

MUNICIPALITY OF MIDDLESEX CENTRE  
COMMITTEE OF ADJUSTMENT MINUTES

HEARING NUMBER 1/09

January 29, 2009

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The first meeting of 2009 was held by the Committee of Adjustment this date at the Middlesex Centre Municipal Offices, Coldstream, Ontario at 7:00 p.m.

**PRESENT**

Peter McClary  
Geoff Rennison  
Don Rows

**REGRETS**

Stephen Harvey  
Sharon McMillan

**STAFF PRESENT**

Marc Bancroft, Assistant Secretary-Treasurer

**NOMINATION OF CHAIR**

Moved by Peter McClary  
Seconded by Geoff Rennison

**THAT Don Rows be elected Chair for this Committee of Adjustment Hearing only and that Chair and Vice-Chair positions be decided at the subsequent Committee hearing.**

Carried

**DECLARATIONS OF PECUNIARY INTEREST**

There were no declarations of pecuniary interest stated by any of the members.

**MINUTES**

Moved by Geoff Rennison  
Seconded by Peter McClary

**THAT the minutes of the December 18, 2008 Hearing of the Municipality of Middlesex Centre Committee of Adjustment, be approved.**

Carried

DEFERRED APPLICATION NO. B-13/08 – Randy Taylor; Part of Lot 1, Plan 305; Part 1 on Reference Plan 33R15272 (geographic Township of Delaware), Municipality of Middlesex Centre, 78 Harris Road, Delaware

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Mr. Randy Taylor was in attendance.

Chair Rows read the purpose and effect of the subject application to create an infilling residential lot in the village of Delaware on the east side of Victoria Street south of Harris Road. He noted that the application was heard at the November 27, 2008 Hearing and deferred indefinitely pending receipt of a survey to determine the extent of which the application can be amended to increase the frontage and area of the lot to be severed while maintaining a 1.5 metre side yard setback for the existing dwelling situated on the lot to be retained.

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Geoff Rennison requested clarification regarding the extent of the increase in both frontage and lot area. Marc Bancroft noted that according to the survey, the lot to be severed would a lot frontage of 23.75 m and a lot area of 1,010 m<sup>2</sup> while maintaining a 1.5 m side yard setback from the existing dwelling situated on the lot to be retained. The original application proposed a lot frontage of 21.5 m and a lot area of 907 m<sup>2</sup>.

Mr. Taylor indicated that he is satisfied with the revised proposal which meets all policies and zoning regulations. He also noted that an engineering report has been undertaken with respect to site servicing.

Marc Bancroft indicated that staff is supportive of the subject application as amended given that the proposal meets the County of Middlesex Official Plan, the Middlesex Centre Official Plan and the Middlesex Centre Zoning By-law. Should the Committee approve the application, he recommended that the following conditions apply to the decision: issuance of the certificate of consent within 1 year; \$1,000.00 cash-in-lieu of parkland dedication; severance agreement; relocation of the existing private sewage disposal system to ensure that it is wholly contained on the lot to be retained; and, installation of new driveway access for the lot to be retained.

Mr. Paul Knill of 68 Victoria Street reiterated his concerns previously stated at the November Hearing. He noted that he resides on the adjacent southerly property. He was of the opinion that the proposed lot as amended remains incompatible with the lot density, frontage and area compared to other lots in the area which are more sizeable. He added that he had no concerns with respect to the proposed building lot that would front onto Harris Road with a proposed lot frontage of 30 metres since it is larger and more compatible with lots in the surrounding area. This lot was given provisional approval through Consent B-14/08 by the Committee at the November Hearing.

Mr. Knill provided the Committee with a series of photographs to illustrate his point that the proposed lot is not compatible with recent residential construction undertaken in the area in reference to lots developed on the south side of Harris Road between Martin Road and Victoria Street.

Marc Bancroft indicated in determining compatibility of lots, one has to take into account the entire surrounding area. For example, lots situated opposite from the lot to be severed are smaller than lots recently created in the area. He added that he is satisfied in his opinion that the proposed lot is compatible with the surrounding lot fabric.

Moved by Peter McClary  
Seconded by Geoff Rennison

**THAT application B-13/08, to sever a parcel with approximately 23.75 metres of lot frontage on Harris Road, a lot depth of approximately 42.2 metres, and a lot area of 1,010 square metres; for a property legally described as Part of Lot 1 on Plan 305 and more specifically described as Part 3 on Reference Plan 33R17417 (geographic Township of Delaware), Municipality of Middlesex Centre; BE GRANTED**

Carried

Conditions:

1. That the Certificate of Consent under Section 53(42) of the Planning Act shall be given within one year of the date of the notice of the decision.

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2. That the applicant pay a \$1,000.00 cash-in-lieu of parkland dedication to the Municipality.
3. That the applicant enter into a Severance Agreement with the Municipality, and that the Agreement be registered on title to the subject land, which addresses among other matters, entrance location and construction, lot grading and drainage, adequate building envelope location, water service installation and sanitary sewer stub installation, adequate private sewage disposal system location and 100% contingency area, all to the satisfaction of the Municipality.
4. That the applicant relocate the existing private sewage disposal system to ensure that it is wholly contained on the lot to be retained all to the satisfaction of the Municipality.
5. That a new driveway access be constructed to accommodate the lot to be retained and that the applicant be required to obtain a Road Occupancy Permit in this respect prior to any construction within the municipal road allowance, all to the satisfaction of the Municipality.

Reasons:

The Committee stated that the general intent and purpose of the Middlesex Centre Official Plan would be maintained if the consent is granted. The Committee also stated that the application complies with the applicable policies of the County of Middlesex Official Plan. It was noted by the Committee that the application meets the general intent and purpose of the Middlesex Centre Comprehensive Zoning By-law.

The Committee further noted that the subject application does not require a Plan of Subdivision. It was also noted by the Committee that the application satisfies the general and specific consent policies and also the policies related to infilling of the Middlesex Centre Official Plan. The Committee was also satisfied that the proposed use is generally compatible with uses in the area. In addition, it was noted that the concerns of agencies would be adequately addressed. For the above-mentioned reasons, the application for consent was granted.

APPLICATION NO. B-1/09 – David Leland Donaldson, Karen Elaine Donaldson and Stephen James Donaldson; Part of Lot 9, Concession 8 and Part 13, Reference Plan 33R-1545 (geographic Township of London), 15246 Eight Mile Road

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Chair Rows read the purpose and effect of the subject application for the creation of a lot currently designated and zoned for commercial purposes located on the north side of Eight Mile Road and on the west side of County Road 23 (Highbury Avenue). He noted that this application is a resubmission of Consent B-6/06 granted by the Committee on April 20, 2006 which has since lapsed.

Marc Bancroft read the correspondence from the County of Middlesex, the Municipal Department of Public Works and Engineering and the Municipal Deputy Chief Building Official.

Mr. Bancroft indicated that he is supportive of the subject application as the proposal conforms to the County of Middlesex Official Plan and the Middlesex Centre Official Plan. He also added that the proposal meets the Middlesex Centre Comprehensive Zoning By-law.

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Marc Bancroft indicated that if the Committee is to approve the subject application, he recommended that the following conditions be imposed on the decision: issuance of certificate of consent within 1 year; and, road widening and 0.3 reserve dedications to the County of Middlesex along the frontage of County Road 23 (Highbury Avenue). Mr. Bancroft indicated that the cash-in-lieu of parkland dedication should not apply since the applicants previously paid the fee under the lapsed consent.

There were no members of the public present to speak to the application.

Moved by Geoff Rennison  
Seconded by Don Rows

**THAT application B-6/06, filed by David Donaldson, Karen Donaldson and Stephen Donaldson for consent to sever a parcel of land having a lot frontage of approximately 47 metres on Highbury Avenue, a lot depth of approximately 146 metres on Eight Mile Road and a lot area of approximately 0.6 hectares; for a property described as Part of Lot 9, Concession 8 (geographic Township of London), Municipality of Middlesex Centre; BE GRANTED**

Carried

Conditions:

1. That the Certificate of Consent under Section 53(42) of the Planning Act shall be given within one year of the date of the notice of the decision.
2. That the applicants provide a road widening dedication of up to 18 metres from the centreline of County Road 23 along the entire frontage of the lot to be severed to the County of Middlesex.
3. That the applicants provide a 0.3 metre reserve along the right-of-way of County Road 23 along the entire frontage of the lot to be severed to the County of Middlesex.

Reasons:

The Committee stated that the general intent and purpose of the Municipality of Middlesex Centre Official Plan would be maintained if the consent is granted. The Committee also stated that the application complies with the applicable policies of the County of Middlesex Official Plan. It was noted by the Committee that both the severed lot and the retained lots would conform to the requirements of the Middlesex Centre Comprehensive Zoning By-law.

The Committee was satisfied that a plan of subdivision is not necessary and that the application satisfies the general and specific consent policies of the Middlesex Centre Official Plan. Furthermore, it was noted that the concerns of agencies have been addressed. For the above-mentioned reasons, the application for consent was granted.

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APPLICATION NO. B-2/09 – Benjamin Lawton; Steven Ross, Patton Cormier and Associates (Agent); Part of Lot 13, Concession 4 (geographic Township of Lobo) 23170 Nairn Road

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Chair Rows read the purpose and effect of the subject application for the creation of a residential infilling lot located on the north side of County Road 17 (Nairn Road), south of County Road 22 (Egremont Drive) in the village of Lobo. The lot to be severed contains an existing accessory building with an illegal dwelling unit whereas the lot to be retained contains an existing single detached dwelling.

Mr. Steven Ross was in attendance on behalf of the applicant.

Mr. Ross indicated that the subject proposal meets the infilling policies pursuant to the County and Middlesex Centre Official Plans as well as the lotting regulations pursuant to the Middlesex Zoning By-law.

Marc Bancroft read the correspondence from the County of Middlesex, the Municipal Department of Public Works and Engineering and the Municipal Deputy Chief Building Official. Based on the County's request for a shared entranceway, Mr. Bancroft indicated that the subject application should be amended to include an easement /right-of-way measured 7 metres along the frontage of the lot to be retained to the maintain existing entrance and to facilitate two individual driveways on-site. Mr. Ross indicated no concern to this arrangement.

Mr. Bancroft indicated that he is supportive of the subject application as the proposal conforms to the County of Middlesex Official Plan and the Middlesex Centre Official Plan. He also added that the proposal generally meets the Middlesex Centre Comprehensive Zoning By-law subject to the removal of the illegal dwelling unit situated within the existing accessory building.

Based on discussions with Mr. Ross prior to the meeting, Mr. Bancroft indicated that the applicant wishes to maintain the existing accessory building for sentimental reasons. In order to allow this to occur without a main use (i.e. single detached dwelling) on the severed lot, Mr. Bancroft recommended that one of the conditions of consent should include a requirement for a Temporary Use By-law to allow the existing building to remain for a period not to exceed 3 years in the absence of a single detached dwelling not being erected. Should a dwelling not be erected within 3 years, this would become a by-law enforcement matter being a violation of the Zoning By-law. He added that the Municipality would require a severance agreement and include a requirement for the erection of a dwelling within 3 years failing the removal of the accessory building. He further added that the Municipality would require security which would not be reimbursed until the applicant meets his obligations pursuant to the agreement.

Conditions of consent recommended by Mr. Bancroft included the following: issuance of the certificate of consent within 1 year; \$1,000 cash-in-lieu of parkland dedication; a severance agreement; a Zoning By-law Amendment/Temporary Use By-law to provide recognize the accessory building; removal of the illegal dwelling unit; and, a road widening dedication to the County of Middlesex.

Mr. Ross indicated that his client provided full disclosure in the filing of the application with respect to the dwelling unit being contained within the accessory building. He added that his client is willing to remove the dwelling unit to the satisfaction of the Municipality however he expressed concern his client being required to erect a dwelling within 3 years to maintain the accessory building. He concluded that it would be more beneficial to his client if a 10 year timeframe could be provided.

With respect to staff's zoning interpretation, Mr. Ross noted that it is flawed which requires

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the building to be accessory to a main use. If the consent is approved with the accessory building being on a separate lot, he stated that in his opinion the building will remain accessory to the residential zone to which it applies. He added that there is no need to rezone the subject property since the zoning currently permits an accessory use.

Mr. Allan Clarkson of 23152 Nairn Road indicated that he does not support the approval of the subject application. He noted concerns about the site not being able to be serviced given existing soil conditions and proximity to neighbouring wells and septic systems.

Mr. Ross requested that the subject application be deferred indefinitely so that he can consult this matter with his client as well as discuss alternatives with the Municipality.

Moved by Peter McClary  
Seconded by Geoff Rennison

**THAT application B-2/09 be deferred indefinitely as requested by the applicant's agent.**

Carried

Mr. Bancroft indicated to Mr. Clarkson that the Municipality would provide him with further notice of the application being reheard.

APPLICATIONS NOS. B-3/09 & A-1/09 – Francis Gary Ideson and William John Ideson;  
Part of Lot 24, Concession 8 (geographic Township of London) 13400 Eight Mile Road

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Moved by Peter McClary  
Seconded by Geoff Rennison

**THAT applications B-3/09 and A-1/09 be heard concurrently.**

Carried

Chair Rows read the purpose and effect of the consent application to facilitate the “moving of a lot”. Simply put, the consent application is proposing to merge an existing residential lot with an existing farm holding to facilitate the severance of an existing dwelling. No additional lot is being proposed. The property is situated on the north side of Eight Mile Road and on the east side of County Road 20 (Hyde Park Road). The lot to be severed contains an existing dwelling whereas the lot to be retained contains the original farm house and a livestock operation. The lot to be merged contains an existing dwelling. As part of the consent, a water well easement is also being requested as the potable well servicing the farm is situated on the lot to be severed.

Chair Rows read the purpose and effect of minor variance application to seek relief from Minimum Distance Separation I (MDS I). The new lot does not meet the minimum requirement therefore relief is required. He added that although relief is required, it will result in an improvement to MDS I since the livestock operation will be further setback from the lot to be severed compared to the lot to be merged.

Mr. George Sinker was in attendance on behalf of the applicants.

Marc Bancroft read the correspondence from the County of Middlesex, the Municipal Department of Public Works and Engineering, the Municipal Deputy Chief Building Official, and Mr. William J. Ideson of 21858 Hyde Park Road.

Mr. Bancroft indicated that the consent application meets the policies of the County Official Plan and the Middlesex Centre Official Plan. He also added that the lots meet the

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requirements of the Zoning By-law. Should the Committee approve the consent application, he recommended the following conditions: issuance of the certificate of consent within 1 year; merging of the existing residential lot with the farm holding in the same name and title; approval of Minor Variance A-1/09.

With respect to the minor variance application, Mr. Bancroft indicated that the application should be amended to reflect a separation distance of 250 metres required as opposed to 239 metres as indicated in the Notice of Public Hearing. Upon further review, he added that the correct separation distance is based on the potential number of nutrient units associated with the livestock operation based on the number of tillable hectares. Mr. Sinker stated no concern in this respect.

Regarding the minor variance application, Marc Bancroft noted that he supports approval of the application for the following reasons: the requested variance conforms to the general intent and purpose of the Middlesex Centre Official Plan; the requested variance conforms to the general intent and purpose of the Middlesex Centre Zoning By-law; the requested variance is considered to be minor in nature; and is appropriate development and use of the subject property. He added that if the Committee is to approve the subject application as amended that no conditions be imposed on the decision.

Mr. Sinker indicated that Mr. Gary Ideson is retiring from the farming partnership with his family and currently resides the existing dwelling known as 13400 Eight Mile Road which is currently part of the farm holding. By granting this consent, this will allow Mr. Ideson to have his house on a separate lot. Mr. Sinker concluded that no new lot is being created with the merging of the existing residential lot.

Moved by Geoff Rennison  
Seconded by Peter McClary

**THAT application B-3/09, filed by Francis Gary Ideson and William John Ideson for consent to sever a parcel of land having a lot frontage of approximately 60 metres on Eight Mile Road, a lot depth of approximately 64 metres and a lot area of approximately 0.38 hectares; and for consent to permit a water well easement with an area of approximately 128 square metres for a property described as Part of Lot 24, Concession 8, (geographic Township of London) Municipality of Middlesex Centre; BE GRANTED**

Carried

Conditions:

1. That the Certificate of Consent under Section 53(42) of the Planning Act shall be given within one year of the date of the notice of the decision.
2. That the lot known municipally as 21870 Hyde Park Road and legally described as Part of Lot 24, Concession 8 (geographic Township of London) Municipality of Middlesex Centre, be merged in the same name and title as the lot to be retained known municipally as 21858 Hyde Park Road and legally described as Part of Lot 24, Concession 8 (geographic Township of London), Municipality of Middlesex Centre.
3. That Application for Minor Variance A-1/09 be approved and in full force and effect.

Reasons:

The Committee stated that the general intent and purpose of the Middlesex Centre Official

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Plan would be maintained if the consent is granted. The Committee also stated that the application complies with the applicable policies of the County of Middlesex Official Plan. It was noted by the Committee that the application meets the general intent and purpose of the Middlesex Centre Comprehensive Zoning By-law.

The Committee further noted that the subject application does not require a Plan of Subdivision. It was also noted by the Committee that the application satisfies the general and specific consent policies of the Middlesex Centre Official Plan. The Committee was also satisfied that the proposed use is generally compatible with uses in the area. In addition, it was noted that the concerns of agencies would be adequately addressed. For the above-mentioned reasons, the application for consent was granted.

Moved by Geoff Rennison  
Seconded by Peter McClary

**THAT application A-1/09, filed by Francis Gary Ideson and William John Ideson for relief from the Minimum Distance Separation I (MDS I) formula pursuant to the Municipality of Middlesex Centre Comprehensive Zoning By-law No. 2005-005 which requires a minimum distance separation of 250 metres from the closest barn of an existing livestock operation located on a property known municipally as 21858 Hyde Park Road and described as the Part of Lot 24, Concession 8 (geographic Township of London) Municipality of Middlesex Centre to a lot line whereas the lot to be severed of Consent B-3/09 is situated 27.98 metres from the closest barn associated with the said operation; for a property known municipally as 13400 Eight Mile Road and described as Part of Lot 24, Concession 8 (geographic Township of London) Municipality of Middlesex Centre; BE GRANTED**

Carried

Reasons:

The Committee was of the opinion that the extent of the variance is "minor" in nature from the provisions of the Middlesex Centre Comprehensive Zoning By-law. The Committee stated that the general intent and purpose of both the Middlesex Centre Official Plan and Zoning By-law are maintained with the granting of the minor variance application. The Committee was satisfied that the variance was desirable for the appropriate development and use of the subject property. It was also noted that the variance would not have detrimental effect on adjacent or surrounding land uses and that there were valid reasons why the Zoning By-law requirement cannot be met.

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**NEXT MEETING:** **Thursday, March 26, 2009** at the Municipality of Middlesex Centre Offices, Coldstream, **at 7:00 p.m.**

**ADJOURNMENT:**

ON MOTION DULY MADE, SECONDED AND CARRIED

IT WAS RESOLVED

THAT this meeting adjourn now at 8:40 p.m.

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Chair

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Secretary