

THE MUNICIPALITY OF LAMBTON SHORES

Report COA 03-2024

Committee Meeting Date: March 27, 2024

TO: Chair and Members of the Committee of Adjustment
FROM: Ken Bulgin, Planner
RE: Consent Application B-03/2024 - Con 14 Lot 14 – 8545 Rawlings Road – Ron Vanos

RECOMMENDATION:

THAT Consent Application B-03/2024 requesting permission to sever a residential lot containing a surplus farm dwelling at 8545 Rawlings Road, be approved, subject to the following condition(s):

1. That the Owner submit to the Municipality an electronic copy of a reference plan showing the severed lot or submit a written description which is acceptable to the County of Lambton Registrar;
2. That any municipal taxes and local improvements including interest and penalties thereon that may be owing and payable with respect to the lands be paid to date;
3. That the applicant pay the Municipality's fee to stamp the deed of the severed lot;
4. That the severed lot boundaries be approximately 90 m frontage and 90 m depth and include the existing dwelling;
5. That the applicant apply for and obtain a zoning amendment with respect to the retained farm parcel and provincial policy requirements to prohibit a dwelling;
6. That the owner satisfy the Municipality of Lambton Shores with respect to the payment of cash-in-lieu of parkland dedication, which shall be \$1000.00;
7. That the applicable road authority confirm it is satisfied that all resultant parcels have an adequate, independent road access, or the applicant install or upgrade entrances as required by the road authority;
8. That the drainage apportionment be divided between the resultant parcels, if applicable;
9. That any fees outstanding or payable pursuant to by-laws relating to the rural water expansion project for the existing or proposed lots be paid; and
10. That all conditions be fulfilled and the certificate of consent required by Section 53(42) of the Planning Act be obtained within two years of the notice of decision of this consent.

SUMMARY

An application of consent (severance) has been submitted for the property located at 8545 Rawlings Road. The purpose of the application is to sever a residential lot having a frontage of approximately 90 m, depth of 90 m and lot area of 0.8 hectares (2 acres), containing a dwelling, leaving a retained farm parcel containing a wind turbine having a lot area of approximately 39.66 hectares (98 acres).

BACKGROUND

The subject lands are situated on the west side of Rawlings Road (Hwy 21), approximately 390 m north of Proof Line, known municipally as 8545 Rawlings Road (Attachment 1). The property is a rectangular shape, has a lot frontage of approximately 413 m on Rawlings Road, and a total lot size of 100 acres.

The property is located in an agricultural area that supports a mixture of cash crop and livestock farming. The lands are predominantly farm field with a woodland area in the south central region of the property abutting the Wadsworth Drain which runs north-south through the middle of the property.

The subject lands are currently occupied by a wind turbine located near the northwestern edge of the property and a single storey detached dwelling with frontage along Rawlings Road which has been maintained as a rental unit by the applicant.

Provincial Policy Statement, 2020

The Provincial Policy Statement (PPS) regulates lot creation in Prime Agricultural Areas under section 2.3.4. Specifically, section 2.3.4.1 states,

“Lot creation in prime agricultural areas is discouraged and may only be permitted for:

- c) a residence surplus to a farming operation as a result of farm consolidation, provided that:
 - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
 - 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective”;

The PPS definition for “residence surplus to a farming operation”: means an existing habitable farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation).

Lambton County Official Plan

The subject property is designated as “Agricultural Area” in the Lambton County Official Plan.

The Lambton County Official Plan reflects the policies of the PPS and permits a severance on lands designated “Agricultural Area” provided the severed lot is limited in size so that a minimum of land is taken out of agricultural production and that it is located at the required MDS I setbacks from all livestock facilities whether or not already located on a separate lot from each other.

The proposed severance meets these requirements.

Lambton Shores Official Plan

The subject property is designated as “Agricultural” in the Official Plan (OP) and contains Natural Heritage Features (significant woodlot) in the south-central region of the property.

The Lambton Shores Official Plan reflects the policies of the PPS and permits a severance on lands designated “Agricultural” provided the retained lot meets the Plan’s minimum farm size of 40 ha (100 acres) and does not compromise the functionality or viability of the agricultural lands. The proposed severance would result in a remnant parcel of less than the required 100-acre lot boundaries but would not impact the functionality and viability of the agricultural lands.

Zoning By-law

The subject lands are Zoned “Agricultural - 1 (A1)” under the Lambton Shores Zoning By-law. The proposed surplus farm severance would create a 98-acre remnant parcel and a 2-acre severed parcel containing a single detached dwelling. The proposed surplus farm severance would meet all required Zoning By-law provisions.

Regulated Area

Portions of the subject property are part of a General Regulation Area overseen by the St. Clair Region Conservation Authority (SCRCA) Under Ontario Regulation 147/06 and associated with flooding hazard associated with the Wadsworth Drain which runs through the subject property and the Beth Creek Drain located to the west of the property. The SCRCA regulates development, including construction on lands located within a regulated area.

COMMENTS

Proposal

The applicant is proposing to sever the existing single detached dwelling, as a surplus farm dwelling, on a lot that would have a frontage of approximately 88 m, a depth of 88 m, and lot size of 1.91 acres (7744 m²). The applicant would retain a 98.09 acre remnant farm parcel that contains a wind turbine.

Following discussion with the Lambton County Building Services Department and with the applicant, Planning Staff is recommending a severed lot with a frontage of 90 m, a depth of 90m to allow for a 2-acre severed parcel, required for septic system requirements for a lot on clay soils, and a 98-acre remnant parcel.

The applicant has indicated that the purpose of the proposed severance is to allow for the sale of the existing dwelling that is not being used by the family or the farming operation. Currently the dwelling is occupied by tenants, however the applicant has indicated they no longer wish to maintain the dwelling as a rental unit.

Minimum Distance Separation

Agricultural policies in the County Official Plan require that new residential lots, including surplus farm dwelling severances comply with the provincial minimum distance separation (MDS) guidelines with respect to adjacent livestock facilities.

The Minimum Distance Separation (MDS) Document produced by the Ministry of Agriculture, Food and Rural Affairs states where lot creation is proposed, MDS I requires that all livestock facilities or anaerobic digesters within a 750 m distance of the use shall be investigated and MDS I calculations undertaken where warranted.

No livestock facilities were identified in the vicinity of the existing dwelling on the proposed severed lot that would create an MDS compliance issue.

Lot Size

The lands contain a single detached dwelling at the eastern edge of the property. A wind turbine is located towards the northwestern edge of the property. The dwelling would be part of the severed parcel and the wind turbine would remain with the remnant parcel. The setbacks for the dwelling and the proposed lot lines would meet the minimum required distances in the A1 Zone.

The retained farm would be approximately 39.66 hectares (98 acres) which is greater than the 38-hectare (94 acre) minimum of the A1 Zone and slightly less than the 40 hectares (100 acres) required by the Lambton Shores Official Plan policies.

Agricultural policies also require that the amount of farmland kept in production be maximized by keeping non-farm lots to the minimum size needed to provide on-site private sewage disposal. In clay soils, this is generally 0.8 hectares (2 acres), which is the minimum lot area required for residential lots in the A1 Zone.

The proposed severed lot (Attachments 2 & 3), that includes a single detached dwelling, is approximately 0.8 hectares (2 acres) in size. The proposed severed lot use would not include any part of the wooded area but would remove approximately 1 acre of land from agricultural use. Planning staff are able to support the estimated 2-acre lot size as the proposed lot boundaries have been limited to the size necessary to encompass the existing septic bed, and driveway.

Services

The subject lot is serviced by municipal water along Rawlings Road and utilizes a private sewage disposal system. The County Building Services has provided written comments respecting private sewage disposal. They are satisfied with the condition of the existing septic system and advise that the lot size of the severed lot meet ministry reasonable use guidelines for private sewage disposal.

Public Works Staff has provided comments that it should be confirmed whether fees for the rural water expansion project have been paid by the existing use and that the new lot should pay if required by the associated by-law.

Access

There is a single access from Rawlings Road (King's Highway 21) that services the property. The proposed severed lot would maintain vehicular entry to the property using the existing access. The proposed remnant would require a separate access from Rawlings Road. As a provincial highway, all access to the road is overseen by the Ministry of Transportation Ontario (MTO). The applicant would be required to obtain permission and any associated permit(s), as a condition of consent, to allow a new entrance for access to the remnant lot from Rawlings Road.

A laneway that extends from Proof Line along the western lot line of the abutting property and subject lands provides access to the Wind Turbine to allow for maintenance. This laneway, and the Wind Turbine would remain with the retained parcel.

Natural Hazard

A portion of the subject lands are located within a General Regulation Area overseen by the SCRCA. The SCRCA has reviewed the application and determined that the portion of the property that is proposed to be severed is outside of the Regulation Area. The SCRCA has indicated the Conservation Authority has no natural hazard concerns with the requested surplus farm dwelling severance.

Policy

The PPS allows the severance of a residence surplus to a farming operation as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation). In this circumstance the applicants do own additional farm properties in Lambton Shores. The owners currently reside in a dwelling located on one of these farm properties (abutting the north property line of the subject lands) which would allow the dwelling on the subject lands to be considered surplus to the farming operation.

Department and Agency Comments

The application has been circulated to the required agencies as per the *Planning Act*. The following comments were received:

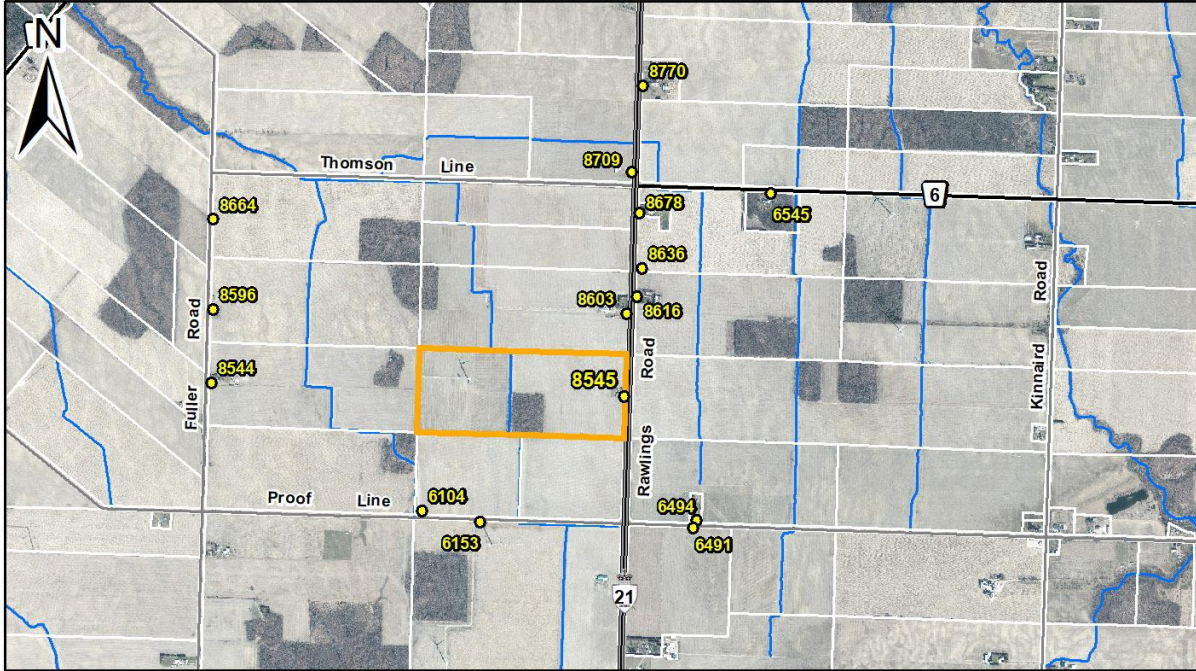
| <i>Agency</i> | <i>Comments</i> |
|---|--|
| <i>County of Lambton Building Services Department</i> | The Building Services Department has indicated the existing septic system appears to be in good working order and they have no concerns with regard to the proposed severance for both the retained (98 acres) and severed (2 acres) portions as it relates to the Reasonable Use Guidelines and the required minimum lot sizes. |
| <i>St. Clair Region Conservation Authority</i> | SCRCA has indicated they have no concerns with the proposed application as the proposed severed lot is located entirely outside of the area regulated by the Authority. |
| <i>Public Works Department</i> | If a new parcel is created we will need to confirm the existing parcel paid for the rural water expansion project. The new parcel may be required to pay the vacant land fee per the bylaw. |
| <i>Adjacent Property Owners</i> | No comments received as of March 18, 2024. Any comments received prior to the March 27, 2024 Committee of Adjustment meeting shall be presented at the meeting. |

RECOMMENDATION

It is Staff's opinion that the proposed surplus farm severance complies with applicable policies. Staff has no objection to the application for consent, subject to the recommended conditions.

Attachment to Report P12024-001

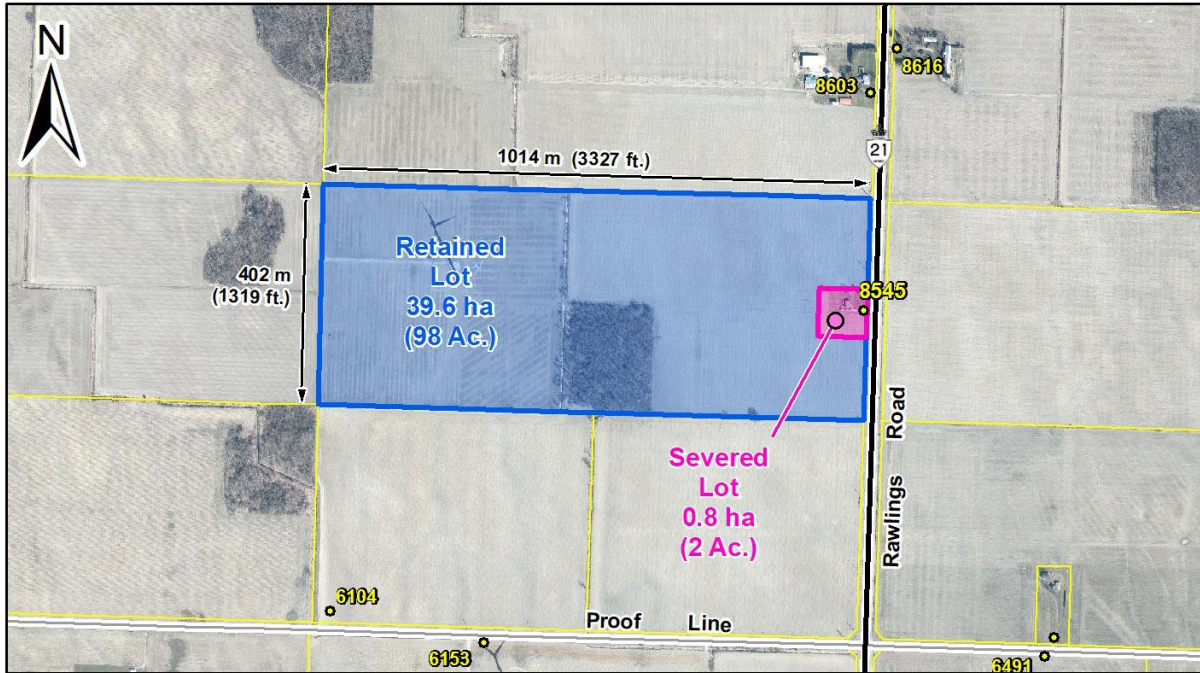
ATTACHMENT 1: LOCATION MAP



SUBJECT AREA

Attachment to Re...

ATTACHMENT 2: SITE PLAN (FULL)



ATTACHMENT 3: SITE PLAN (ENLARGED)

