

MUNICIPALITY OF LEAMINGTON AGENDA



PUBLIC MEETING

Zoning By-law Amendment
Antique Shop
494 Essex Road 34 (Talbot Road East)

MONDAY, AUGUST 24, 2009
COMMENCING AT 7:00 P.M.
IN THE COUNCIL CHAMBERS

ITEMS FOR CONSIDERATION:

1. Notice of Public Meeting
Pages 2-3
2. Report PLA 20/09 dated July 1, 2009 re: Zoning By-law Amendment - Proposed Antique Shop and Residential Use - 494 Essex Road 34 (Talbot Road East)
(For Reference Only - Previously considered at the July 20, 2009 Council Meeting)
Pages 4-8
3. Correspondence received from the Essex Region Conservation Authority dated August 13, 2009
Page 9-10

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THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON
NOTICE OF PUBLIC MEETING
ZONING BY-LAW AMENDMENT
ANTIQUÉ SHOP (494 ESSEX ROAD 34)

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 24th, 2009 at 7:00 pm** in the Council Chambers at the Municipal Building.

The subject property is described as Concession STR North Part Lot 233, RP 12R4167 PART 1 and locally known as 494 Essex Road 34 (Talbot Road East) in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

The subject property is zoned Agricultural Residential (A5-19) on Map 50 of Zoning By-law #890-09. The property was already in a defined use and included a day care centre and accessory uses in addition to the uses permitted in the A5 Zone. It is requested to expand the operation of an existing antique shop larger than the requirements of a home occupation and as a main use. It is proposed that the retail area will be a total of 126.34 sq m (1360 sq ft) in size. The residential space is located on the second floor. The use of a day care centre will be removed from the defined use.

The subject property is designated Agricultural on Schedule "A-4" in the Official Plan (OP) for the Municipality of Leamington (approved 2008). The property is subject to site plan control.

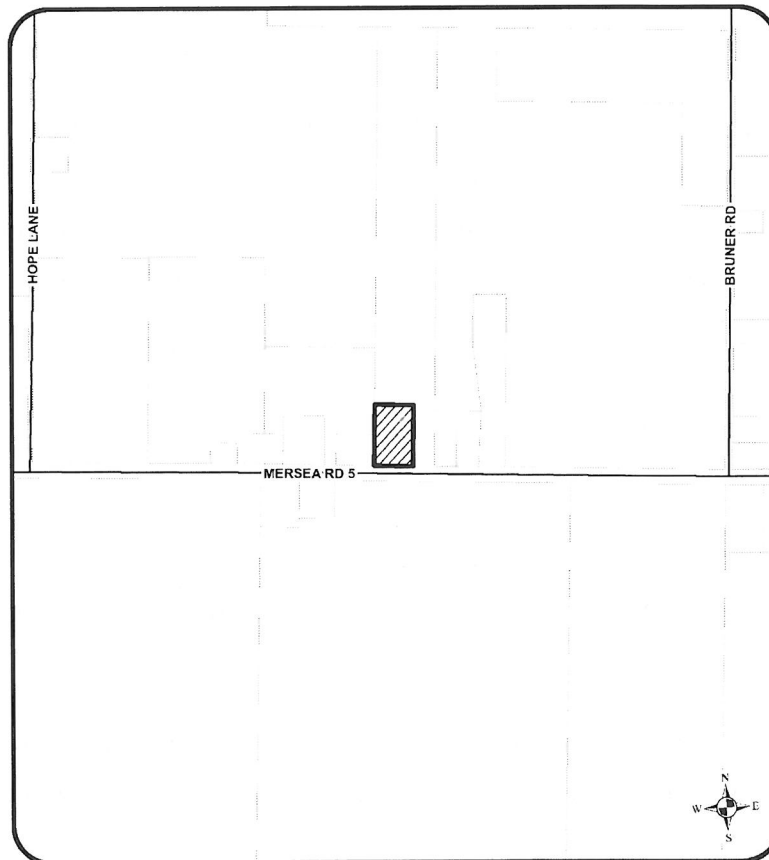
ANY PERSON may attend the public meeting and/or make written or verbal representation either in support of or in opposition to the proposed zoning by-law amendment.

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 22nd 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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Provided by the: Municipality of Leamington Engineering Department - GIS Services
38 Erie Street North, Leamington, Ontario N8H 2Z3
TEL (519) 326-5761 FAX: (519) 326-2461

REPORT

TO: MAYOR AND MEMBERS OF COUNCIL

FROM: TRACEY PILLON-ABBS, MANAGER OF PLANNING SERVICES

DATE: JULY 1, 2009

SUBJECT: ZONING BY-LAW AMENDMENT
PROPOSED ANTIQUE SHOP AND RESIDENTIAL USE
494 ESSEX ROAD 34 (TALBOT ROAD EAST)

AIM:

To report upon a request to schedule the required public meeting to consider a proposed zoning by-law amendment for property located at 494 Essex Road 34 (Talbot Road East).

BACKGROUND:

Purpose of Application:

Staff has received an application for re-zoning by the owner(s) of the property, to amend the subject lands to permit an antique shop in addition to the existing residential use. It is proposed to operate the business out of the main dwelling.

Property Description:

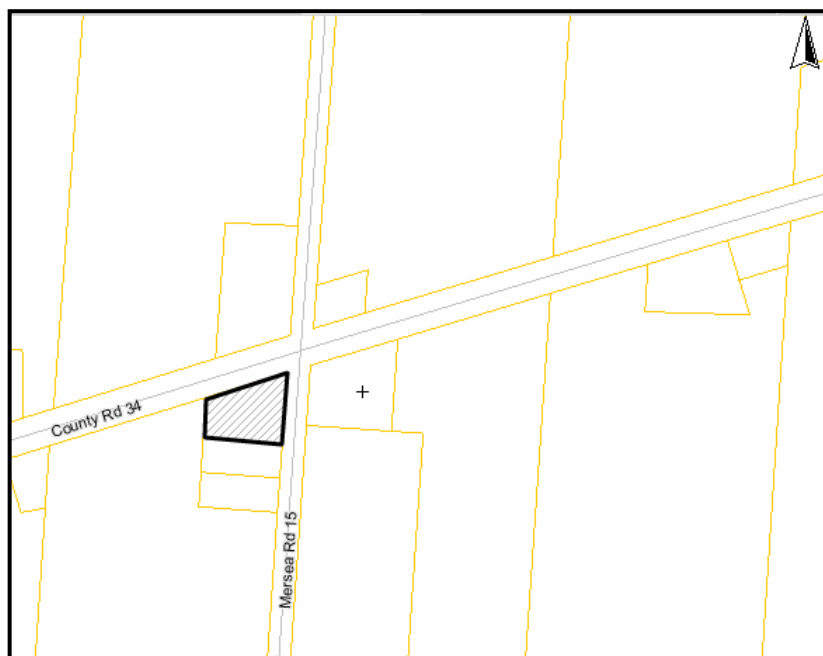
The subject property is described as Concession STR North Part LOT 233, RP 12R4167 PART 1 and locally known as 494 Essex Road 34 (Talbot Road East) in the former Township of Mersea, now a portion of the Municipality of Leamington (see key map).

Currently, the property has an existing single unit detached dwelling and an antique shop as a home occupation.

Based on information provided by the property owner, the property was previously used as a day care and prior to that it was used as an antique shop. The building was originally constructed and used as a school in 1928.

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

The property has frontage on Mersea Road 15 and Essex Road 34 (Talbot Road East) with a horseshoe entrance onto Essex Road 34.



There is a mix of residential and agricultural uses abutting the lands. The property is 0.34 ha (.85 acres) in size.

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.

Further, proposed new secondary uses and agriculture-related uses shall be compatible with, and shall not hinder, surrounding agricultural operations. These uses shall be limited in scale, and criteria for these uses shall be included in municipal planning documents as recommended by the Province, or based on municipal approaches which achieve the same objective.

Secondary uses is defined as secondary to the principal use of the property, including but not limited to, home occupations, home industries, and uses that produce value-added agricultural products from the farm operation on the property.

County Official Plan 2005 (OP):

The OP sets out policies in section 3.3.3 (c) which state that uses secondary to the principal use of the property, including home occupations, home industries and uses that produce value-added agricultural products from the farm operation on the same property are also permitted in the Agricultural designation.

Leamington Official Plan, 2008 (OP):

The subject property is designated Agricultural on Schedule "A-4" in the Official Plan (OP) for the Municipality of Leamington (approved 2008).

Section 2.14 of the Plan sets out that secondary uses are permitted in Agricultural designations in accordance with the specific regulations contained within the Zoning By-law. They include bed and breakfast establishments, in-home occupations, farm occupations and road side stands as defined in the zoning by-law. Entrance permits may be required to ensure that traffic generated and safety from traffic entering roadways from these uses are addressed.

The goal of the designation is to restrict the type and amount of non-farm development in the area designated "Agricultural". However, small scale commercial and dry industrial uses, as defined in the Zoning By-law may be permitted only upon amendment to the zoning by-law implementing this plan.

Section 2.2 of the Official Plan sets out that prior to the approval of any development or amendments to this Plan and/or the Municipality's Zoning By-law, it shall be established to the satisfaction of Council that:

- a) soil and drainage conditions are suitable to permit the proper location of buildings;
- b) the necessary services are available to adequately accommodate the proposed development;
- c) no traffic hazards will result because of additional traffic;
- d) the land fronts on an open public road which is of a reasonable standard of construction;
- e) adequate measures will be taken to alleviate or prevent any adverse effects that the proposed use may possibly have upon any proposed or existing adjacent use.

Section 3.1.2 9 (h) requires that small scale commercial and dry industrial uses, as defined in

the Zoning By-law may be permitted only upon amendment to the zoning by-law implementing this plan, provided that such amendment shall be approved only when it has been shown to the satisfaction of the municipality that:

- i) the use is directly related to a farm operation;
- ii) is required in close proximity to a farm operation;
- iii) would include processing agricultural goods or servicing agricultural equipment or operations;
- iv) will be encouraged to locate along Provincial Highways, County Roads and identified truck routes in areas;
- v) the by-law amendment will establish adequate setback and buffering requirements to ensure that any potential incompatibilities with surrounding uses are minimized.

Leamington Zoning:

The subject property is currently zoned Agricultural Residential (A5-19) on Map 50 of Zoning By-law #890-09. The property was already in a defined use and included a day care centre and accessory uses in addition to the uses permitted in the A5 Zone.

The day care was permitted based on a previous zoning by-law amendment in 1985 (b/l # 4156) and the operation closed prior to 2008 at which time the current owner purchased the property and converted it to a residential use and opened an antique shop as home occupation.

The home occupation is limited to the following, as set out in Section 4.23 of the Zoning By-law:

- a) the home occupation does not change the character or use of the dwelling for residential purposes and does not significantly alter the appearance of the dwelling or accessory building;
- b) not create or become a public nuisance, particularly in regard to noise, traffic, loading or unloading, or parking;
- c) have no external storage of materials, containers or finished products;
- d) be clearly secondary to the residential use of the property and have only members of the family permanently residing at the property and no more than one assistant at any given time engaged in the business;
- e) have no external display or advertisement other than an unlit sign attached to the building main wall which is a maximum size of 0.5 m² (5.38 ft²) indicating only the name, occupation and practicing hours of the occupant;
- f) not use mechanical equipment, the operation of which would result in any undue noise, fumes, dust, or odour escaping to any adjoining premise;
- g) if located in the dwelling unit, not occupy more than 25 % of the gross floor area of the dwelling unit including in the gross floor area any basement or attached garage, or 30 m² (322.92 ft²) whichever is the lesser. If located in an accessory building, not occupy more than 30 m² (322.92 ft²) within the accessory building;
- h) have the location of all parts of a home occupation, other than parking, confined within a building;
- i) have at least but no more than two off-street parking spaces associated with the home occupation, in addition to the main use requirements;
- j) not be used to assemble or rally such persons for transportation to a work site;
- k) not have more than five persons present in the dwelling at any time to receive treatment, services or instructions;
- l) not include any on-site retail store as part of the home occupation;
- m) not include any commercial vehicles, parked outdoors, in association with the home occupation;

The owner is requesting to expand the operation of the antique shop larger than a home occupation and as a main use. It is proposed that the retail area will be a total of 126.34 sq m (1360 sq ft) in size. The residential space is located on the second floor.

Based on the parking area requirements of the Zoning By-law, section 4.38 requires 3.3 spaces per 93 sq m (1,001.07 sq ft) of gross floor area for the retail space and 2 spaces for the residential use. A total of 7 parking spaces are required and 14 are provided.

If the property is successfully re-zoned; the site may be subject to site plan control approvals and change of use permits.

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 a Planning Justification Study is not required.

CONCLUSION:

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 *Planning 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 24, 2009 at 7:00 pm.**

Notice of public meeting will be circulated to all commenting agencies, municipal departments and abutting landowners within 400' of the subject property. Notice will also appear in the Leamington Post and on the Municipality of Leamington's website. All information will be made available to the public and commenting agencies.

A report by Administration will be presented to Council after the public meeting summarizing all comments and concerns provided, in order to consider a final decision. Specific details of the by-law will be also explained at that time.

Once a decision 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). The OMB will not consider any information which was not 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 to permit an antique shop in addition to the existing residential use for property located at 494 Essex Road 34 (Talbot Road East), as outlined in Report PLA 20/09;

AND that Administration be directed to schedule the required public meeting for Monday, August 24, 2009 at 7:00 pm.

Respectfully submitted,

Tracey Pillon-Abbs,
Manager of Planning Services

Douglas E. Morrish,
Director of Development Services

/tpa



**Essex Region
Conservation
Authority**

360 Fairview Avenue West, Suite 311, Essex, Ontario, Canada N8M 1Y6
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email: admin@erca.org home page: www.erca.org

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August 13, 2009

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Mr. Brian Sweet, Clerk,
Municipality of Leamington
38 Erie St. N.
Leamington ON N8H 2Z3

Dear Mr. Sweet:

RE: Notice of Public Meeting to Consider Zoning By-Law Amendment (ZBA) -
Lot 233, Concession Talbot Road West South Side ; 494 Essex Road 34
(Talbot Road East) ; ARN: 370658000004800; PIN: 750980092; Applicant:
Monica Elizabeth Reynolds;

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
Conservation Planner



/

cc: Monica Elizabeth Reynolds