

# MUNICIPALITY OF LEAMINGTON AGENDA



## PUBLIC MEETING

Zoning By-law Amendment  
Agricultural Re-Zoning  
508 Mersea Road 3

MONDAY, AUGUST 10, 2009  
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
2. Report PLA 21/09 dated July 15, 2009 re: Zoning By-Law Amendment Proposed  
Agricultural Zoning - 508 Mersea Road 3  
*(For Reference Only - Previously considered at the July 20, 2009 Council Meeting)*  
Pages 4-7
3. Correspondence received from the Essex Region Conservation Authority dated July 30,  
2009  
Pages 8

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THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON  
NOTICE OF PUBLIC MEETING  
ZONING BY-LAW AMENDMENT  
AGRICULTURAL RE-ZONING (508 MERSEA ROAD 3)

**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, August 10<sup>th</sup>, 2009 at 7:00 pm** in the Council Chambers at the Municipal Building.

The subject property is described as Concession 2, North Part Lot 5, Part 3 on 12R-4675, Part 2 on 12R-6686 and locally known as 508 Mersea Road 3 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

The subject property is currently zoned Agricultural Restricted (A2) in Zoning By-law #890-09. The property owner requested that the Committee of Adjustment consider a surplus dwelling lot to sever a 70.7 m x irregular (0.54 ha) residential lot and retain a 14.36 ha farm parcel. The application for consent was approved on condition that a successful application for zoning by-law amendment is obtained to change the zone of the severed lands to Agricultural Residential (A5) and the proposed severed lot frontage of the surplus dwelling lot obtain relief to increase the requirements from 53 m (173.88 ft) to 70.71 m (232 ft).

The subject property is designated Agricultural on Schedule "A-3" in the Official Plan (OP) for the Municipality of Leamington (approved 2008).

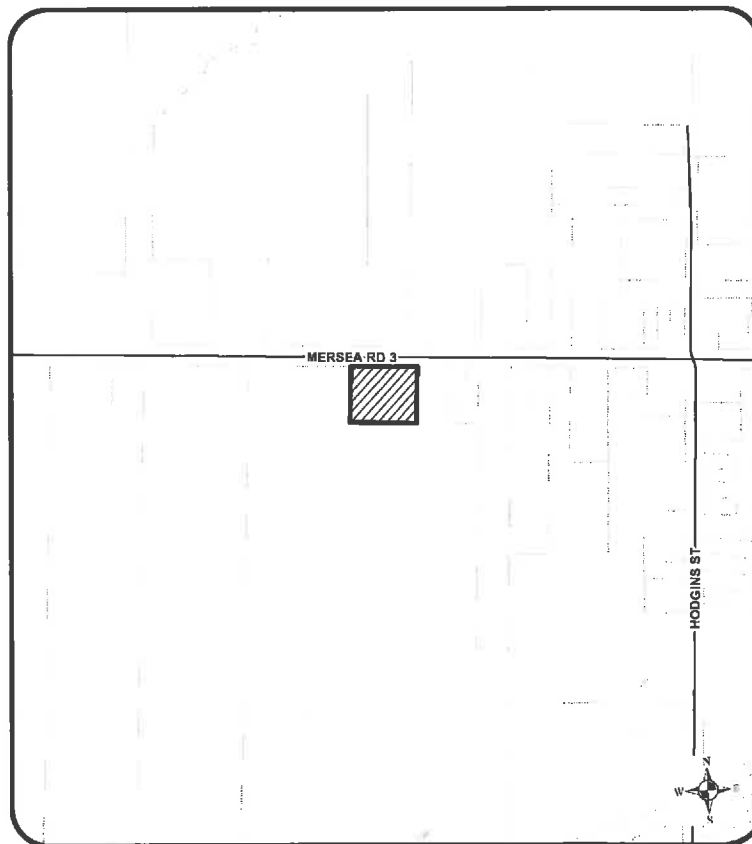
**ANY PERSON** may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed zoning by-law amendment.

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 21<sup>st</sup> day of July 2009.

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



**Legend**

 Subject Property

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THIS IS NOT A LEGAL PLAN OF SURVEY & IS NOT TO SCALE

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Provided by the Municipality of Leamington Engineering Department - GIS Services  
38 Erie Street North, Leamington, Ontario N8H 2Z3  
TEL (519) 326-5781 FAX (519) 326-2461

## REPORT

TO: MAYOR AND MEMBERS OF COUNCIL

FROM: TRACEY PILLON-ABBS, MANAGER OF PLANNING SERVICES

DATE: JULY 15, 2009

SUBJECT: ZONING BY-LAW AMENDMENT  
PROPOSED AGRICULTURAL ZONING  
508 MERSEA ROAD 3

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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 at 508 Mersea Road 3.

### BACKGROUND:

#### Purpose of Application:

Staff has received an application for re-zoning by the owner(s) of the property, to amend the subject lands. It is also requested that relief be considered to increase the required lot frontage from 53 m (173.88 ft) to 70.71 m (232 ft) for the proposed surplus dwelling lot.

The zoning by-law amendment is a condition of approval for a consent (B/105/09) application on the subject lands.

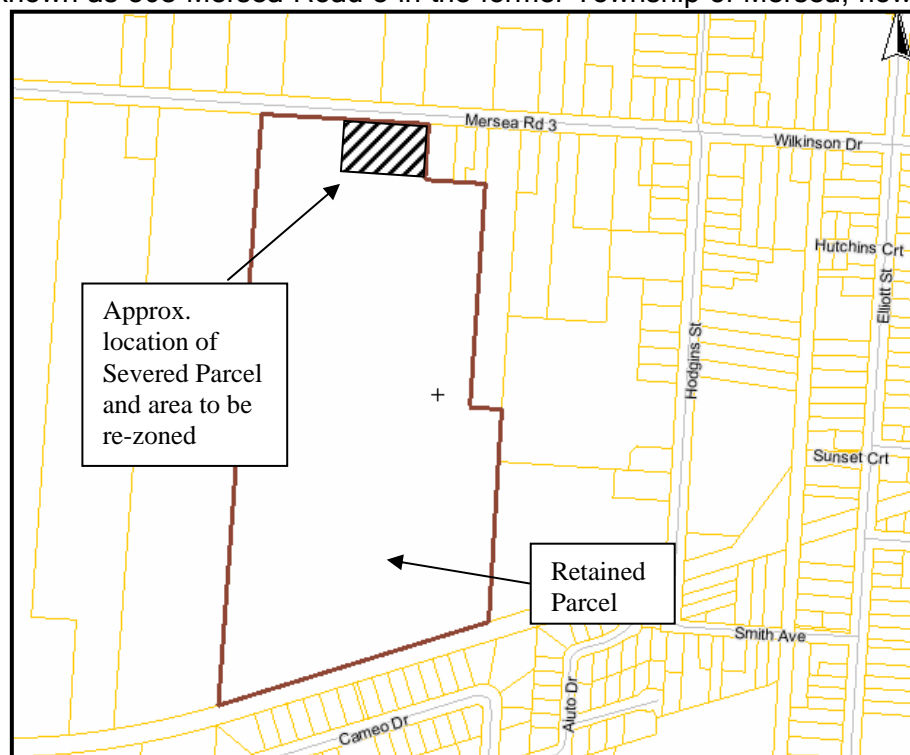
#### Property Description:

The subject property is described as Concession 2, North Part Lot 5, Part 3 on 12R-4675, Part 2 on 12R-6686 and locally known as 508 Mersea Road 3 in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

Currently, the property has an existing single unit detached dwelling and two accessory structure.

The property has access to municipal water along with private sanitary and storm sewers.

The property has frontage on and access from Mersea Road 3. 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.

**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.

**Leamington Zoning:**

The subject property is currently zoned Agricultural Restricted (A2) in Zoning By-law #890-09.

The property owner requested that the Committee of Adjustment consider a surplus dwelling lot to sever a 70.7 m x irregular (0.54 ha) residential lot and retain a 14.36 ha 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 provided that:

1. the farm lot being acquired has a minimum lot area of 10 ha (24.70 ac). **The proposed retained farm parcel will be 14.36 ha/35 ac.**
2. the owner has owned or has been part owner of both farms for a minimum period of one year prior to the date of the application. **Records indicate that the owner has owned the subject farm and a second farm for greater than 1 year.**
3. the residential dwelling to be severed must have been existing, prior to the date of adoption of the Plan. **Records indicate that the surplus dwelling was built in 1938.**
4. the creation of the surplus dwelling lot shall comply with the Minimum Distance Separation requirements. **There does not appear to be any sensitive land uses adjacent to the subject property.**
5. 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). **As submitted, the proposed severed lot will not comply with the minimum lot area (10 ha/24.7 ac) of the Agricultural Restricted (A2) Zone. However, the severed parcel will comply if re-zoned to Agricultural Residential (A5). Further, based on the A5 Zone, the lot frontage does not comply and relief is required.**
6. 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. **No barns are included in the severance, as amended at the meeting.**
7. the lot to be created shall include the sewage disposal and water supply systems servicing the surplus dwelling otherwise easements shall be required as a condition of consent to ensure that the lot will continue to be adequately serviced, for water supply systems only. **Based on the application, services are available.**
8. that the applicant enter into an agreement with the Municipality, to be registered on title, that a building freeze be placed on the vacant remnant parcel of farmland created by the severance to prohibit construction of any new residential dwellings. **Based on the application, the owner has agreed.**

9. no more than one consent shall be allowed for every complete 10 ha (24.70 ac) of lot area on any farm lot as the lot existed on May 7<sup>th</sup>, 1985 (date of adoption of original “cap” policy), or as the farm lot existed subsequent to its division, regardless of changes in property ownership. **Based on our records, all previous severances were prior to the cap.**

Therefore, the consent application can be supported on condition that;

1. a successful application for zoning by-law amendment is obtained to change the zone of the severed lands from Agricultural Restricted (A2) to Agricultural Residential (A5).
2. the proposed severed lot frontage of the surplus dwelling lot obtain relief to increase the requirements from 53 m (173.88 ft) to 70.71 m (232 ft).

### **CONSULTATION:**

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

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, August 10, 2009 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.

**RECOMMENDATION:**

THAT Council declare that the application was reviewed and deemed to be complete pursuant to the requirements of the *Planning Act* to consider a zoning by-law amendment for property located at 508 Mersea Road 3 to amend the subject lands from Agricultural Restricted (A2) to Agricultural Residential (A5) and obtain relief to increase the required lot frontage from 53 m (173.88 ft) to 70.71 m (232 ft) for the proposed surplus dwelling lot, as outlined in Report PLA 21/09;

AND that Administration be directed to schedule the required public meeting for Monday, August 10, 2009 at 7:00 pm.

And further, if no concerns are raised at the public meeting, that the Clerk be directed to forward the amending by-law for the zoning by-law amendment approval to Council for its consideration.

Respectfully submitted,

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Tracey Pillon-Abbs,  
Manager of Planning Services

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Douglas E. Morrish,  
Director of Development Services

/tpa



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July 30, 2009

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Ms. Tracey Pillon-Abbs, BES, MCIP, RPP  
Secretary-Treasurer  
Municipality of Leamington Committee of Adjustment  
38 Erie St. N.  
Leamington ON N8H 2Z3

Dear Ms. Pillon-Abbs:

RE: Notice of Public Meeting to Consider Zoning By-Law Amendment (ZBA) -  
Lot 5, Concession 2; 508 Mersea Road 3; ARN: 370659000007500; PIN:  
751350138; Applicant: Doris Margaret Duckett

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 (ZBA).

For the owner's information, we note that the above noted lands are not subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulations under the *Conservation Authorities Act*, (Ontario Regulation No. 158/06).

We note that we have reviewed the proposal and have no concerns relating to stormwater management.

We note that the subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance under the Provincial Policy Statement (PPS).

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

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.

Thank you.

Sincerely,

Rebecca Belanger, MCIP, RPP  
Conservation Planner

