

THE MUNICIPALITY OF LAMBTON SHORES

Report PL 05-2024

Council Meeting Date: February 27, 2024

TO: Mayor Cook and Members of Council

FROM: Will Nywening, Senior Planner

RE: ZBA Application ZO-01/2024 – 2 Allen St, Thedford – Karl and June Elliott

RECOMMENDATION:

THAT Report PL 05-2024, relating to a Zoning By-Law Amendment Application submitted by Karl and June Elliott, be received; and

THAT ZBA Application ZO-01/2024, submitted by Karl and June Elliott, requesting an amendment to Zoning By-Law 1 of 2003 to rezone 2 Allen St, Thedford, to permit 2 dwellings, be denied, since the applicant is unwilling to comply with a requirement of Council resolution 24-0116-06.

SUMMARY

This report relates to the Zoning Amendment application submitted by Karl and June Elliott, affecting lands known as 2 Allen St, Thedford and also to Council resolution 24-0116-06, made January 16, 2024 respecting same.

BACKGROUND

The applicant has constructed a new house on the property pursuant to a temporary use agreement with the Municipality that allowed the existing house to remain and be occupied until the new house was built. The applicant has been in breach of this agreement since June 15, 2023, the deadline to remove the existing house, and is also in violation of the Zoning By-law's general restriction of one farm dwelling per property.

The applicant now wishes to retain rather than remove the older house, and submitted Zoning Amendment application ZO-01-2024 in order to rezone the subject lands to a new site-specific Agriculture-1 Zone permitting two dwellings and address the non-compliance. Staff report PL 01-2024 addresses the Zoning request and is attached to Council's agenda as additional background.

The public meeting for the Zoning By-law amendment was held at the January 16, 2024 Council meeting. Council approved the application in principle, but deferred formal passing of the amending by-law until the applicant complied with conditions imposed by Council. Council's resolution was:

24-0116-06

THAT Report PL 01-2024, relating to a Zoning By-Law Amendment Application submitted by Karl and June Elliott, be received; and

THAT ZBA Application ZO-01/2024, submitted by Karl and June Elliott, requesting an amendment to Zoning By-Law 1 of 2003 to rezone 2 Allen St, Thedford, to permit 2 dwellings, be approved; and

THAT all applicable development charges and sanitary charged be paid.

In this respect, staff reviewed Development Charges By-law 1 of 2018 and the Development Charges Brochure that were both applicable when the permit for the new house was issued in 2022 and confirmed that a development charge of \$11,918.11 would have been payable at the time if it had been known that the original house was not going to be removed.

Staff provided a letter dated January 22, 2024 to the applicant. It is included in Council's agenda. The letter communicates what the Council resolution requires the applicant to do before the amending by-law is formally passed (with clarification based on the discussion at Council). Essentially this was two conditions:

1. Paying the development charge, since it has been determined to be applicable.
2. Connecting the existing house to the municipal sanitary sewer system as the new house has been.

On February 14, 2024, the applicant hand-delivered, to the front desk, a response consisting of three pages, also attached to Council's agenda. The first page is simply a description of the property. The final two pages are a copy of our January 22, 2024 letter with some notes added. The response indicates that the applicant is agreeable to condition #1, payment of the development charge, but not to condition #2, connecting the existing house to the sanitary sewer. The note states "existing system is good. Just redid all weeping bed", which staff understands to mean that they do not wish to connect the existing house to the municipal sanitary sewers because they feel that the septic system is functional.

Respecting "condition #2", Ontario Building Code requires that any new building be connected to sanitary sewers where available. Building Services staff therefore recommended that connecting the existing house to the municipal sanitary sewer, as the new one has been, should be a condition of any special permission given to permit two houses. This recommendation was noted in the planning report and made a requirement by Council. Because the existing house was not originally going to remain, no assessment of the condition of the existing system has ever been completed as part of the new house's construction.

DISCUSSION

As per resolution 24-0116-06, Council's approval of Zoning Application ZO-01-2024 in principle and formal passing of the implementing by-law was conditional upon payment of development charges, if applicable, and connecting to municipal sewers. Based on the applicant's unwillingness to meet the second requirement, staff recommends that the formal implementing by-law not be passed and the application be formally denied.

ALTERNATIVES TO CONSIDER

None at this time.

RECOMMENDED ACTIONS

Staff recommends that Report PL 05-2024 be received and Zoning By-law Amendment Application ZO-01/2024 be denied.

FINANCIAL IMPACT

The applicant has paid the Municipality a \$1300 application fee for rezoning.

CONSULTATION

Municipality of Lambton Shores Staff: Steve McAuley, Chief Administrative Officer; Randy Lovie, Chief Building Official and other Building Services Staff; Public Works Department Staff; Janet Ferguson, Director of Finance

Attachments:

- Previous Staff Report PL 01-2024
- Staff Letter to Applicants re: Resolution 24-0116-06
- Applicant's Response