

**THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN
COMMITTEE OF ADJUSTMENT AGENDA**

Wednesday, November 25, 2020, 7:00 p.m.

*****ZOOM MEETING** - Contact mbirbeck@westlincoln.ca before 4 pm on the day of the meeting for an invitation if you would like to participate.

	Pages
1. CHAIR	
The Chair will call to Order the evening's proceedings.	
2. DISCLOSURE OF PECUNIARY INTEREST AND/OR CONFLICT OF INTEREST	
3. REQUEST FOR WITHDRAWAL AND/OR ADJOURNMENT	
4. APPLICATIONS	
a. B04/2020WL - Vitucci	2
An application for a surplus farm dwelling severance has been submitted for 5291 Regional Road 20. The application proposes to sever off the existing residential use from the agricultural land at a size of ± 0.4 hectares (± 1.0 acres). The remaining agricultural land will be ± 31.0 hectares (± 76.7 acres) in size.	
b. A14/2020WL - Vrugtrveen	19
A minor variance application is to permit the decrease in the minimum distance separation (MDS) setback for the existing property of 148.75 metres to 139 metres.	
5. MINUTES FOR APPROVAL	
6. NEW BUSINESS	
7. ADJOURNMENT	

DATE: November 25th, 2020

REPORT NO: COA-005-20

SUBJECT: **Recommendation Report**
File No. (B04/2020WL) – Cathy Vitucci
Property Address: 5291 Regional Road 20

CONTACT: Madyson Etzl, Planner II

OVERVIEW:

- A surplus farm severance application has been submitted by Cathy Vitucci for 5291 Regional Road 20.
- The existing residential use is proposed to be severed at a size of ± 0.4 hectares (± 1.1 acre) and the retained agricultural land will be ± 31.0 hectares (± 76.7 acres) in size.
- If this application is approved, a Zoning By-law Amendment application will be required to rezone the retained agricultural lands to 'APO' (Agricultural Purposes Only), and the severed residential lands to 'RuR' (Rural Residential).
- Staff have added a condition that both the home farm and the subject farm be in identical ownership in order to meet the requirements of a surplus farm dwelling.
- The application has been reviewed in accordance with Section 51(24) of the Planning Act, Provincial, Regional and Township Policy and has been deemed to meet these criteria.
- Planning Staff recommend the approval of this application, with the appropriate conditions.

RECOMMENDATION:

That, report COA-005-20, regarding an application for Consent made by Cathy Vitucci, BE APPROVED; subject to the following conditions:

1. That the approval applies to the transaction as applied for.
2. That the applicant provide the Secretary-Treasurer with a copy of the transfer documents for the conveyance of the subject parcel, or a legal description of the subject parcel to be registered, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
3. That the applicant applies for, and receives approval of, a Zoning by-law amendment application that recognizes the small residential holding and precludes any residential development on the retained agricultural property.
4. That, the applicant dedicate a 2.63 meter road widening to the Regional Municipality of Niagara along the subject property (Part 1 of survey sketch)

5. That, the sewage system servicing the dwelling be required to comply with the requirements of Part 8 (Sewage Systems) of the Ontario Building Code to the satisfaction of the Township of West Lincoln's Building Department.
6. That an undertaking be completed stating the severed farmland and another parcel of farmland with an existing house on the property are in the same name, which will qualify the farmer for a surplus farm dwelling severance.
7. That any unused wells be decommissioned to the satisfaction of the Director of Planning & Building, or designate, if required.
8. That an entrance permit be obtained for the retained agricultural lands to the satisfaction of the Director of Public Works, if required.
9. That a cash-in-lieu of parkland dedication fee, payable to the Township of West Lincoln, be submitted to the Secretary-Treasurer.
10. That all municipal requirements be met to the satisfaction of the municipality including servicing connections if required, cash-in-lieu of park land dedication, property maintenance, compliance with Zoning By-Law provisions for structures, and any related requirements, financial or otherwise.
11. That, 911 PERS signage standards be satisfied and clarification be provided to appropriate agencies about addresses of each new parcel to the satisfaction of the Director of the Planning and Building Department.
12. That a final certification fee, payable to the Township of West Lincoln, be submitted to the Secretary-Treasurer.
13. That all conditions of consent be fulfilled within one (1) year from the date of the notice of decision pursuant to Subsection 53(41) of the Planning Act, failing which this consent shall be deemed to be refused.

ALIGNMENT TO STRATEGIC PLAN

- **Theme**
 - Strategic, responsible growth

BACKGROUND:

A consent application has been submitted by Cathy Vitucci for 5291 Regional Road 20. This application proposes to sever 0.4 hectare (1.1 acre) of residential land from the subject property as part of a surplus farm dwelling severance. The retained agricultural land will be 31.0 hectares in size.

The subject lands are legally described as Concession 4, Part Lot 13 in the former Township of Gainsborough now in the Township of West Lincoln, municipally known as 5291 Regional Road 20. The subject lands are located to the north of Regional Road 20 and to the east of the hamlet settlement area of Bismark. (See attachment 1)

The submitted supporting documents indicate that Cathy Vitucci owns approximately 438 acres of farmland and rent farmland on a number of different properties for cash crop production. The Vittuci's have indicated that the property to which this property is surplus to is known municipally as 1740 Silverdale Road, in St Anns, with a total of 46 acres and a single detached dwelling. (See attachment #3)

CURRENT SITUATION:

Provincial Policy Statement (2014)

The Provincial Policy Statement (PPS) provides guidance on all land use planning matters in Ontario. All planning decisions must conform to the policies of the PPS. In accordance with Policy 2.3.4.1 c) of the PPS, lot creation in prime agricultural areas is discouraged and may only be permitted for a residence surplus to a farming operation as a result of farm consolidation, provided that the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and, the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. Evidence has been provided that Cathy Vitucci is a bonafide farmer, and thus, qualifies for a surplus farm severance, permitted that the farmer owns two farms with dwellings that are in the same name as the subject property.

In order to conform to Provincial Policy, the retained agricultural lands will need to be rezoned to Agricultural Purposes Only (APO). Rezoning the agricultural lands to APO will be added as a condition to ensure the application conforms to Provincial Policy. The severed residential dwelling will also need to be rezoned to Rural Residential (RuR) to recognize the existing residential use.

A Place to Grow (2019)

A Place to Grow Plan (P2G), 2019 incorporates key changes intended to address potential barriers to increasing the supply of housing, creating jobs and attracting investments. Section 4 of the Growth Plan provides policy direction related to protecting natural features and areas and the diverse agricultural land base throughout the Greater Golden Horseshoe. In relation to the proposed severance application Section 4.2.6 (Agricultural Systems) of the P2G applies.

Section 4.2.6 of the Growth Plan provides policies respecting the Province's Agricultural System. In particular, Policy 4.2.6.5 identifies that the retention of existing lots of record for agricultural uses is encouraged, and the use of these lots for non-agricultural uses is discouraged. The proposed severance does not affect the continued agricultural use of the severed lands. It is a requirement for the severed

agricultural lands to be rezoned to Agricultural Purposes Only ('APO'). This will ensure the retained lands are not used for residential purposes in perpetuity.

Greenbelt Plan (2017)

Applications must conform to the Greenbelt Plan if they fall within the established Greenbelt Plan boundary. Since the Subject Lands are outside of the identified Greenbelt area, the Greenbelt Plan does not apply.

Regional Official Plan

The Regional Official Plan (ROP) provides general policy direction for planning in the Niagara Region. The ROP allows for severances in the agricultural area where the severance occurs as a result of a farm consolidation.

The Niagara Region Official Plan (ROP) is the guiding planning document for the physical, economic and social development of the Niagara Region. Policies and objectives for the Region's rural and agricultural areas are contained within Section 5 of the ROP and are intended to provide for the preservation of agricultural lands for agricultural purposes and ensure development patterns within the agricultural and rural areas do not result in land use conflicts for agricultural uses.

Policy 5.B.8.1 sets out the circumstances under which consents within Good General Agricultural Areas may be permitted. In accordance with Policy 5.B.8.1 c) lot creation for a residence surplus to a farming operation as a result of farm consolidation, provided that new residential dwellings are prohibited in perpetuity on any vacant remnant parcel of land created by the severance and conditional upon obtaining approval of a rezoning to preclude its use for residential purposes is permitted. As noted previously, a rezoning application has been added as a condition of approval.

The ROP also states that the size of any new lot does not exceed an area of 0.4 hectares except to the extent of any additional area deemed necessary to support a private water supply and sewage disposal system. The proposed severed residential lot is ± 0.4 hectares (± 1.0 acre) which is the maximum permitted size.

Township of West Lincoln Official Plan

The subject lands are designated as Good General Agriculture in the Township's Official Plan (OP). The Township Official Plan allows for surplus farm severances in the Good General Agricultural area where it can meet the following criteria:

- i. The residence is surplus to a farm operator (bona-fide farmer);

Cathy and William Vitucci are bonafide farmers, which can be seen from the list of land submitted with their application. This list shows the land they own and rent for farming purposes. The applicant's have indicated in their application that 1740 Silverdale Road s their main farm, which will qualify them for the severance. This property is currently in the name of William and Cathy Vittuci which is the same name in which the subject lands are under, which will qualify them for the severance.

The MDS I formula is a distance that is required between a livestock operation and existing houses in the area. The policy requires that any livestock operations on the property meet the required MDS I to the residential use to be severed. However, as there are no livestock operations on the subject property, MDS I is not applicable.

- ii. The separated residential parcel has a lot size of 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary to support the residence and the private services required to serve that residence, as determined through a septic evaluation. Under no circumstances shall a severed residential lot be greater than 1.0 hectares. The created lot must be of regular shape (i.e. rectangular or square) whenever possible

The proposed lot to be severed for residential purposes is ± 0.4 hectares in size (± 1.0 acres) and is rectangular/square in shape.

- iii. The remnant farmland shall be rezoned Agricultural Purposes Only (APO) in perpetuity or be merged on title with an abutting piece of Agricultural lands, provided the lands are not already zoned Agricultural Purposes Only (APO)

A condition for a rezoning application has been added to Staff's recommendation. This rezoning application would rezone the remaining agricultural land to APO.

- iv. Where there are two or more dwellings legally existing on one lot, and neither was built for the purpose of a permanent farm help house, only one surplus farm severance shall be permitted in compliance with this policy

There is only one existing dwelling on the property.

- v. Farm Help houses are not eligible for surplus farm dwelling severances.

The existing house was not built as a farm help house.

As the proposed consent application meets the policy requirements laid out in the Township's OP, Township Staff is of the opinion this application meets the intent of the OP.

Township Zoning By-law

The property is currently zoned Agricultural 'A', and Environmental Protection 'EP'. In order to meet zoning regulations, the retained agricultural land is required to be rezoned from Agricultural 'A' to Agricultural Purposes Only 'APO' with a site specific exception. This site specific exception is required to recognize a deficient lot size of 31.0 hectares whereas 39 hectares is required. The severed farm dwelling will need to be rezoned from Agricultural 'A' to Rural Residential 'RuR'.

The existing accessory building is 89 square metres in size which is permitted on a newly created rural residential lot of this size. All other buildings that were previously on the property have been removed.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this application.

INTER-DEPARTMENTAL COMMENTS

Circulation was provided to interested agencies on November 6th 2020, by way of mail and e- mail.

Township Public Works Department, and Building Department have no objections to the application as proposed.

Bell Canada has provided comments which state that they have existing installations over the subject lands, which are protected by existing easements registered as Instrument GA14181 and more particularly described as the 5 feet on the south side and 15 feet on the north side of the surveyed line extending from point marked 'A' to the point marked 'B' and from the point marked 'B' to the point marked 'C' on the easement survey. Bell Canada states that their existing easement rights must be maintained and that they will not require any additional easement protection. (Attachment 4)

The Niagara Region has requested that the agricultural lands be rezoned to preclude any residential development in perpetuity. This has been covered through the rezoning condition. The Niagara Region is also requesting that the owner dedicate a 2.63 metre road widening to the Region along the subject property to satisfy the Planning and Development Department. All costs for providing the necessary survey plan and related documents are the responsibility of the applicant. This had been covered through the road widening condition.

The Niagara Peninsula Conservation Authority completed a site visit to the subject property on October 6th 2019 and stated that the NPCA is satisfied that the watercourse identified on the west side of the proposed lot on the NPCA Mapping does not meet criteria as an NPCA Regulated Feature. As such, the NPCA would have no objection to the proposed surplus farm dwelling severance. The NPCA will still require circulation of the application as there are other features on the lot.

The Township's Septic Inspector has requested that the following condition be considered by Committee:

"That, the sewage system servicing the dwelling be required to comply with the requirements of Part 8 (Sewage Systems) of the Ontario Building Code to the satisfaction of the Township of West Lincoln's Building Department."

PUBLIC COMMENTS:

Circulation by way of mail was given to property owners within a 120m radius of the subject property on Friday November 6th 2020. No comments have been received from the public as of the completion of this report on November 20th 2020.

CONCLUSION

Planning Staff have reviewed all applicable Provincial, Regional and Township policies as they relate to the proposed application and conclude that the proposal meets the intent of these policies. Accordingly, we recommend approval of the consent application for Cathy Vittucci to sever 0.4 hectares of residential land from 5291 Regional Road 20 as part of a surplus farm dwelling severance and retain 31.5 hectares of agricultural land. Township Staff are satisfied that the application meets all criteria and can thus recommend approval of this application, with the appropriate 13 conditions.

ATTACHMENTS

1. Severance Sketch
2. Agency Comments
3. Owned/Rented Farmland List

Prepared by:



Madyson Etzl
Planner II



Brian Treble, RPP, MCIP
Director of Planning and Building

SKETCH FOR LAND DIVISION

OF PART OF

LOT 13**CONCESSION 4**

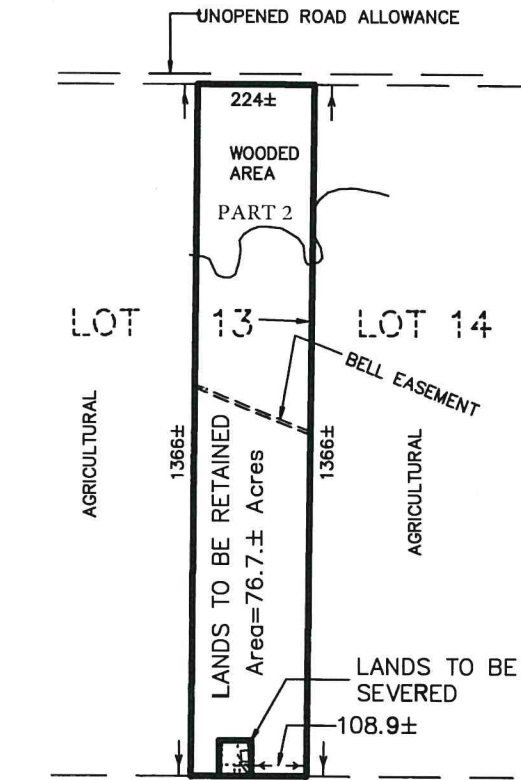
GEOGRAPHIC

TOWNSHIP OF GAINSBOROUGH

IN THE

TOWNSHIP OF WEST LINCOLN**REGIONAL MUNICIPALITY OF NIAGARA**

SCALE 1:500 METRIC

**S.D. McLAREN, O.L.S. - 2020****KEY PLAN**

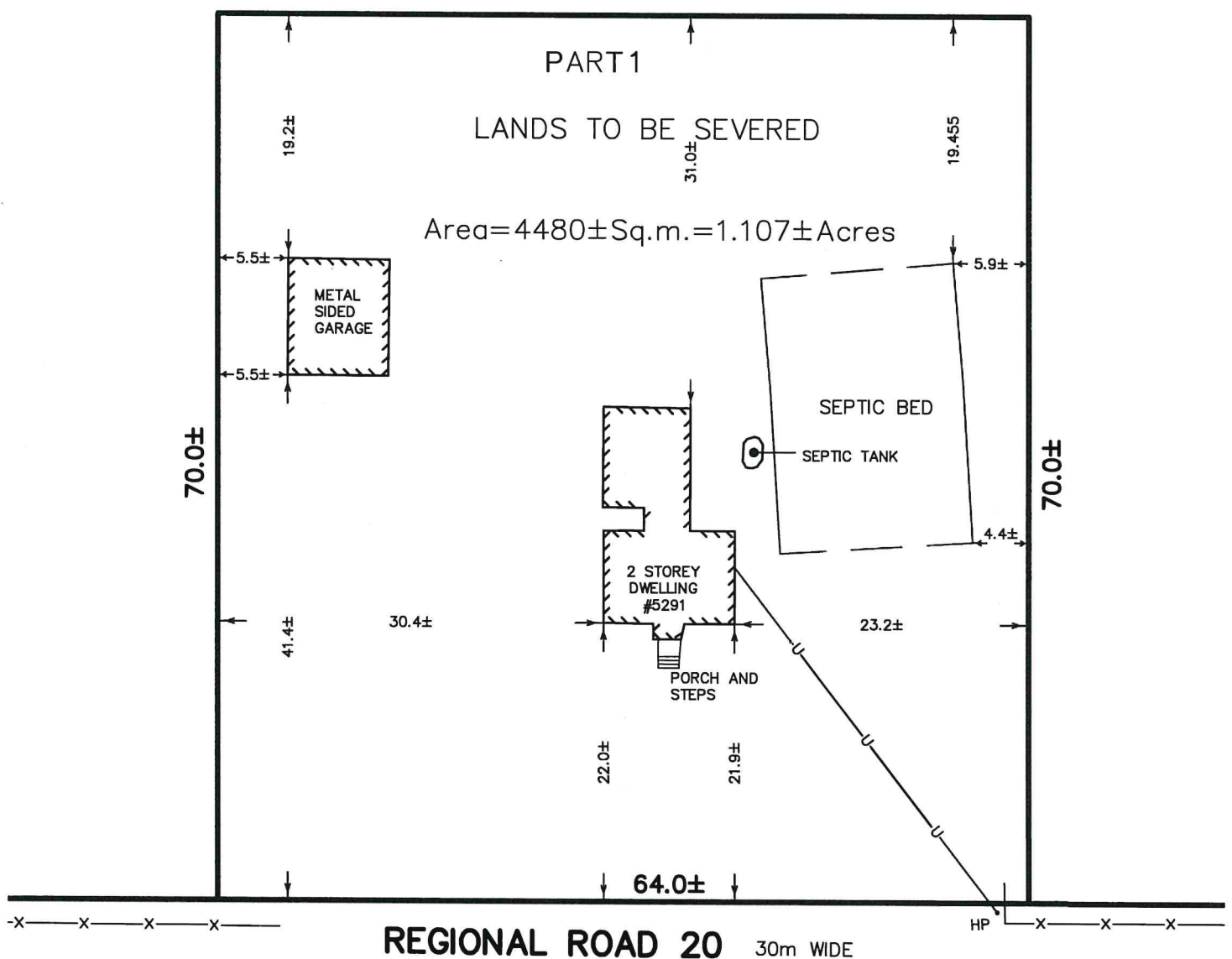
SCALE 1:15000

64.0±

PART 1

LANDS TO BE SEVERED

Area=4480±Sq.m.=1.107±Acres

**A.T. McLaren Limited**
LEGAL AND ENGINEERING SURVEYS69 JOHN STREET SOUTH, SUITE 230
HAMILTON, ONTARIO, L8N 2B9

PHONE (905) 527-8559 FAX (905) 527-0032

SEPTEMBER 28, 2020

DATE

S. DAN McLAREN, O.L.S. Page 9 of 31

Drawn
DGChecked
SDM

Crew Chief

Scale
1:500

Dwg.No. 36481



Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free: 1-800-263-7215

Via Email Only

November 17, 2020

File No.: D.06.12.CS-20-0053

Meghan Birbeck
Secretary Treasurer of the Committee of Adjustment
Township of West Lincoln
318 Canborough Street
Smithville, ON L0R 2A0

Dear Ms. Birbeck:

**Re: Regional and Provincial Comments
Proposed Surplus Farm Dwelling Severance
Township File No.: B04/2020WL
Owner: William & Cathleen Vitucci
Address: 5291 Regional Road 20
Township of West Lincoln**

Regional Planning and Development Services staff has reviewed the above-noted consent application, which proposes to sever the existing residential use (Part 1; 0.45 hectares/1.107 acres) from the agricultural land (Part 2; 31.0 hectares/76.7 acres), municipally addressed 5291 Regional Road 20. The submitted consent application represents a surplus farm dwelling severance. A pre-consultation meeting for this proposal was held at the Township of West Lincoln on October 3, 2019, with staff from the Township, Region and Niagara Peninsula Conservation Authority. The following Provincial and Regional comments are provided to assist the Committee in considering this application.

Provincial and Regional Policies

According to the Provincial Policy Statement (PPS) the property is located within a prime agricultural area and is designated as within the Good General Agricultural Area in the Regional Official Plan (ROP). Provincial and Regional policies recognize that agricultural land is a valuable asset that must be properly managed and protected. Both the PPS and the ROP permit the severance of a residence surplus to a farming operation as a result of farm consolidation, provided that new residential dwellings are prohibited in perpetuity on any vacant remnant parcel of farmland created by the

severance, and the new lot will be limited to a size required to accommodate the use and appropriate sewage and water services.

The information provided with the consent application indicates that the purchaser (William & Cathleen Vitucci) are bona fide farmers, with a principal residence located in West Lincoln. The purchaser of the agricultural land at 5921 Regional Road 20 currently farms 438 acres of owned lands, and 590 acres of rented lands throughout the Township. The purchaser (applicant) acquired the lands in November 2019, and has indicated that a surplus farm dwelling severance was not pursued earlier due to the COVID-19 pandemic. Given the timing of purchasing these lands, Regional staff are of the opinion that the acquisition of the parcel aligns with Provincial and Regional planning criteria for this type of severance application.

The ROP provides that the size of any new lot shall not exceed an area of 0.4 hectares (1 acre) except to the extent of any additional area deemed necessary to support private water and sewage services. The proposed surplus farm dwelling severance, if approved, would result in the creation of a 0.45 hectare (1.1 acre) rural residential parcel, which is generally in line with the ROP policy. The remnant agricultural parcel should be rezoned to preclude its use for residential purposes (i.e. through an Agricultural Purposes Only 'APO' zone).

Private Sewage Services

Staff notes that the Township of West Lincoln is responsible for their own private septic system review. As such, the Committee should look to the Township's comments with respect to the private septic system requirements.

Regional Road Allowance

The subject property is situated along Regional Road 20 (Highway 20). This section of road has a substandard road allowance; the designated road allowance is 35.0 metres. Therefore, in accordance with the current approved Regional Official Plan, the following widening is to be granted gratuitously to the Region:

A 2.63 metre road widening across the Regional Road 20 (Highway 20) frontage of the subject property (Part 1 on survey sketch) in order to achieve 17.5 metres from the original centerline of the Regional Road allowance.

Please note that the actual width of the required widening would need to be confirmed by an Ontario Land Surveyor as the information provided is only an approximation of the requirement.

The requested widening is to be conveyed free and clear of any mortgages, liens or other encumbrances, and is to be described by Reference Plan. The widening portion of the Plan will be the responsibility of the owner to order. The cost of providing this plan will be the full responsibility of the applicant. The applicant will arrange for the land

surveyor for the property to submit the preliminary undeposited survey plan along with all related documents to Regional Surveys staff for approval. Regional Surveys staff will advise the land surveyor of any required revisions to the plan. Once the plan is deposited and the transfer registered, the Region will clear the applicable condition.

Regional Contact Information:

For inquiries specific to the transfer of property to the Region, please contact Norma Price, Law Clerk, at 905-980-6000 ext. 3339 or norma.price@niagararegion.ca.

For inquiries specific to the review of the preliminary survey plan, please contact Normans Taurins, Manager, Surveys & Property Information, at 905-980-6000 ext. 3325 or normans.taurins@niagararegion.ca.

Regional Permit Requirements

Region staff acknowledge that no construction works are proposed within the Regional road allowance as part of this application. Please be advised that prior to any construction taking place within the Regional Road 20 (Highway 20) road allowance, the applicant is required to obtain the necessary Regional Construction Encroachment and/or Entrance permits from Niagara Region's Transportation Services Division, Public Works Department. Regional Road Permit applications can be made online through the Region's website using the following link:

<http://niagararegion.ca/living/roads/permits/default.aspx>

Conclusion

Regional Planning and Development Services staff does not object to the consent application from a Provincial or Regional perspective, subject to the satisfaction of any local requirements and conditional on:

1. The remnant farm parcel (Part 2) being rezoned to preclude any new dwellings in perpetuity (i.e. Agricultural Purposes Only 'APO' zone); and
2. The owner dedicating a 2.63 metre road widening to the Regional Municipality of Niagara along the subject property (Part 1 of survey sketch) frontage of Regional Road 20 (Highway 20), to the satisfaction of the Niagara Region Planning & Development Services Department. All costs for providing the necessary survey plan and all related documents are the responsibility of the applicant.

Please send notice of the Committee's decision on this application.

If you have any questions or wish to discuss these comments further, please contact the undersigned at extension 3352 or Lola Emberson, MCIP, RPP, Senior Development Planner, at extension 3518.

D.06.12.CS-20-0053

November 17, 2020

Best regards,

A handwritten signature in black ink, appearing to read 'Aimee Alderman', with a stylized, cursive script.

Aimee Alderman, MCIP, RPP
Development Planner

cc: Mr. R. Alguire, C.Tech., Development Approvals Technician, Niagara Region



318 Canborough St. P.O. Box 400
Smithville, ON
L0R 2A0
T: 905-957-3346
F: 905-957-3219
www.westlincoln.ca

Memo

To: Madyson Etzl, Planner II
From: Jennifer Bernard, Coordinator of Engineering Services
Date: November 16, 2020
Re: File B04/2020WL – Vitucci

A review has been completed on this application for consent to sever off the existing residential use from the agricultural land at a size of ± 0.4 hectares (± 1.0 acres). The remaining agricultural land will be ± 31.0 hectares (± 76.7 acres) in size.

Public Works has no comments to provide on this application.

Madyson Etzl

From: Gordon, Carrie <carrie.gordon@bell.ca>
Sent: November-12-20 11:20 AM
To: Madyson Etzl
Subject: RE: Notice of Hearing B042020WL - 905-20-311

Hi Madyson,

Upon review of the proposed severance application, Bell Canada confirms that we have existing installations over the subject lands noted above, which are protected by existing easements registered as Instrument GA14181 and more particularly described as the 5 feet on the south side and 15 feet on the north side of the surveyed line extending from point marked "A" to the point marked "B" and from the point marked "B" to the point marked "C" on the easement survey.

Therefore Bell Canada confirms that our existing easement rights must be maintained, and that we will not require any additional easement protection.

Best regards,

Carrie Gordon



External Liaison – Right of Way Control Centre
140 Bayfield St, Fl 2
Barrie ON, L4M 3B1
T: 705-722-2244/844-857-7942
F :705-726-4600

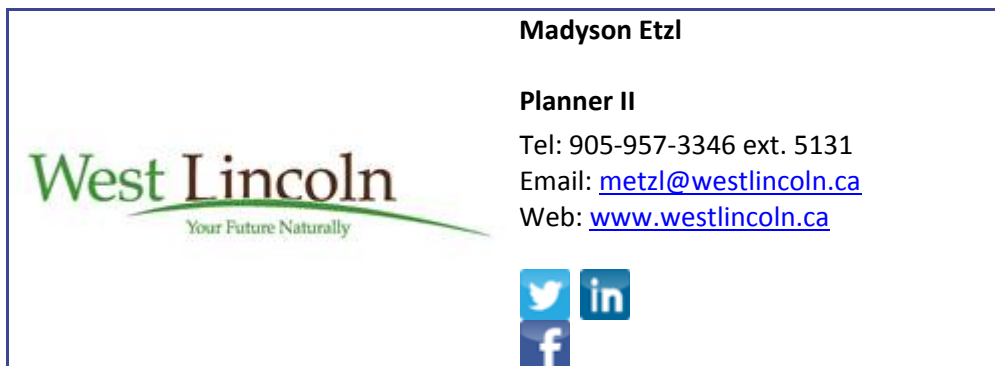
From: Madyson Etzl
Sent: Friday, November 6, 2020 3:02 PM
To: Madyson Etzl
Subject: [EXT]Notice of Hearing B042020WL

Good Afternoon,

Please find attached the above mentioned notice for a consent application for 5291 Regional Road 20. Comments would be appreciated by **Wednesday November 18th 2020**

If you have any questions, please contact myself at 905-957-5131 or by email at metzl@westlincoln.ca

Sincerely,
Madyson Etzl



The information transmitted, including attachments, is intended only for the person(s) or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and destroy any copies of this information.

The Township of West Lincoln is pleased to announce that commencing Monday, August 17th, the Township will be offering access to select services by appointment only at the Township Municipal Office, Monday through Friday between the hours of 9:00 am and 4:30 pm. Additionally, all services will continue to be offered via phone, email and online. The best source of information is our new website <https://www.westlincoln.ca>

External Email: Please use caution when opening links and attachments / Courriel externe: Soyez prudent avec les liens et documents joints

Details of Owned Real Estate		
Location	Title in Name of	Details
5890 Vaughan Rd. St. Anns / Conc 3 Pt Lt 8	William & Cathleen Vitucci	100 acres
5736 Elcho Rd Wellandport Conc 2 PT Lots 11 & 12	William & Cathleen Vitucci	65 acres
5795 Elcho Rd. Wellandport / Conc 2 Pt Lt 10	William & Cathleen Vitucci	48 acres
5093 Vaughan Rd. St. Anns / Conc 3 Pt Lt 15	William & Cathleen Vitucci	98 acres
1740 Silverdale Rd St. Anns / Conc 4 Pt Lt 18	William & Cathleen Vitucci	46 acres and single detached dwelling
5091 Vaughan Rd St. Anns / Conc 3 Pt Lt 15	Cathleen Vitucci	1 acre & single detached dwelling
4447 Elcho Rd Wellandport / Conc 2 Pt Lt 20	William & Cathleen Vitucci	2 acres single detached dwelling and shop
**SUBJECT LANDS 5291 Regional Rd 20 Conc 4 LT 13	William & Cathleen Vitucci	78 acres and single detached Dwelling
Total		438

Rented Land

Canborough Rd Wellandport	Mom's	30
Young St Smithville	Cathy's	90
Dutch Lane	Roy's	25
Book Rd St, Anns	Sally Fenwick	34
Book Rd St, Anns	Marjia Balint	40
Canborough Rd Wellandport	R Hissem	30
Canborough Rd Wellandport	John	25
Caistor Gainsborough Townline	Tom Gonschoir	50
Caistor	Dougs	33
Vaughan	Helens	85
Smithville Rd	Nelsons	12
Conc 4	Mike Kooiman	29
Hwy 20 Smithville	Lou	20
Heaslip Rd	Michaels	87
		590

19/10/2020

Phone (905) 774-3789
Fax (905) 774-3883



38 Lane Road - R.R. 1
DUNNVILLE, ONTARIO
N1A 2W1

SEPTIC EVALUATION FOR SEVERANCE

September 16/2020

VITUCCI FARMS

5291 Hwy #20 Bismark

The existing septic system at 5291 Hwy #20, Bismark is a class 4 trench bed system (Legal non conforming) in good working condition at time of evaluation.
The septic system is located on the east side of the existing house.
The septic tank is a 3600 Liter – 2 compartment tank (concrete) in good condition at time of evaluation and at proper operating level.
There are approx. 7 runs to tile bed @ approx 31 m each.
The septic bed has good surface drainage around it and is good elevation.
The east side of septic bed is close to proposed east Property line .
The proposed east Property line severance must be kept minimum 3 meters from the most east tile trench of the existing septic bed.

Ken Egger
Egger Excavating Ltd
BCIN16988

DATE: November 25th, 2020

REPORT NO: COA-006-20

SUBJECT: **Recommendation Report**
Application for Minor Variance by Fred and Rebecca Vrugteveen
(Craig Rohe - Agent)
File No. A14/2020WL

CONTACT: Gerrit Boerema, Planner II
Brian Treble, Director of Planning and Building

OVERVIEW:

- A minor Variance application has been submitted by Fred and Rebecca Vrugteveen for the property municipally known as 5267 Elcho Road.
- This Minor Variance application is requesting a decrease in the Minimum Distance Separation I (MDS I) for a new single detached dwelling to a neighboring livestock operation.
- The Township's Zoning By-law and the Provincial MSD document identify a *dwelling* as a building that is habitable or intended to be habitable.
- The property currently has one former dwelling and four accessory structures (two of which are known to be dilapidated).
- The 'house' on the property can no longer be considered a dwelling as it is inhabitable in its current state and the owners of the property have no intent to rebuild it.
- According to the MDS I formulae a dwelling unit on 5267 Elcho Road would have to have a minimum 241 metre setback from the neighboring poultry barn to the east.
- However, the current setback from the foundation of the property's former dwelling is 148.75 metres to the poultry barn.
- The applicants are requesting a setback of 139 metres to construct a single detached dwelling that uses elements of the foundation from the former dwelling.
- A setback of 139 metres from the poultry barn is a 9.75 metre decrease in the setback from the foundation of the property's former dwelling and a 102 metre decrease in the setback from the MDS I requirement.
- This request will enable the applicants to replace the property's former dwelling with an enlarged dwelling to meet their aging family's needs.
- Building a new dwelling in the same location as the former dwelling is the applicants desired location.
- This application has been reviewed against the four tests of a Minor Variance and can be recommended for approval, with appropriate conditions.

RECOMMENDATION:

THAT, report COA-006-20, regarding an application for a Minor Variance made by Fred and Rebecca Vrugteveen, BE APPROVED; subject to the following conditions:

1. That the applicants build a dwelling with its habitable rooms (e.g. cooking, eating, living, sleeping, and sanitary facilities) no closer than the former dwelling setback from the poultry barn to the east, 148.75 metres.
2. That the applicants may build their un-habitable rooms (e.g. parking garage) that are attached to the new dwelling closer than the 148.75 metre setback.
3. That if the new dwelling is not built any closer to the Provincial Significant Wetland an Environmental Impact Study and Tree Saving Plan will not be required.

BACKGROUND:

The subject lands are legally described as Concession 2 Lot 14 in the former Township of Gainsborough, now in the Township of West Lincoln. The property is located on the north side of Elcho Road, west of Heaslip Road, and east of Wellandport Road. The subject lands are municipally known as 5267 Elcho Road.

The subject property is approximately 47.9 acres (19.4 hectares) in size. The property has a Good General Agricultural lands designation and contains elements of the Township's Natural Heritage System. The adjacent properties to 5267 Elcho Road are all zoned agricultural. The principal use on the properties to the north, west, and south are agricultural uses and single detached dwellings, while the principle use to the property to the east is a livestock operation for poultry.

The property currently has one former dwelling and four accessory structures (two of which are known to be dilapidated). The 'house' on the property can no longer be considered a dwelling as it is inhabitable, as stated by the owners, in its current state and the owners of the property have no intent to rebuild it. The Township's Zoning By-law and the Provincial MSD document identify a dwelling as any building that is habitable or intended to be habitable.

The applicants are proposing to remove the property's former dwelling, that is currently inhabitable, and one of the accessory buildings and replace them with a larger single detached dwelling unit. The applicants have identified that they plan to build the dwelling in a way that emulates the foundation of the property's former dwelling. By building a larger unit in the general area as the former dwelling the applicant will be encroaching within the Minimum Distance Separation I (MDS I) requirement for the neighbouring livestock operation based on the presence of the existing structure.

The MDS I formulae identifies that a residential use would have to be a minimum of 241 metres from the neighbouring poultry barn. However, the current foundation of the

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property's former dwelling has a setback of 148.75 metres from the neighboring livestock operation. The applicants are requesting a further reduced setback of 139 metres between the purposed new dwelling and the poultry barn to the east. The applicants desire their purposed dwelling unit to be located in the same general area as the former dwelling and to be enlarged eastwardly, to have optimal access to the property's current driveway. The applicant identifies that the larger home would provide them with additional living space for their aging family members and for family functions.

The applicants also provided the Township with drawings of the proposed layout of the new dwelling. The drawings that were reluctantly given to Township staff to review had a secondary apartment unit that did not meet the requirements of the zoning bylaw, however, a minor variance has only been applied for to address the requested MDS I reduction. The proposed dwelling and accessory dwelling unit (if proposed) would need to comply with the zoning bylaw in every respect. Township staff have reviewed this MDS I reduction as applied for as a new single detached dwelling.

CURRENT SITUATION:

Planning Staff have completed an analysis of the proposed Minor Variance application and can provide the following evaluation:

Does the proposal maintain the general intent and purpose of the Official Plan?

Yes

According to the Township's 2019 Official Plan the property in question has two land use designations: Natural Heritage System and Good General Agricultural. A substantial portion (roughly 70%) of this property is designated under the Natural Heritage System. The Natural Heritage System is situated along the western edge of the property and back half of the property. Roughly a 423 metre Fish Habitat runs through the north width of this Natural Heritage System. The entirety of the Natural Heritage System on this property is considered both a Significant Woodland and an Environmental Conservation Area. While over half (roughly 65%) of the Natural Heritage System is considered both an Environmental Protection Area and Provincially Significant Wetland.

The foundation of the property's former dwelling is located outside of the Natural Heritage System within the Good General Agricultural area. However, the foundation of the former dwelling and where the applicant plans to build their new dwelling is within a 120 metre buffer of the Provincially Significant Wetlands. Since the proposed development is within this buffer the Official Plan stipulates an Environmental Impact Study and possible Tree Saving Plan will be required for future development applications for this proposed dwelling.

The Good General agricultural area comprises those lands designated as the second

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highest level of protection and preservation for agricultural purposes. Residential and accessory residential uses are permitted in the Good General Agricultural designation. The Official Plan stipulates that the MDS I formulae, as amended from time to time, shall be utilized to determine separation distances between new or expanding livestock operations and new or expanding non-farm uses in all Agricultural areas.

The MDSI formulae identifies that a new residential dwelling would have to be a minimum of 241 metres from the neighbouring livestock operation. However, the property's former dwelling is not currently located 241 metres away from the neighboring poultry operation. If the applicant was to relocate the foundation for a single detached dwelling unit on this property to meet the MDS I's minimum 241 metre setback requirement a disturbance would be caused to the land that is currently being farmed on the property. This disturbance has the ability to significantly reduce the cash crop productivity of this agricultural land. However, by not meeting the minimum 241 metre setback this may cause a larger disturbance to the neighboring poultry barn if the owners want to expand their livestock operation in the future.

As the main purpose of Good General Agricultural lands is to protect and preserve Agricultural practices the Planning Department believes that it is in the general intent and purpose of the Township's Official Plan to build the single detached dwelling unit in a manner that supports the agricultural practices on all surrounding properties. Building the habitable rooms (e.g. cooking, eating, living, sleeping, and sanitary facilities) of the new dwelling no closer then the foundation of the former dwelling will insure that there are no additional impacts to the poultry barn to the east and negligible impacts to the cash crop production on applicants' property.

Does the proposal maintain the general intent and purpose of the Zoning By-law?
Yes

According to the Township's Zoning By-law 2017-70, as amended, there are three different zones layered on top of the property in question: Environmental Protection 'EP', Environmental Conservation 'EC', and Agricultural 'A'.

The subject parcel is approximately 47.9 acres (19.4 hectares) in size and a substantial portion of the property does not support the development of a single detached dwelling unit (i.e. the portion of the property zoned 'EP' and 'EC'). However, the portion zoned 'A' does permit a single detached dwelling unit.

When a non-agricultural use, building, and structure are proposed outside of the settlement area the Zoning By-law stipulates that they must comply with the MDS I formulae. According to this formulae, a non-agricultural use, building, and structure would have to be a minimum of 241 metres from the neighbouring poultry operation. However, the current foundation of the property's former dwelling unit has a setback of

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148.75 metres from the neighboring livestock operation.

The Zoning by-law identifies the MDS I formulae should not prevent the enlargement, repair, renovation, or replacement of an existing building if the construction does not further increase the extent or degree of non-compliance. If the applicants were not wishing to build closer to the neighboring livestock barn, there would be no need for a minor variance. However, since the applicants are wishing to build their new single detached dwelling closer this minor variance is required.

The applicants are proposing to build a new dwelling that would have 9.75 metre encroachment into the setback of the former dwelling from the neighboring livestock operations. This 9.75 metre encroachment would allow the new larger single detached dwelling unit to emulate the foundation of the former dwelling. The increase in size allows for additional living space for family members and family functions.

The proposed minor variance maintains the general intent and purpose of the Township's Zoning By-law.

Is the proposal desirable for the appropriate development or use of the land?
No

The proposed single detached dwelling unit is permitted in an Agricultural Zone, within the Township's Zoning By-Law. The proposed new build will be partially located on the footprint of the existing foundation of the property's former dwelling. While the applicants are asking for a new dwelling to be granted a minor variance for a setback reduction that would be 9.75 metres closer then from the property's former dwelling to the neighboring livestock operation, it is important to remember that the former dwelling is already considerably to close to the poultry barn to the east. The MDS I formulae requires a minimum 241 metre setback and the former dwelling only has a setback of 148.75 metres, which is already an encroachment of 92.25 metres on the MDS I formula. Approving the minor variance application, as is, would increase the encroachment to 102 metres.

The Planning Department believes that increasing the distance between the single detached dwelling unit on this property to the neighboring livestock operation would not be protecting and preserving the agricultural lands in this area as it limits future growth of the neighbouring poultry operation and may lead to increased odour issues. While the owners of this property may not believe that decreasing this setback may lead to increased land use or odour conflicts it is unknown that future owners will feel the same way. It is in the Planning Departments belief that the MDS I formulae should be supported when possible to prevent both future land use conflicts and nuisance complaints from odours.

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The Planning Department requested more information from the applicant to identify why they cannot build an enlarged dwelling unit over the existing dwelling unit's foundation in a way that does not further encroach on the MDS I formulae's minimum setback requirements. The applicant did not identify that there was anything in particular preventing them from building a new dwelling in a way that would not further encroach on to the MDS I formulae's minimum setback requirements. However, the applicant did identify that the reason they wished to build a dwelling in a way that would be further reducing the MDS I requirements is because the location was desirable for them. The applicants are hoping to build a dwelling around the existing driveway.

As there a no substantial reason why the applicant cannot build a dwelling in a manor that attempts to not further reduce the MDS I formulae's setback requirements, Planning staff believe that the habitable rooms in the new dwelling should not be located any closer then the property's former dwelling setback.

Is the proposal minor in nature?

No

The applicants are requesting to recognize an encroachment of 9.75 metres from the property's former dwelling unit to the neighboring poultry operations. The encroachment is to allow for a larger home that has adequate room for family members to age in place by accommodating mobility aids, such as walkers, wheelchairs, etc. While the applicants are asking for an encroachment that is less than 10 metres, it is important to note that the additional encroachment would further decrease the setback that the MDS I formulae requires by 42%. For this reason, the Planning Department is of the opinion that this variance is not minor in nature.

FINANCIAL IMPLICATIONS:

There are no financial implications associated with this application.

INTER-DEPARTMENTAL COMMENTS:

Circulation was provided to interested agencies on November 6th 2020, by way of mail and e- mail.

Township Public Works Department, and Building Department have no objections to the application as proposed.

The Township has received a response on this application from both the Niagara Region and Niagara Peninsula Conservation Authority.

The Niagara Region identified that Regional staff have no comments to provide for the subject Minor Variance application for 5267 Elcho Road as it is the responsibility of the

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local area municipality and Committee of Adjustment to implement MDS I setback requirements.

The Niagara Peninsula Conservation Authority (NPCA) articulated that the proposed home is not located near any NPCA regulated features or hazards. In regard to an unregulated Watercourse that is located near the proposed home, and the potential for a Floodplain Hazard which is located to the north of the proposed home. The proposed home is not any closer to the unregulated Watercourse than the existing home, and it does not appear to fall within the Floodplain Hazard. As such, the NPCA does not object to the Minor Variance application for 5267 Elcho Road at this time.

PUBLIC COMMENTS:

Notification was mailed to all neighbouring properties within a 60m radius of the subject lands on November 6th. A Yellow sign was posted on the property a minimum of 10 days before the hearing.

No public comments have been received as of November 20th 2020, during the preparation of this report.

CONCLUSION:

A Minor Variance application has been submitted by Fred and Rebecca Vrugteveen to permit a 139 metres setback from the single detached dwelling unit to the neighboring poultry operation, whereas a minimum 241 metre setback is required through the MDS I formulae and the property's former dwelling setback is currently 148.75 metres.

Planning staff feel that the convenience of the use of the current drive way is not a strong enough reason to not attempt to locate the new single detached dwelling in a location that would meet the MDS I formulae's minimum setback requirements. Further, it is in the benefit of the surrounding agricultural network for a new dwelling to maintain of the former dwellings setback from the poultry barn to the east. Maintaining the former dwelling separation to the poultry barn will ensure that the livestock operation is not further disrupted in the future.

Planning staff are of the opinion that this application, as is, does not currently meets all four tests of a minor variance and as such, cannot recommend approval of this application.

Therefore, planning staff have added several conditions to maintain the integrity of the areas agricultural network, so that the minor variance can be recommended for approval.

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ATTACHMENTS:

1. Site Sketch
2. Location Map
3. Agency Comments

Prepared by:



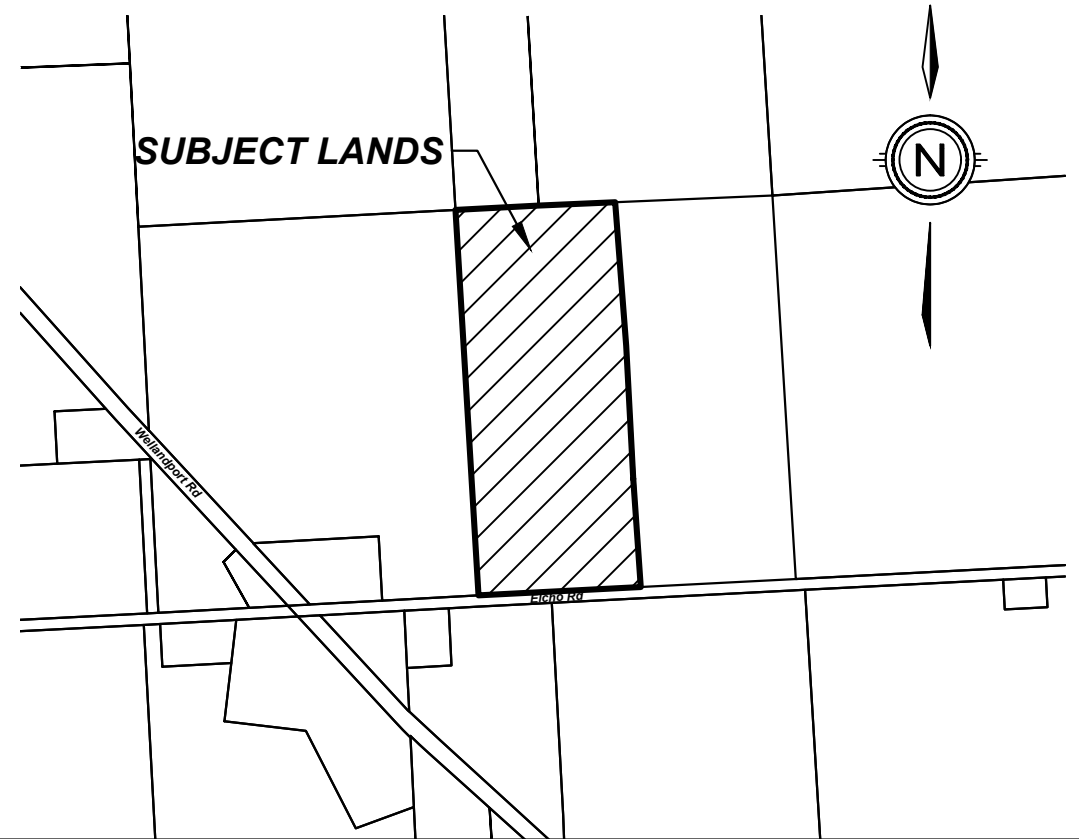
Gerrit Boerema
Planner II



Brian Treble, RPP, MCIP
Director of Planning and Building

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5267 ELCHO ROAD
TOWN OF WEST LINCOLN



KEY PLAN
N.T.S.

MDS PLAN

LEGAL DESCRIPTION

PART OF THE SOUTH 1/2 OF LOT 14
CONCESSION 2

GEOGRAPHIC TOWNSHIP OF
GAINSBOROUGH

TOWNSHIP OF WEST LINCOLN

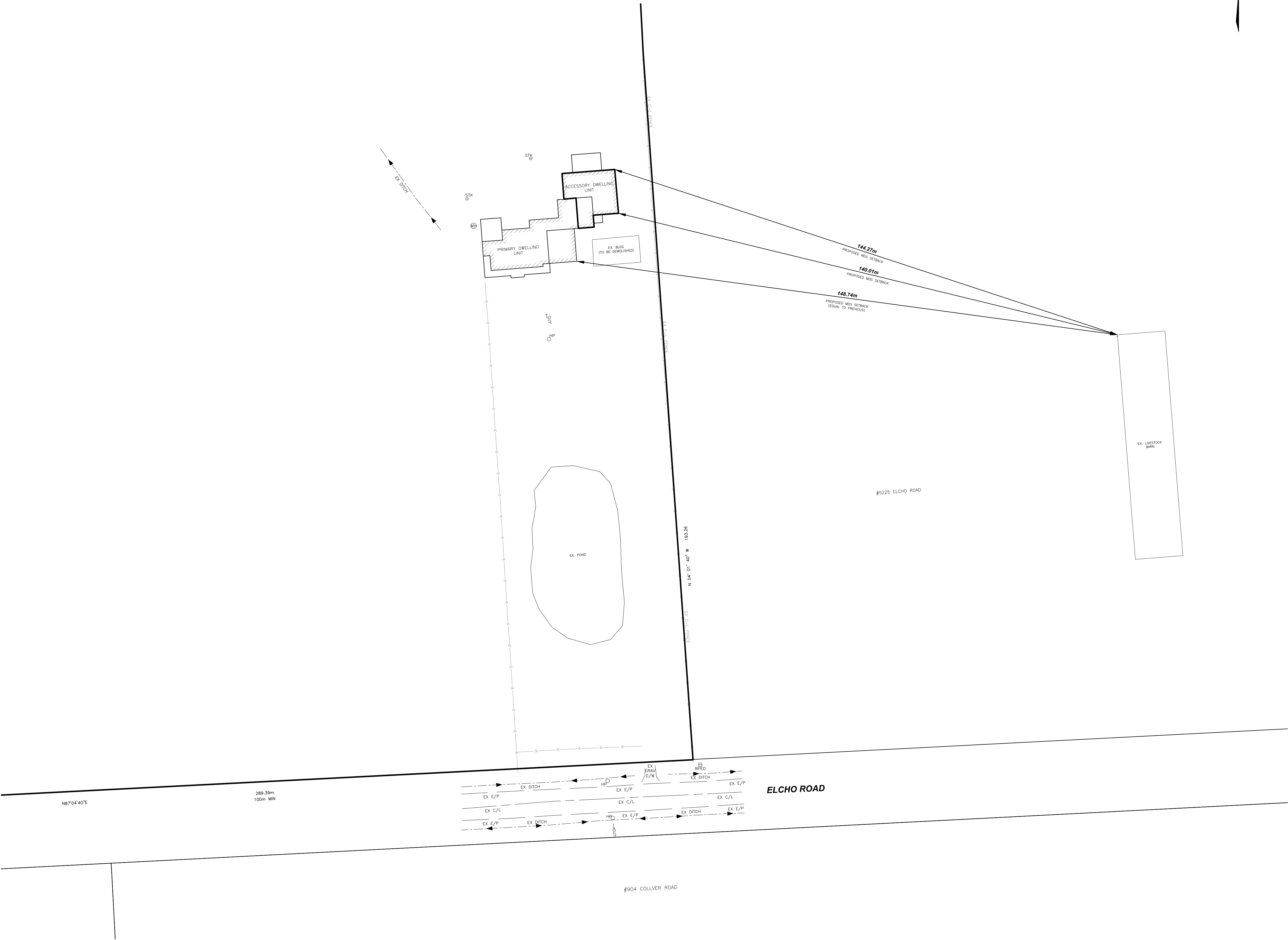
(A) AGRICULTURAL ZONING

PROVISION	REQUIRED	PROPOSED
MIN. LOT AREA	40 ha	19.78ha
MIN. LOT FRONTAGE	100m	289.39m
MIN. FRONT YARD	15m	136.45m
MIN. INTERIOR SIDE YARD	5m	9.88m E 240.61m W
MIN. REAR YARD	15m	525.02m
MAX. LOT COVERAGE	10%	0.24%
MAX. ACCESSORY DWELLING UNIT FLOOR AREA	100m ²	171.09m ²

0	ISSUED FOR	2020-09-16	SD
#	REVISION	DATE	INIT

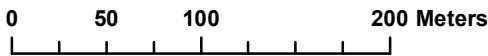


DRAWING TITLE MINIMUM DISTANCE SEPARATION PLAN	DRAFTING	SD
	DATE	SEPTEMBER 16, 2020
	PRINTED	SEPTEMBER 16, 2020
	SCALE	1:500
DWG No. 2068-MDS	REV	0





Location Map
5267 Elcho Road



Document Path: X:\wl-GIS\2020\Location Maps\5267 Elcho Rd\5267 Elcho.mxd



Legend *November 2020*

- Former dwelling
- Poultry Barn
- MDS minimum setback
- Subject Lands



318 Canborough St. P.O. Box 400
Smithville, ON
L0R 2A0
T: 905-957-3346
F: 905-957-3219
www.westlincoln.ca

Memo

To: Madyson Etzl, Planner II
From: Jennifer Bernard, Coordinator of Engineering Services
Date: November 13, 2020
Re: File A14/2020WL – Vrugtrveen

A review has been completed on this minor variance application to permit the decrease in the minimum distance separation (MDS) setback for the existing property of 148.75 metres to 139 metres.

Public Works has no comments to provide on this application.

Meghan Birbeck

From: Alderman, Aimee <Aimee.Alderman@niagararegion.ca>
Sent: November 17, 2020 8:58 AM
To: Madyson Etzl; Meghan Birbeck
Cc: Development Planning Applications; Alguire, Robert
Subject: Regional Response - 5267 Elcho Road, West Lincoln

Good morning Maddy & Meghan,

Regional Planning and Development Services staff has reviewed the Minor Variance application for 5267 Elcho Road (Township File No. A14/2020WL), which proposes to decrease the minimum distance separation (MDS) setback for the existing property from 148.75 metres to 139 metres. The Planning Justification Brief (dated October 1, 2020, prepared by Upper Canada Consultants) notes that a variance is also required to permit for increased floor area of the proposed accessory dwelling unit.

Regional staff note that it is the responsibility of the local area municipality, and Council/Committee of Adjustment, to implement MDS setback requirements. Accordingly, Regional staff have no comments to provide for the subject Minor Variance application for 5267 Elcho Road. Township staff should be satisfied that the reduction to the MDS setback will not result in potential land use conflicts.

Should you have any questions regarding the above comments, please do not hesitate to contact me.

Thank you,

Aimee Alderman, MSc, MCIP, RPP
Development Planner

Planning and Development Services
Regional Municipality of Niagara | www.niagararegion.ca
1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
Phone: 905-980-6000 ext. 3352 | Toll-free: 1-800-263-7215
Email: aimee.alderman@niagararegion.ca

From: Madyson Etzl <metzl@westlincoln.ca>
Sent: Friday, November 06, 2020 3:30 PM
To: Madyson Etzl <metzl@westlincoln.ca>
Subject: Notice of Hearing A142020WL

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

Please find attached the above mentioned notice for a Minor Variance application for **5267 Elcho Road**.
Comments would be appreciated by Wednesday **November 18th 2020**

Meghan Birbeck

From: Madyson Etzl
Sent: November 18, 2020 2:33 PM
To: Meghan Birbeck
Subject: FW: Notice of Hearing A142020WL

Hi Meghan,
This is for your Minor Variance application for Elcho.

Maddy

From: Nikolas Wensing [mailto:nwensing@npca.ca]
Sent: November-18-20 2:32 PM
To: Madyson Etzl
Subject: Re: Notice of Hearing A142020WL

Hello Madyson,

The proposed home is not located near any NPCA regulated features or hazards. I checked with the NPCA's technical staff in regard to an unregulated Watercourse that is located near the proposed home, and the potential for a Floodplain Hazard which is located to the north of the proposed home. The proposed home is not any closer to the unregulated Watercourse than the existing home, and it does not appear to fall within the Floodplain Hazard. As such, the NPCA does not object to Application File No. A14/2020WL at this time.

Please let me know if you have any questions.

Sincerely,

Nikolas Wensing, B.A., MPlan
Watershed Planner
Niagara Peninsula Conservation Authority (NPCA)
250 Thorold Road West, 3rd Floor, Welland, ON, L3C 3W2
905-788-3135, ext. 228
nwensing@npca.ca
www.npca.ca

From: Madyson Etzl <metzl@westlincoln.ca>
Sent: Friday, November 6, 2020 3:29 PM
To: Madyson Etzl <metzl@westlincoln.ca>
Subject: Notice of Hearing A142020WL

Good Afternoon,

Please find attached the above mentioned notice for a Minor Variance application for **5267 Elcho Road**.
Comments would be appreciated by Wednesday **November 18th 2020**