

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

AGENDA



PUBLIC MEETING

ZONING BY-LAW AMENDMENT 42
AND OFFICIAL PLAN
AMENDMENT 3 - 1637 MERSEA
ROAD 5 (DRIEDGER & COLLARD)

MONDAY, JULY 4, 2011
COMMENCING AT 7:00 P.M.
IN THE COUNCIL CHAMBERS

ITEMS FOR CONSIDERATION:

1. Notice of Public Meeting
Pages 2-3
2. Report PLA 25/11 dated June 1, 2011 re: Zoning By-law Amendment and Official Plan Amendment Requests Proposed Surplus Dwelling Lot and Accessory Structure for property located at 1637 Mersea Road 5 (Kevin Collard) (Previously considered at the June 6, 2011 Council Meeting)
Pages 4-7
3. Comments received from Essex Region Conservation Authority dated June 14, 2011
Page 8

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON
NOTICE OF PUBLIC MEETING
ZONING BY-LAW AMENDMENT AND OFFICIAL PLAN AMENDMENT
ZBA #42 & OPA #3 - 1637 Mersea Road 5

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 and a proposed official plan amendment under the provisions of the Planning Act, R.S.O. 1990 on **Monday, July 4th, 2011 at 7:00 pm** in the Council Chambers at the Municipal Building.

The subject property is described as Concession 5, East Part Lot 16, Part of Part 1 on 12R-9900 and locally known as 1637 Mersea Road 5 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

The subject property is designated Agricultural on Schedule “A-4” of the Official Plan and zoned Agricultural General Zone (A1) on Map 26 in Zoning By-law. The property owner requested that the Committee of Adjustment, at their meeting of February 22, 2011, consider to sever a 117.6m x 92m (1.3 ha) surplus dwelling lot and retain a 8.1 ha farm parcel to be added to an abutting farm parcel. Consent may be granted to sever an existing residential dwelling from a farm that is considered surplus to the needs of the farm operation as a result of a farm consolidation on condition that;

- a) a successful application for zoning by-law amendment is obtained to change the zone of the severed lands from Agricultural General Zone (A1) to Agricultural Hobby Farm Zone (A3),
- b) relief from subsection 4.1 (e) is obtained to increase the maximum height of an accessory structure from the required 6m to 9.14m to permit the barn as an accessory use to the surplus dwelling, and
- c) a successful application for official plan amendment is obtained to permit a surplus dwelling lot larger than 0.8 ha (1.97 ac) and to allow to barn to remain with the dwelling.

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 and official plan 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, during regular office hours. Please contact Tracey Pillon-Abbs, Manager of Planning Services, for further information.

DATED at the Municipality of Leamington this 7th day of June 2011.

BRIAN R. SWEET, CLERK
MUNICIPALITY OF LEAMINGTON
111 ERIE STREET NORTH
LEAMINGTON, ONTARIO N8H 2Z9
TELEPHONE: (519) 326-5761



REPORT

TO: MAYOR AND MEMBERS OF COUNCIL

FROM: TRACEY PILLON-ABBS, MANAGER OF PLANNING SERVICES

DATE: JUNE 1, 2011

SUBJECT: ZONING BY-LAW AND OFFICIAL PLAN AMENDMENT REQUESTS
PROPOSED SURPLUS DWELLING LOT AND ACCESSORY STRUCTURE
ZBA #42 AND OPA #3 - 1637 MERSEA ROAD 5 (DRIEDGER & COLLARD)

AIM:

To report upon a request to schedule the required public meeting to consider proposed zoning by-law and official plan amendments for property located on 1637 Mersea Road 5.

BACKGROUND:

Purpose of Application:

Staff has received application for zoning by-law and official plan amendments by the owners of the property as part of a condition of approval for consent application (B/08/11) on the subject lands to permit the severance of a surplus dwelling lot along with a barn as an accessory structure.

Property Description:

The subject property is described as Concession 5, East Part Lot 16, Part of Part 1 on 12R-9900 and locally known as 1637 Mersea Road 5 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

Currently, the subject property is a condition of consent and has a surplus residential dwelling along with a tobacco kiln barn 9.14m in height as an accessory structure.

The lot will maintain frontage on Mersea Road 5. There are residential and agricultural uses abutting the subject lands.



The property owner requested that the Committee of Adjustment, at their meeting of February 22, 2011, consider to sever a 117.6m x 92m (1.3 ha) surplus dwelling lot and retain a 8.1 ha farm parcel to be added to an abutting farm parcel.

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.

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-4" 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.

Subsection 5.4.2 of the Land Division Policies sets out that consent may be granted to sever an existing residential dwelling from a farm that is considered surplus to the needs of the farm operation as a result of a farm consolidation provided that

(f) the size of the surplus dwelling lot is in compliance with the municipal Zoning By-law and is not greater than 0.8 ha (1.97 ac);

(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;

It is proposed to re-designate the subject parcel to be exempt from the above policy to permit the surplus dwelling and the barn.

Leamington Zoning:

The subject property is currently zoned Agricultural General Zone (A1) on Map 26 in Zoning By-law #890-09. It is proposed to re-zone the subject property to Agricultural Hobby Farm (A3) to permit the surplus dwelling lot.

In addition, relief from subsection 4.1 (e) is required to increase the maximum height of an accessory structure from the required 6m to 9.14m to permit the barn an accessory use to the surplus dwelling.

CONSULTATION:

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

It should be noted that the decision of the Committee of Adjustment was different than the recommendations from Administration. It was recommended by Administration that the barn remain with the farm and that the lot area be reduced to no greater than 0.8 ha (1.97 ac). However, the Committee felt that the barn should be left with the surplus dwelling lot and that the lot would be able to be larger than 0.8 ha (1.97 ac) and made it conditional of approval that a successful zoning and official plan amendments be received prior to the stamping of the deeds.

To explain further, the Official Plan policy for barns remaining with the farmland has been followed since the former Township of Mersea 1987 Plan. It is suggested 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. However, in this case, the applicant intends to use the barn in association with their home, no livestock is to be situated in the barn and the barn is too small for storage of farm equipment.

Regarding the Official Plan policy for the maximum lot area for a surplus dwelling, it is suggested by Administration that residential lots in the rural farm areas should be limited in size. Surplus residence should only be large enough to accommodate the residence and an appropriate sewage and water system. However in this case, the residential dwelling is located in the middle of the frontage making it very difficult to farm around.

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 now proceed to a public meeting. The date for the required public meeting is requested to be scheduled for **Monday, July 4, 2011 at 7:00 pm.**

Notice of public meeting will be circulated to all commenting agencies, municipal departments and abutting landowners within 120 m (400 ft) of the subject property. Notice will also be posted on site. As part of the new Bill 51, all information will be made available to the public and commenting agencies.

A report by Administration will not be presented to Council after the public meeting, unless there are concerns raised at the public meeting. It is requested that Council consider the amending by-law for the zoning by-law amendment approval the same night as the public meeting.

Therefore, it is administration's opinion that;

- i) The application is consistent with the policy statements issued under subsection 3 (1) of the Planning Act.
- ii) The application conforms to or does not conflict with any applicable provincial plan or plans.

- iii) The development proposed is in keeping with the overall goals and policies of the Official Plan.
- iv) The proposed amendment does meet the criteria used when considering applications to amend the zoning by-law.

Once a decision for Zoning By-Law amendment has been made and notices sent out, there would be an appeal period in the case that there are any objections to the Ontario Municipal Board (OMB).

As set out under Bill 51 of the Planning Act, the OMB is required not only to have regard to Council's decision, but the basis on which the decision is made. In order to ensure that the OMB has regard to Council's decision, Council should be able to demonstrate that its decision was fully supported by relevant information and that the information was considered by Council.

If Council adopts the official plan amendment, Administration will forward all the necessary information to the County of Essex for final approval. Notice of decision will be sent out and there would be an appeal periods in the case that there are any objection to the OMB.

RECOMMENDATION:

THAT Council declare that the application was reviewed and deemed to be complete pursuant to the requirements of the *Planning Act* to consider zoning by-law and official plan amendments for property located at Concession 5, East Part Lot 16, Part of Part 1 on 12R-9900 and locally known as 1637 Mersea Road 5 as part of a consent condition for B/08/11 to change the zone from Agricultural General Zone (A1) to Agricultural Hobby Farm Zone (A3) in addition to permitting a surplus dwelling with a barn as an accessory structure, as outlined in Report PLA 25/11;

AND THAT Administration be directed to schedule the required public meeting for Monday, July 4, 2011 at 7:00 pm.

AND THAT if no concerns are raised at the public meeting the Clerk be directed to forward the amending by-law to Council for its consideration and first and second reading;

AND THAT that Council adopts the request for an official plan amendment and forward to the County of Essex the necessary information;

Respectfully submitted,

Tracey Pillon-Abbs,
Manager of Planning Services

Douglas E. Morrish,
Director of Development Services

/tpa



2011 Board of Directors June 14, 2011

Town of Amherstburg

Robert Pillon
John Sutton

Mr. Brian R. Sweet, *Clerk*
Municipality of Leamington
111 Erie St. N.

Town of Essex

Sherry Bondy
John Scott

Leamington ON N8H 2Z9

Town of Kingsville

Gord Queen
Tamara Stomp

Dear Ms. Jackson:

Town of Lakeshore

Al Fazio
Len Janisse

RE: Notice of Public Meeting to Consider Zoning By-Law Amendment and Official Plan Amendment (ZBA 42 & OPA 3) - Lot 16, Concession 5; 1637 Mersea Road 5; ARN: 370667000000400; PIN: 750910205; Applicant: Kevin Earl Collard.

Town of Lasalle

Sue Desjarlais
Ray Renaud

The following is provided for your information and consideration as a result of our review of the above referenced Notice of Public Meeting to Consider Zoning By-Law Amendment and Official Plan Amendment (ZBA 42 & OPA 3).

Municipality of Leamington

Rick Atkin
Larry Verbeke

Based on our review, we have no objections to the application.

Township of Pelee

Rick Masse

If you should have any questions or require any additional information, please do not hesitate to contact the ERCA office by phone at (519) 776-5209 or by fax at (519) 776-8688.

Town of Tecumseh

Joe Bachetti - Vice Chair
Cheryl Hardcastle

Thank you.

Sincerely,

City of Windsor

Percy Hatfield - Chair
Al Maghnieh
Hilary Payne
Ed Sleiman

Rebecca Belanger, MCIP, RPP
Conservation Planner

/dl

General Manager /

Secretary Treasurer
Richard Wyma

C: Kevin Earl Collard

Member of



Conservation
ONTARIO
Natural Champions

