon-  
Abbs, Manager of  
Planning Services  
Date: 2010.02.25  
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Tracey Pillon-Abbs,  
Manager of Planning Services

William J. Marck,  
Chief  
Administrative  
Officer

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William J. Marck, Chief  
Administrative Officer  
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Douglas E. Morrish,  
Director of Development Services

/tpa