



LUCAN BIDDULPH COMMITTEE AGENDA

TUESDAY, FEBRUARY 5, 2019 6:00 PM
Lucan Biddulph Township Office
270 Main Street P.O. Box 190 Lucan, ON

AGENDA

LAND DIVISION COMMITTEE / COMMITTEE OF ADJUSTMENT / PLANNING COMMITTEE

1. **Call to Order**
2. **Disclosure of Pecuniary Interest & Nature Thereof**
3. **Approval of Minutes**
[Committee Minutes - January 8 2019](#)
4. **Applications**
[B-1-2-2019 Martens \(15484 and 15456 Elginfield Road\)](#)
5. **Adjournment**

The Corporation of the Township of Lucan Biddulph Land Division Committee/Committee of Adjustment/ Planning Minutes

Present: Mayor C. Burghardt-Jesson, Deputy Mayor D. Manders, Councillor D. Regan, Councillor P. Mastorakos, Councillor A. Westman

Also Present: CAO/Clerk R. Reymer, T. Merner-Deputy Clerk, D. Kester-Manager of Public Works, P. Smith-Manager of Parks & Recreation, L. deBoer-EDC, M. Bancroft-Senior Planner

Call To Order

Mayor C. Burghardt-Jesson called the meeting to order at 6:00 p.m.

Declaration of Pecuniary Interest & Nature Thereof

None.

1/ Minutes – Oct 1, 2018

Moved by D. Manders

Seconded by A. Westman

Resolved that the Committee of Adjustment meeting minutes of Oct 1, 2018 be approved as circulated.

CARRIED

B-5-2018 (Carter)

M. Bancroft reviewed his report submitted. He advised that this application is a resubmission of previous Consent application B-1-2018 which was approved by Lucan Biddulph council, however appealed by the County of Middlesex council. Although the appeal was scheduled to be heard before the Local Planning Appeal Tribunal the applicant's withdrew their application thereby closing the file.

M. Bancroft advised that the purpose of the application is to sever a parcel of land having an area of approximately 50 acres from an existing parcel. The subject property is a 149 acre farm situated on the east side of Richmond Street (Hwy 4) and just south of Mooresville Drive. The southwest portion of the farm contains a single detached dwelling and two drivesheds accessible by a driveway off Richmond Street (Hwy 4). The northeast portion of the farm is bisected by the Cunningham municipal drain. The lands are designated Agricultural under the Township Official Plan and zoned General Agricultural. To settle an inheritance, the Applicants are requesting provisional consent to sever the northerly third of the farm as a separate parcel of land. The lands to be conveyed are vacant and would have a frontage of approximately 659 ft. along Richmond Street and an area of approximately 50 acres. The lands to be retained would have a frontage of approximately 1,329 ft. along Richmond Street and an area of approximately 99.42 acres.

M. Bancroft stated that the Provincial Policy Statement (PPS), County of Middlesex Official Plan and Township Official Plan provides specifically that new farm parcels shall generally be 99 acres in size and therefore this subject application does not conform with the PPS and both Official Plans. M. Bancroft recommended that the Application be denied for those reasons.

Deputy Mayor D. Manders provided new council members with some background information regarding councils' decision approving the previous application in June 2018. He further

advised that the property still receives separate assessment for the 100 acre and 50-acre parcel and that we have an opportunity to correct an inadvertent merging of land in this case.

Mayor C. Burghardt-Jesson asked M. Bancroft to clarify what the Provincial Policy states. M. Bancroft advised that the PPS does not specify acreage, however that farm parcels should be relative to agricultural size in the area and 100 acres is the predominant farm size in this area.

Councillor P. Mastorakos asked M. Bancroft what the risks are going forward. M. Bancroft advised every application is unique, however the same thing could happen as did previously. He further noted that with all future similar applications his recommendation would be consistent.

2/ B-5/2018

Moved by D. Manders

Seconded by A. Westman

*THAT Application for Consent B-5/2018 filed by Stephen and Delores Carter to sever a parcel of land having an area of approximately 50 acres from an existing farm parcel known municipally as 34998 Richmond Street and legally described as Part of Lot 16 and 17, Concession 1 (geographic Township of Biddulph) in the Township of Lucan Biddulph; **BE GRANTED** subject to the following conditions:*

- 1. That the Certificate of Consent under Section 53(42) of the Planning Act be issued within one year of the date of the notice of decision.*
- 2. That the applicant initiate and assume, if required, all engineering costs associated with the preparation of revised assessment schedule(s) for any municipal drain having jurisdiction in accordance with the Drainage Act, as amended, such costs to be paid in full to the appropriate engineering firm prior to submitting a registered copy of the transfer.*
- 3. That the taxes on the subject lands are paid in full.*
- 4. That the applicant's solicitor submits an Acknowledgment and Direction duly signed by the applicant.*
- 5. That the applicant's solicitor submits an undertaking, in a form satisfactory to the Secretary-Treasurer, to register an electronic transfer of title consistent with the Acknowledgment and Direction and the decision of the Committee of Adjustment.*

CARRIED

B-6-2018 (Liberatore)

M. Bancroft reviewed his report. The purpose of the application is to subdivide the property in half with the effect of allowing semi-detached dwelling units to be wholly contained on separate parcels of land. The subject property is on the west side of Water Street. Each lot would have a frontage of approximately 26.2 feet and depth of approximately 114.8 feet with a lot area of 3,014 square feet. The subject lands contain a semi-detached dwelling currently under construction with the common wall thereto coinciding with the proposed lot line. M. Bancroft advised that this application is a function of ownership to facilitate the sale of individual units which is otherwise not permitted without a consent under the Planning Act.

David Chatterson, a neighbour of the subject property, stated he believes it would be in the best interest of the neighbourhood for the dwellings to be owned rather than rented units.

3/ B-6-2018 (Liberatore)

Moved by A. Westman

Seconded by D. Regan

*THAT Application for Consent B-6/2018 filed by Larry Liberatore on behalf of Paul Nicholas Liberatore and Nathan William Belling to sever a lot having a frontage of approximately 8 metres, a depth of approximately 35 metres and a lot area of approximately 280 square metres; from a property known municipally as 199 Water Street and legally described as Lot 49 and Part of Lot 50 on Registered Plan 187 being Part 2 on Reference Plan 33R-19788 (geographic Village of Lucan) in the Township of Lucan Biddulph; **BE GRANTED** subject to the following conditions:*

- 1. That the Certificate of Consent under Section 53(42) of the Planning Act be issued within one year of the date of the notice of decision.*
- 2. That the applicants pay any outstanding property taxes for the subject lands.*
- 3. That the applicants' solicitor submit an Acknowledgment and Direction duly signed by the applicant.*

- 4. That the applicants’ solicitor submit an undertaking, in a form satisfactory to the Secretary-Treasurer, to register an electronic transfer of title consistent with the Acknowledgment and Direction and the decision of the Committee of Adjustment.
- 5. That two copies of the reference plan be submitted along with an electronic copy to the satisfaction of the Township.

4/ Adjournment

Moved by D. Manders

Seconded by D. Regan

Resolved that the meeting be adjourned at 6:22 p.m.

CARRIED

CHAIR

SECRETARY-TREASURER



Planning Department
County of Middlesex
399 Ridout Street North
London, ON N6A 2P1
(519) 434-7321 (fax) 434-0638
www.middlesex.ca

January 31, 2019

REPORT

TO: Members
Committee of Adjustment / Council
Township of Lucan Biddulph

FROM: Marc Bancroft, Senior Planner

RE: **Applications for Consent (B-1/2019 & B-2/2019) and Zoning By-law Amendment (ZBA-1/2019)**
Owner: Gerald Martens – 15484 Elginfield Rd.
Owner: 2417530 Ontario Ltd. (Avonbank AG Solutions) c/o Gerald Martens – 15456 Elginfield Rd.
Applicant: Gerald Kodde (BaconAcre Farm Inc.)

Purpose:

The purpose of the consent applications is to facilitate the disposal of a dwelling surplus to a farming operation on a separate parcel of land and to allow the creation of a shared laneway for farm access through a right-of-way easement over the existing entrance used by Avonbank. The purpose of the rezoning application is to recognize the reduced parcel size associated with the dwelling and to prohibit the erection of a new dwelling on the balance of the farm consistent with the provincial policy.

Background (see Figure 1):

The subject property is a 31.27 ha (77.24 ac) farm parcel located on the north side of Elginfield Road (Highway 7) just east of Granton Line (County Road 59). The farm contains a single detached dwelling, accessory building, swimming pool and a ground mounted solar panel. The farm has a single access onto Highway 7 in the form of the residential driveway. The lands are designated Agricultural according to the Township Official Plan and zoned General Agricultural (A1) according to the Township Zoning By-law.

BaconAcre Farm Inc. has a conditional offer to purchase the subject farm provided the dwelling is located on a separate parcel of land to be retained by Mr. Martens. This consent proposes to convey a farm parcel having an area of approximately 30.27 ha (75 ac) and used for the cultivation of field crops. The lands to be retained would have an area of approximately 0.99 ha (2.5 ac). These lands contain a single detached dwelling, a swimming pool and an accessory building. The balance of the farm is vacant with the exception of a ground mounted solar panel located approximately 20 m (66 ft) north of the proposed residential lot. All hydro wires associated with the solar panel are wholly contained on the balance of the farm and would not encroach onto the proposed residential lot.

The second consent proposes a right-of-way easement over lands owned by 2417530 Ontario Ltd. (Avonbank AG Solutions) to permit a shared access with the adjacent farm currently owned by Gerald Martens. The shared access would coincide with the existing Avonbank entrance on Highway 7. The easement would be approximately 6 m (20 ft) wide and approximately 47 m (154 ft) long and would extend along the Highway 7 road allowance.

To prohibit any new residential use on the remnant farm parcel, the balance of the farm is to be rezoned to Agricultural Purposes Only (A3). The proposed residential lot is to be rezoned to a Surplus Dwelling (SD) Zone to reflect its size and use for residential purposes.

Analysis:

The Provincial Policy Statement (PPS), County Official Plan and Township Official Plan generally permit lot creation in agricultural areas for a dwelling surplus to a farming operation as a result of farm consolidation subject to criteria including but not limited to the dwelling being habitable and in existence as of January 1, 1999. Consolidation means the acquisition of additional farm parcels to be operated as one farming operation. The applicant owns and operates 2 farms totaling approximately 91 hectares (225 ac). The existing dwelling was constructed in 1995, is structurally sound and is currently occupied by Mr. Martens. In all, staff is satisfied that the foregoing tests have been satisfied. Issues related to the location of the septic system and potable well, etc. are capable of being addressed as conditions of consent.

The PPS, the County and the Township Official Plans all permit consents for legal or technical matters including easements. The requested easement would comply with those policies. The proposed easement offers no implications relative to the Zoning By-law. From a public safety standpoint, it would be appropriate for the new farm access to be available through Avonbank's existing entrance rather than relying on the existing arrangement of sharing the residential driveway with the farm.

To prohibit a new residential use on the balance of the farm consistent with the PPS and the Township Official Plan, the applicant has requested an A3 Zone for those lands. The rezoning application also proposes a Surplus Farm Dwelling (SD) Zone to recognize the residential use and reduced parcel size. This rezoning is appropriate in that the lots resulting from the consent are capable of conforming to all zoning requirements. A deposited reference plan will be required to accurately describe the limits of the lands being rezoned. Once the reference plan particulars are obtained, only then would it be appropriate for Council to pass the implementing by-law.

Comments:

In the circulation of the notice to the public and prescribed agencies, the only comments received to date include:

Chief Building Official: no objection.

Recommendations:

THAT **Application for Consent B-1/2019** filed by Gerald Kodde on behalf of Gerald Martens to sever a farm parcel of approximately 30.27 ha (75 ac) with the effect of disposing a surplus farm dwelling on a separate lot from a property legally described as Part of Lots 14 and 15, South Boundary Concession (geographic Township of Biddulph) in the Township of Lucan Biddulph and known municipally as 15484 Elginfield Road; **BE GRANTED** subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the Planning Act be issued within one year of the date of the notice of decision.
2. That the lands being conveyed be rezoned to a Surplus Dwelling (SD) Zone to permit their size and use for residential purposes.

3. That the lands being retained be rezoned to Agricultural (A3) to prohibit any new residential use.
4. That Consent B-2/2019, being a request for a right-of-way easement, to facilitate a shared access for the balance of the farm with the adjacent residential use be granted and finalized; or, alternatively, that a separate access be granted by the Ministry of Transportation for the balance of the farm to the satisfaction of the Township.
5. That the applicant confirm, to the satisfaction of the Township, that the septic system will be wholly contained on the lands being conveyed in accordance with Ontario Building Code requirements and that a 100 percent contingency area be shown to exist on same.
6. That the applicant initiate and assume, if required, all engineering costs associated with the preparation of revised assessment schedule(s) for any municipal drain having jurisdiction in accordance with the Drainage Act, as amended, such costs to be paid in full to the appropriate engineering firm prior to submitting a registered copy of the transfer.
7. That the taxes on the subject lands are paid in full.
8. That the applicant's solicitor submits an Acknowledgment and Direction duly signed by the applicant.
9. That the applicant's solicitor submits an undertaking, in a form satisfactory to the Secretary-Treasurer, to register an electronic transfer of title consistent with the Acknowledgment and Direction and the decision of the Committee of Adjustment.
10. That two copies of the reference plan are submitted to the satisfaction of the Township.

Reasons:

Consistency with the Provincial Policy Statement would be maintained;

Conformity with the County of Middlesex Official Plan and the Township of Lucan Biddulph Official Plan would be maintained;

The requirements of the Township of Lucan Biddulph Zoning By-law are capable of being satisfied through an amendment thereto.

THAT **Application for Consent B-2/2019** filed by Gerald Kodde on behalf of 2417530 Ontario Ltd. (Gerald Martens) to create a right-of-way easement in favour of the farm; legally described as Part of Lots 14 and 15, South Boundary Concession (geographic Township of Biddulph) in the Township of Lucan Biddulph and known municipally as 15484 Elginfield Road; over Avonbank's existing driveway on lands legally described as Part of Lots 14, South Boundary Concession (geographic Township of Biddulph) and designated at Part 1 on Reference Plan 33R-15958 in the Township of Lucan Biddulph and known municipally as 15456 Elginfield Road; **BE GRANTED** subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the Planning Act be given within one year of the date of the notice of the decision.
2. That subsection 50(3) or (5) of the Planning Act apply to any subsequent conveyance.
3. That the taxes on the subject lands are paid in full.
4. That the applicant's solicitor submits an Acknowledgment and Direction duly signed by the applicant.

5. That the applicant's solicitor submits an undertaking, in a form satisfactory to the Secretary-Treasurer, to register an electronic transfer of title consistent with the Acknowledgment and Direction and the decision of the Committee of Adjustment.
6. That two copies of the reference plan are submitted to the satisfaction of the Township.

Reasons:

Consistency with the Provincial Policy Statement would be maintained;

Conformity with the County of Middlesex Official Plan and the Township of Lucan Biddulph Official Plan would be maintained;

The requirements of the Township of Lucan Biddulph Zoning By-law would be satisfied.

Rezoning Recommendation:

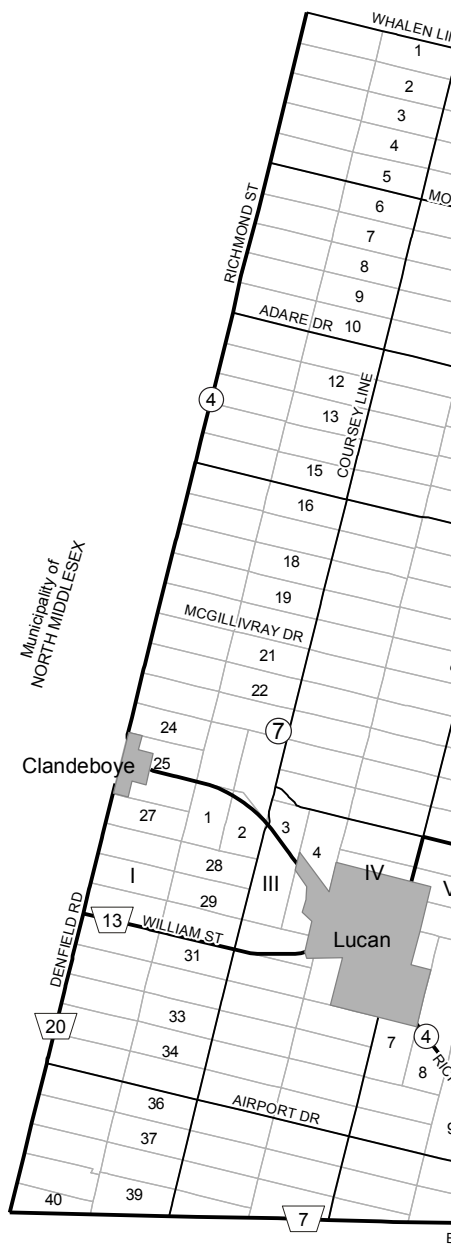
THAT **Application for Zoning By-law Amendment ZBA 1/2019**, for lands owned by Gerald Martens and legally described as part of Lots 14 and 15, South Boundary Concession (geographic Township of Biddulph), in the Township of Lucan Biddulph, be approved and that the implementing By-law be forwarded to Township Council for consideration once a deposited reference plan has been provided to the satisfaction of the Township.

APPLICATIONS FOR CONSENT AND ZONING BY-LAW AMENDMENT: B-1/2019, B-2/2019 & ZBA-1/2019

Gerald Martens, 15484 Elginfield Road
2417530 Ontario Ltd, 15456 Elginfield Road
Part of Lots 14 & 15, Concession SBC
Township of Lucan Biddulph



Township of LUCAN BIDDULPH



**LANDS PROPOSED TO BE CONVEYED
AND REZONED**



**LANDS PROPOSED TO BE RETAINED
AND REZONED**



Provincial Highway

1:8,000

Orthophotography: 2015

Municipality of MIDDLESEX CENTRE



Published by the County of Middlesex
Planning Department
399 Ridout Street North, London, ON N6A 2P1
(519) 434-7321
January 2019



1:100,000

0 1,250 2,500 3,750 5,000 Meters

Disclaimer: This map is for illustrative purposes only.
Do not rely on it as being a precise indicator of routes,
locations of features, nor as a guide to navigation.