

MUNICIPALITY OF MIDDLESEX CENTRECOMMITTEE OF ADJUSTMENT MINUTES

HEARING NUMBER 5/10

June 28, 2010

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The fifth hearing of 2010 was held by the Committee of Adjustment this date at the Middlesex Centre Municipal Offices, Coldstream, Ontario at 7:00 p.m.

**PRESENT**

Stephen Harvey  
Sharon McMillan  
Ian Nielsen  
Ken Nixon  
Don Rows

**STAFF PRESENT**

Benjamin Puzanov, Planner and Secretary-Treasurer

**DECLARATIONS OF PECUNIARY INTEREST**

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

**MINUTES**

Moved by Sharon McMillan  
Seconded by Stephen Harvey

**THAT the minutes of the May 31, 2010 Hearing of the Municipality of Middlesex Centre Committee of Adjustment, be approved.**

Carried

APPLICATIONS B-9/10 and A-8/10 – Romano Pulzoni in Trust, Eng Plus Ltd. – Ken Briggs (Agent), Part of Lots 16, 17 and 18, Plan 113, Part 1, Reference Plan 33R-17039, (geographic Township of Lobo), Municipality of Middlesex Centre; 22806 Komoka Road

Moved by Stephen Harvey  
Seconded by Ken Nixon

**THAT Application for Consent B-9/10 and Application for Minor Variance A-8/10 be heard concurrently.**

Carried

Chair Rows indicated that the purpose of the Application for Consent is to sever a residential lot from an existing 1,709 square metre (18,395.52 sq ft) residential lot located in the village of Komoka. The parcel to be severed would have a lot frontage of approximately 19.991 metres (65.587 ft) along Komoka Road (County Road 16), an irregular lot depth and a lot area of approximately 811 square metres (8,729.53 sq ft). The parcel to be retained would have a lot frontage of approximately 19.991 metres (65.587 ft) along Komoka Road (County Road 16), an irregular lot depth and a lot area of approximately 811 square metres (8,729.53 sq ft). The parcel to be retained contains an existing one and a half storey single-detached dwelling. The parcel to be severed is currently vacant.

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Chair Rows added that as a result of the severance, the proposed new lots would each have a lot frontage of approximately 19.991 metres (65.587 ft) along Komoka Road (County Road 16) and a lot area of approximately 811 square metres (8,729.53 sq ft), whereas the Comprehensive Zoning By-law 2005-005 requires minimums of 24 metres (78.74 ft) and 930 square metres (10,010.44 sq ft), respectively.

Chair Rows indicated that the applicant is also seeking relief from the side yard and rear yard requirements of the Urban Residential First Density (UR1-3) Zone. The Comprehensive Zoning By-law requires a 3 metre (9.84 ft) interior side yard setback and an 8 metre (26.25 ft) rear yard setback. Given the existing dwelling, the applicant is proposing setbacks of 2.4 metres (7.87 ft) and 7.0 metres (22.97 ft), respectively, for the parcel proposed to be retained of Consent Application B-9/10. There are no yard reductions being requested for the parcel proposed to be severed of the same application

Ken Briggs of Eng Plus Ltd. was in attendance to speak to the application and indicated that he was generally satisfied with Planning staff's report.

Ben Puzanov, Planner, read correspondence from the County of Middlesex, the Upper Thames River Conservation Authority, the Municipal Public Works and Engineering Department and the Municipal Building Division.

Mr. Puzanov indicated that based on the evaluation presented in the staff report, Planning staff is satisfied that the proposed consent is consistent with the Provincial Policy Statement and conforms to the County of Middlesex and Middlesex Centre Official Plans. The proposed severance would conform to the Comprehensive Zoning By-law subject to approval of the requested Minor Variance. He added that the requested reduction in the rear yard setback is not necessary as the rear yard of the existing single-detached dwelling on the retained lot would not be made any more deficient as a result of the severance.

Mr. Puzanov stated that the proposed development would take place within a built-up area in the village of Komoka and would be adjacent to existing residential development. The proposal would facilitate a more efficient use of land and infrastructure and promote denser development with an urban settlement area. Furthermore, the proposed infill development complements the new residential area being built immediately to the north of the subject lands. Planning staff is also satisfied that the proposed severance would not hinder any future development of the lot proposed to be retained as it currently contains an existing single-detached dwelling and would be capable of being redeveloped if the need ever arose.

Mr. Puzanov stated that he recommends that the proposed consent be approved, subject to the conditions noted in the staff report.

Mr. Puzanov indicated that the proposed Minor Variance represents an appropriate use and development of the lands as the proposal is compatible with the residential development located to the north and east of the subject property; the proposal maintains the general intent and purpose of the Municipal Official Plan and Comprehensive Zoning By-law; and the impact of the requested Minor Variance can be considered minor in nature. Mr. Puzanov recommended that the requested Minor Variance be approved without any conditions.

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Paul Houghton of 200 Delaware Street was in attendance to speak to the application. Mr. Houghton indicated that he is concerned about the number of homes that are being built in the area and the open space that is disappearing as a result of new developments within the village. Mr. Houghton added that Mr. Pulzoni, the developer of the Komoka Station subdivision, indicated at a 2005 Public Meeting regarding the same subdivision that the subject property would not be further subdivided. Mr. Houghton stated that the Comprehensive Zoning By-law is in place in order to protect surrounding residents and that the proposed Minor Variance is not appropriate in this case.

Ian Nielsen questioned whether there would be sufficient space between the existing single-detached dwelling on the parcel proposed to be retained and the proposed single-detached dwelling on the parcel proposed to be severed. Mr. Briggs indicated that the proposed setbacks would be no different than in the Komoka Station subdivision and that his client has tried to meet the requirements of the Comprehensive Zoning By-law to the extent possible.

Richard Vernon of 22804 Komoka Road was also in attendance to speak to the application and indicated that both the lots proposed to be severed and retained are too small and would decrease the value of his property, which abuts the subject lands at the south.

Mr. Briggs expressed concern with not being able to sell the lot proposed to be retained before the availability of sanitary sewage treatment capacity through the expansion of the Komoka Wastewater Treatment Facility. Mr. Puzanov indicated that he was recommending that the lot proposed to be severed be fully serviced and that the availability of sanitary sewage treatment capacity be confirmed as conditions of consent. He added that this would protect the public interest and ensure that an unserviced lot, and one that cannot be built on until sanitary sewage treatment capacity is available, is not created. He also noted that this was conveyed to the agent prior to submission of the application.

Moved by Ken Nixon  
Seconded by Stephen Harvey

**THAT application B-9/10, filed by Romano Pulzoni in Trust for consent to sever a residential parcel of land having a lot frontage of approximately 19.991 metres along Komoka Road (County Road 16), an irregular lot depth and a lot area of approximately 811 square metres; for a property described as Part of Lots 16, 17 and 18, Plan 113 and more specifically as Part 1, Reference Plan 33R-17039, (geographic Township of Lobo), Municipality of Middlesex Centre, known municipally as 22806 Komoka Road; 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 owner dedicate lands up to 15 metres from the centreline of County Road 16 (Komoka Road) along the severed parcel to the County of Middlesex, if the road right-of-way is not already to that width;

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3. That the existing dwelling on the retained parcel be renumbered to 22808 Komoka Road;
4. That the owner obtain an entrance permit from the County of Middlesex for the construction of a hard-surfaced driveway on the retained parcel;
5. That the owner construct a hard-surfaced driveway entrance on the retained parcel to the satisfaction of the Municipality of Middlesex Centre;
6. That the Municipality's Director of Public Works and Engineering confirm the availability of sanitary sewage treatment capacity to accommodate the severed parcel;
7. That the owner enter into a Severance Agreement with the Municipality, and that the Agreement be registered on title of the subject lands, which addresses among other matters, entrance locations and construction, lot grading and drainage, building envelopes and connections to the Municipal water supply and sanitary sewer systems, all to the satisfaction of the Municipality;
8. That the applicant submit an engineering design plan, indicating how the severed lot is to be serviced, to the Municipality for review and acceptance;
9. Upon conditions 6, 7 and 8 of Consent B-9/10 being satisfied, the applicant shall install water and wastewater service connections to the severed lot and that these connections be installed to the satisfaction of the Municipality's Public Works and Engineering Department;
10. That Minor Variance A-8/10 be approved and in full force and effect;
11. That the applicant pay a \$1,000 cash-in-lieu of parkland dedication to the Municipality.

Reasons:

The Committee stated that the consent is in conformity with the Middlesex Centre Official Plan. 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 would meet the regulations of the Middlesex Centre Comprehensive Zoning By-law, subject to approval of Minor Variance A-8/10.

The Committee further noted that the subject application does not require a Plan of Subdivision and represents infilling within the village of Komoka. It was also noted by the Committee that the application satisfies the 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.

For the above-mentioned reasons, the Application for Consent was granted.

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Moved by Ken Nixon  
Seconded by Stephen Harvey

**THAT application A-8/10, filed by Romano Pulzoni in Trust for relief from Sections 7.3.3 (b) and 7.3.3 (c) of the Comprehensive Zoning By-law 2005-005 for both the severed and retained parcels of Consent Application B-9/10, which require a minimum lot frontage and lot area of 24 metres and 930 square metres, respectively; and relief from Section 7.3.3 (e) (i) of the Comprehensive Zoning By-law 2005-005 for the retained parcel of Consent Application B-9/10, which requires minimum interior side yard setbacks of 3 metres; whereas the applicant is proposing minimum lot frontages of approximately 19.991 metres and lot areas of approximately 811 square metres for both the severed and retained parcels of Consent Application B-9/10 and a minimum southerly interior side yard setback of approximately 2.4 metres for the retained parcel of Consent Application B-9/10; for a property described as Part of Lots 16, 17 and 18, Plan 113 and more specifically as Part 1, Reference Plan 33R-17039, (geographic Township of Lobo), Municipality of Middlesex Centre, known municipally as 22806 Komoka Road; 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 there were valid reasons why the Zoning By-law requirement cannot be met.

APPLICATION B-10/10 – 1571145 Ontario Ltd., Zelinka Priamo (Agent), Part of Lot 4, Concession 1, Part 3, Reference Plan 33R-16578, (geographic Township of Lobo), Municipality of Middlesex Centre

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Chair Rows read the purpose and effect of the subject application, which is to sever a 0.78 hectare (1.93 ac) commercial lot from an existing 1.57 hectare (3.88 ac) commercial property. The applicant is also proposing to establish a servicing easement along the entire frontage of the lot proposed to be retained. The proposed servicing easement would have a width of 6 metres (19.69 ft) and is being requested in order to facilitate the servicing of the lot proposed to be severed and the residential lands located to the west of the subject property. The proposed servicing easement is being requested on the retained parcel and would be in favour of the severed parcel and the residential lands located west of the subject property. In addition, a Reciprocal Operating Agreement (ROA) is being proposed on the entire subject lands in order to accommodate vehicular and pedestrian access between the parcels proposed to be severed and retained as well as the shared use of the parking areas that would be associated with each individual site.

Michelle Doornbosch and Greg Priamo of Zelinka Priamo were in attendance to speak to the application.

Mr. Puzanov read correspondence from the County of Middlesex, the Upper Thames River Conservation Authority, the Municipal Public Works and Engineering Department, the

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Municipal Building Division and Darryl and Patricia Newbigging of 22372 Komoka Road.

Mr. Puzanov indicated that planning and engineering staff met with the developer on June 22, 2010, to discuss servicing of the subject property. He added that there were two servicing methods discussed: the first method was one through which the Municipality would assume the infrastructure corridor that is being proposed within the easement, subject to granting of the severance and completion of the site plan approval process for the parcel proposed to be severed; the second method is the requested easement: a single-service connection from Glendon Drive that would service both the parcels proposed to be severed and retained as well as the applicant's residential lands to the west.

Mr. Puzanov stated that engineering staff indicated that they do not support the applicant's proposal to service the lands using non-standard servicing connections that would be located on what currently is the subject property. It was also noted that the applicant had not submitted any engineering documentation or evidence to support the non-standard location for services or the requested easement. Mr. Puzanov stated that engineering staff oppose servicing the subject lands via the proposed easement, and added that services should be extended within the Glendon Drive road allowance with separate service connections required for each property. It was also noted that cost-savings for the developer is not an acceptable reason for the proposed single connection from Glendon Drive.

Mr. Puzanov indicated that Municipal planning and engineering staff are of the opinion that the proposed servicing solutions for the commercial development would not be efficient or cost effective for the Municipality. Furthermore, the servicing proposal does not adhere to the Municipality's servicing standards and would not locate sanitary sewer and water services in a location that would maximize maintenance efficiency.

Mr. Puzanov concluded that staff is prepared to recommend that the proposed lot creation and ROA be approved, subject to the conditions noted in the staff report. He added that in the opinion of staff, the requested easement should not be granted as the Municipality does not support single service connections to multiple properties as it is contrary to the Municipality's engineering design standards and is not consistent with the PPS. Mr. Puzanov stated that should the Committee decide to approve the proposed lot creation, servicing of both the lots proposed to be severed and retained can be adequately addressed via the site plan approval process that is required for all commercial developments throughout the Municipality.

Mr. Puzanov recommended that the Committee of Adjustment amend the application in respect of the following:

**The requested sanitary sewer and water easement be removed from Application for Consent B-10/10.**

Michelle Doornbosch indicated that the developer's engineering consultant had submitted engineering evidence earlier in the day to support both the non-standard location for services and the requested easement.

Mr. Puzanov indicated that he was not aware of the receipt of any such documents and that the Municipality would need sufficient time to review and evaluate the engineering evidence.

Sharon McMillan asked the applicant's agents about why they have not opted to defer the easement portion of the application.

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Greg Priamo indicated that their client wants to sell the property and that creating the easement is vital to the sale of the lands. Mr. Priamo stated that the proposed easement would only create a part on a reference plan and that services would not be placed within the easement until an approval is obtained from the Municipality's Public Works and Engineering Department.

Mr. Puzanov indicated that the proposal was in fact for the creation of a servicing easement, as indicated in the application submitted by the proponent. He added that its approval was premature because the applicant had not submitted any engineering justification to support his request. Mr. Puzanov stated that granting the easement in the proposed location without proper justification would not represent proper land use planning and would be contrary to the interests of the Municipality and the public.

Greg Priamo indicated that he was of the opinion that the proposed easement would not offend the public interest and that the easement may in fact not be necessary if the Municipality's Public Works and Engineering Department does not accept the evidence that was submitted by the developer's engineering consultant earlier in the day.

Mr. Puzanov stated that because the easement may not even be necessary, as indicated by Mr. Priamo, it is certainly premature at this time. He added that he does not support the creation of easements based on speculation and would require proper justification before he would support the proposed easement.

Mr. Puzanov stated that under the Planning Act, Municipal consent is not required for easements that are less than 21 years in duration and recommended that the applicant proceed via this route if he needed to establish an easement prior to finalizing the sale. He noted that prior to recommending that Municipal consent be given to the proposed easement, staff would need supporting documentation that justifies its location and use for servicing the subject lands and the residential lands to the west.

Mr. Priamo indicated that his client wanted to establish a permanent easement before finalizing the sale of his property and reiterated that an easement may not even be necessary if a different method for servicing the subject lands is determined to be appropriate by the Municipality.

Ian Nielsen indicated that he thought that the easement was premature and suggested that it be deferred. Ken Nixon asked Mr. Priamo whether a deferral would be acceptable.

Mr. Priamo stated that deferral is not the ideal option for the developer but may be acceptable. He maintained that in his opinion, the proposed easement would not offend the public interest.

Mr. Puzanov indicated that he did not oppose deferring the request for an easement. After reviewing the Planning Act, Mr. Puzanov explained that it was his understanding that the Committee has the authority to defer the entire Consent Application but would be unable to defer only the easement portion of the application.

Stephen Harvey indicated that he did not object to the easement because the Municipality's Public Works and Engineering Department would make the final determination regarding the location of services. Ken Nixon concurred with Stephen Harvey.

Mark Roby of 9918 Glendon Drive was also in attendance to speak to the application. Mr. Roby indicated that he was concerned about the noise levels in the area and would like to see his lot rezoned to a commercial zoning classification if the proposed development is to occur on the subject lands. Sharon McMillan indicated that the Committee does not have any authority to pass zoning by-law amendments. Mr. Puzanov indicated that Mr. Roby's

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property is currently zoned Highway Commercial (C2).

Moved by Stephen Harvey  
Seconded by Ken Nixon

**THAT application B-10/10, filed by 1571145 Ontario Ltd. for consent to sever a commercial lot having a lot frontage of approximately 68.14 metres along Komoka Road (County Road 16), a depth of approximately 98 metres and a lot area of approximately 0.78 hectares, together with a Reciprocal Operating Agreement to be registered in favour of both the severed and retained parcels of Consent Application B-10/10 over both the severed and retained parcels of Consent Application B-10/10 and a servicing easement, approximately 6 metres wide, across the frontage of the retained parcel, in favour of the severed parcel and the abutting residential lot to the west; for a property described as Part of Lot 4, Concession 1, and more specifically as Part 3, Reference Plan 33R-16578, (geographic Township of Lobo), 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 Municipality's Director of Public Works and Engineering confirm the availability of sanitary sewage treatment capacity to accommodate the severed parcel;
3. That the Reciprocal Operating Agreement of Consent Application B-10/10, to be registered against the title of the subject lands, be submitted to the Municipality for approval prior to registration;
4. That the owner dedicate lands up to 18 metres from the centreline of County Road 14 (Glendon Drive) along the severed and retained parcels to the County of Middlesex, if the right-of-way is not already to that width;
5. That the owner dedicate lands up to 15 metres from the centreline of County Road 16 (Komoka Road) along the severed parcel to the County of Middlesex, if the right-of-way is not already to that width;
6. That the owner dedicate a 0.3 metre reserve across the frontage of the severed parcel along County Road 14 (Glendon Drive) to the County of Middlesex;
7. That the applicant pay a \$1,200 cash-in-lieu of parkland dedication to the Municipality.

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Reasons:

The Committee stated that the consent is in conformity with the Middlesex Centre Official Plan. 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 would meet the regulations of the Middlesex Centre Comprehensive Zoning By-law, subject to a road widening dedication to the County of Middlesex along Glendon Drive (County Road 14).

The Committee further noted that the subject application does not require a Plan of Subdivision and represents infilling within the village of Komoka. It was also noted by the Committee that the application satisfies the 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.

For the above-mentioned reasons, the Application for Consent was granted.

**NEXT MEETING:**

**Monday, July 26, 2010 at the Middlesex Centre Municipal Offices, 10227 Ilderton Road, Coldstream, at 7:00 p.m.**

**ADJOURNMENT:**

ON MOTION DULY MADE, SECONDED AND CARRIED

IT WAS RESOLVED

THAT this meeting adjourn now at 9:10 p.m.

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Chair

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Secretary