

**THE CORPORATION OF THE TOWNSHIP OF WELLINGTON NORTH
PUBLIC MEETING
OCTOBER 21, 2019 @ 7:00 P.M.
MUNICIPAL OFFICE COUNCIL CHAMBERS, KENILWORTH**

**PAGE
NUMBER**

CALLING TO ORDER - Mayor Lennox

DISCLOSURE OF PECUNIARY INTEREST

OWNERS/APPLICANT

Erla & Marvin Bauman

LOCATION OF THE SUBJECT LAND

The land subject to the proposed amendment is described as Part Lot 18, Concession 10, and is Municipally known as 8949 Concession 11, Registered Plan No. 61R-9990, Part 2, Geographic Township of Arthur. The property is approximately 37.37 ha (92.34 ac) in size. *The location is shown on the map attached.*

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PURPOSE AND EFFECT OF THE APPLICATION

The purpose and effect of the proposed amendment is to rezone the subject lands to permit a dog kennel. The lands are currently zoned Agricultural (A) and are occupied by a single dwelling, barn and sheds. The applicants are proposing to remove two existing sheds and construct a new 197.3 m² (2124 ft²) accessory structure for the dog kennel. Additional relief may be considered at this meeting.

NOTICE

Notices were mailed to property owners within 120 m of the subject property as well as the applicable agencies and posted on the subject property on September 30th, 2019.

PRESENTATIONS

- Michelle Innocente, Senior Planner, County of Wellington, Township of Wellington North
 - Planning Report dated October 15, 2019

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CORRESPONDENCE FOR COUNCIL'S REVIEW

- Terence Rothwell
 - Letter dated October 15, 2019 (Objection)
- Terence Rothwell
 - Letter dated June 2, 2018 (Objection)

10

12

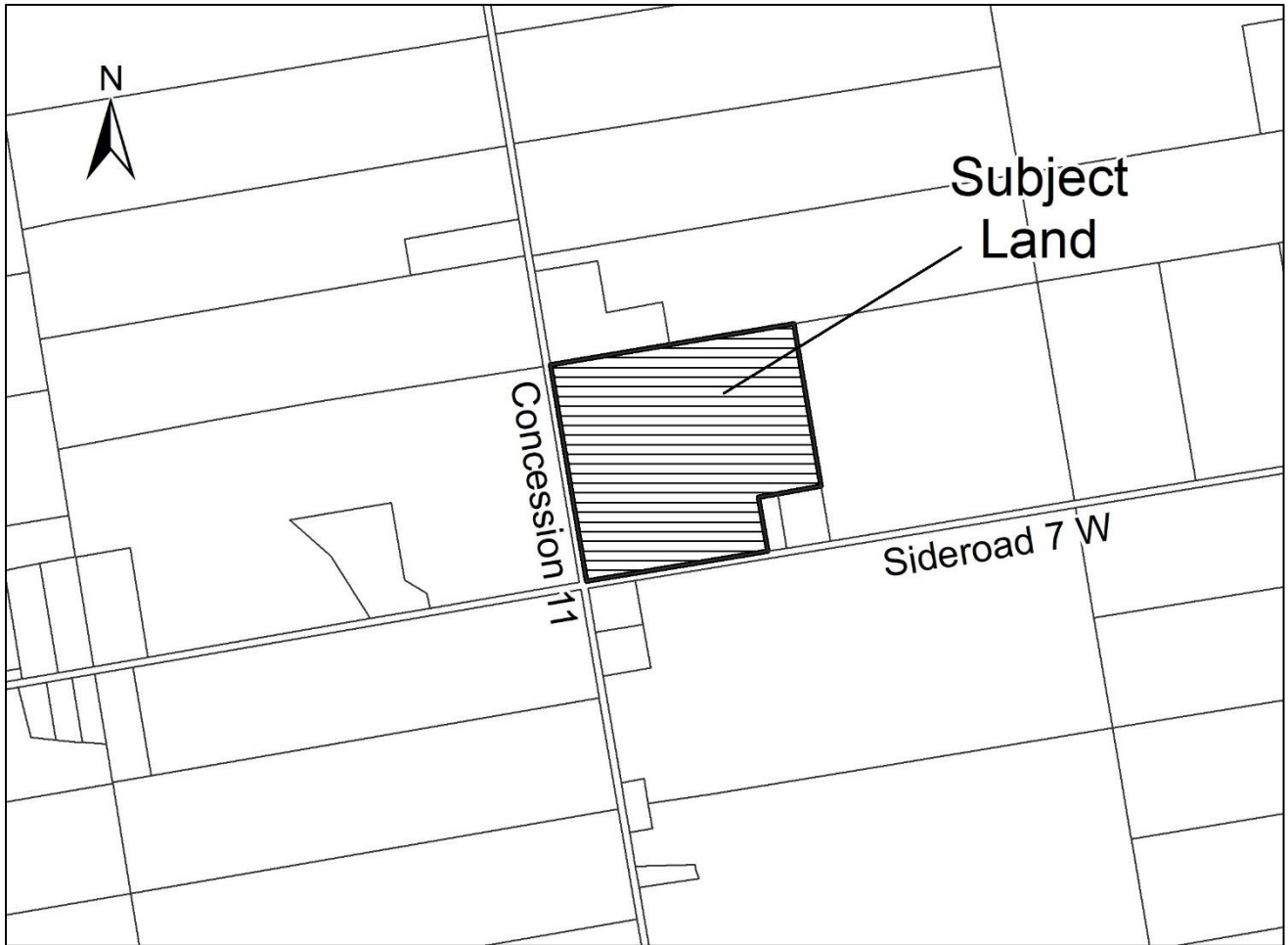
REQUEST FOR NOTICE OF DECISION

The by-law will be considered at the regular council meeting following the public meeting. Persons wishing notice of the passing of the by-law must submit a written request.

MAYOR OPENS FLOOR FOR ANY COMMENTS/QUESTIONS

COMMENTS/QUESTIONS FROM COUNCIL

ADJOURNMENT





PLANNING REPORT

for the TOWNSHIP OF WELLINGTON NORTH

Prepared by the County of Wellington Planning and Development Department

DATE: October 15, 2019
TO: Mike Givens, C.A.O.
Township of Wellington North
FROM: Michelle Innocente, Senior Planner
County of Wellington
SUBJECT: **Erla & Marvin Bauman**
8949 Concession 11
Part Lot 18, Concession 10
Zoning By-law Amendment – Dog Kennel

Planning Opinion This zone amendment will rezone the property to permit a dog kennel to operate on a site specific basis on the subject lands. This amendment is required as the current by-law restricts the use in all zones unless specifically permitted by an amendment. The amendment is also required to comply with the Kennel Licencing process outlined in the Township’s Kennel License By-law.

Planning Staff generally have no concerns with the rezoning application to permit a kennel on the property. Under the Township Kennel Licensing By-law, the applicant will have to submit a detailed site plan showing how outdoor access will be provided to the dogs to the satisfaction of the Township.

BACKGROUND

In 2018, the applicants submitted a zoning by-law amendment application to permit a dog kennel on the second floor of an existing bank barn on the subject lands. Council denied the application.

The applicants are proposing a new building for a kennel in this current application.

INTRODUCTION

The property subject to the proposed amendment is described as Part Lot 18, Concession 10, Geographic Township of Arthur, with a civic address of 8949 Concession 11 and is approximately 37.37 ha (92.34 ac) in size.

PROPOSAL

The purpose of the application is to rezone the subject lands to permit the operation of a dog kennel within a new 197 m² (2,124 ft²) accessory structure. The applicant has indicated that they are proposing to remove two existing sheds in order to locate the new structure in that location (See Appendix A). The property is currently occupied by a dwelling, barn and accessory buildings.

PROVINCIAL POLICY STATEMENT (PPS)

The subject property is located within a PRIME AGRICULTURAL area. Section 2.3.3.1 of the PPS states “In prime agricultural areas, permitted uses and activities are: agricultural uses, agriculture-related uses and on-farm diversified uses”.

“Proposed agriculture-related and on-farm diversified uses shall be compatible with, and shall not hinder surrounding agricultural operations. Criteria for these uses may be based on guidelines developed by the Province or municipal approaches, as set out in municipal planning documents, which achieve the same objective.”

GROWTH PLAN

The Growth Plan for the Greater Golden Horseshoe (GGH) provides growth management policy direction for the GGH, which includes Wellington County. All planning decisions are required to conform to the applicable policies and provisions of the Growth Plan. We are satisfied that the policies in the Growth Plan have been met and the proposed development generally conforms to the Growth Plan.

WELLINGTON COUNTY OFFICIAL PLAN

The subject lands are designated PRIME AGRICULTURAL, CORE GREENLANDS and GREENLANDS within the County Official Plan. Identified features include wetlands, provincially significant wetlands and significant wooded area. Kennels are considered a permitted use within the Prime Agricultural area under Section 6.4.3 of the Plan. The location of the proposed kennel is well removed from the Core Greenland and Greenland features on the property.

ZONING BY-LAW

The subject lands are zoned Agricultural (A). Section 6.5 of the by-law states:

“...a kennel is a restricted use in all zones within the Township of Wellington North. Kennels are prohibited uses unless specifically permitted by an amendment to this By-law. Where specifically permitted by an amendment to this By-law, no land, building or structure shall be used for a kennel, unless the land, building and structure is in compliance with the approved By-Law to regulate and provide for the keeping, control and licensing of dogs within the Township of Wellington North.”

An amendment to the zoning by-law is required to permit a kennel on the subject property.

KENNEL LICENSING

The Township has recently updated the Kennel Licensing By-law (046-17), being a By-law to regulate and provide for the keeping, control and licensing of dogs within the Township of Wellington North. This by-law sets out a number of requirements and standards for kennel operations. Operators must apply for and obtain a license from the Township.

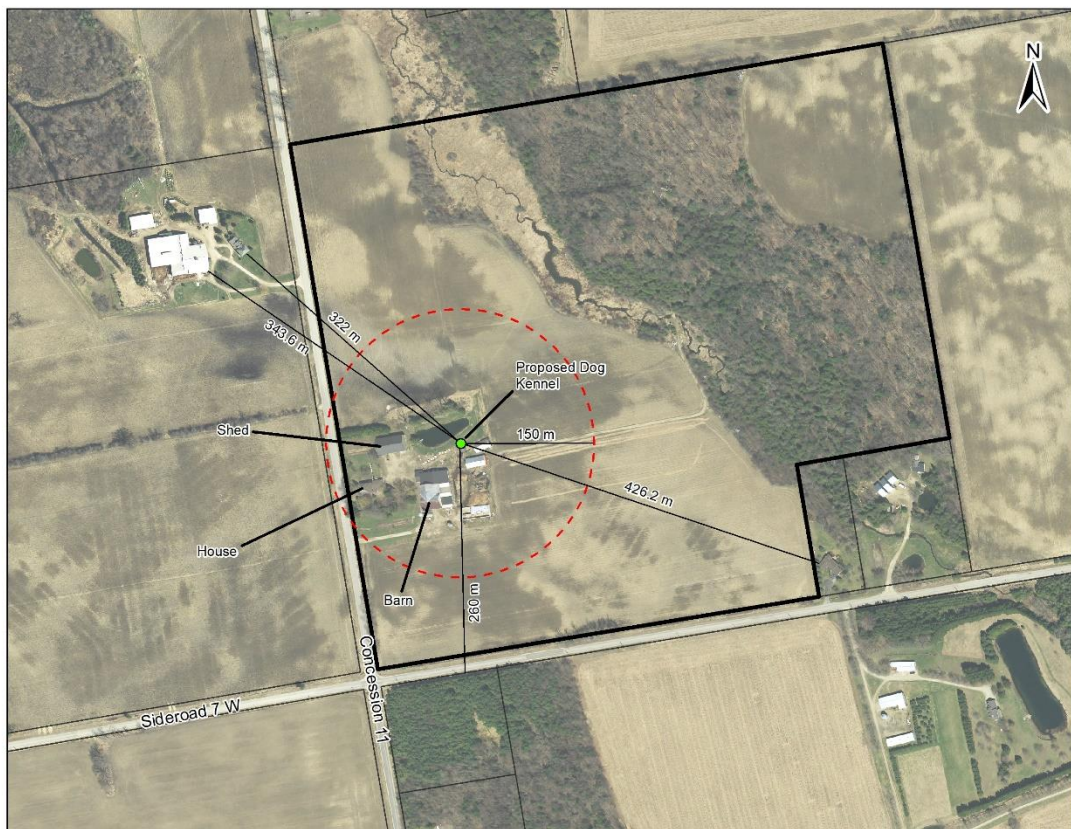
Under the Kennel Licensing By-law, a kennel may only be permitted on a property that is within an Agricultural zone and has a minimum lot area of 25 acres. The proposed kennel appears to meet the minimum eligibility requirements set out in the kennel by-law as the applicant’s property is located

within the agricultural area (zoned Agricultural (A)) and the property is 92.34 acres in size.

The applicants have indicated that the kennel will be located within a new 197 m² accessory building. Section 2.9.7 of the Kennel Licensing By-law requires that *“access to a fenced area to the outside that permits the animals to access the outside area and return to the inside area on its own accord” be provided.* The sketch provided by the applicant indicates a proposed location for the dog run.

Finally, Section 2.19 of the Kennel Licensing By-law outlines that a kennel shall not be located less than 150 m (492 ft) of any adjacent house or livestock barn. The proposed kennel is to be located approximately 322 m (1,056 ft) from the closest neighbours dwelling and 343 m (1,125 ft) from the closest barn housing livestock and 260 m (853 ft) from the closest vacant lot. Figure 1 below shows the proposed location of the kennel on the subject property and approximate setbacks to the abutting uses.

Figure 1: Air Photo Showing Setbacks



Source: County of Wellington, 2015

PLANNING CONSIDERATIONS

Compatibility

The subject property is located on a farm and is surrounded by agricultural uses. The farm parcel located at 8970 Concession 11 across from the subject lands contains a dwelling that is approximately 322 m from the proposed kennel and a barn that is approximately 343 m from the proposed kennel. The rural residential parcel located at 7038 Sideroad 7 W contains a dwelling that

is approximately 426 m from the proposed kennel. The vacant lot located at 8935 Concession 11 is approximately 260 m from the proposed kennel. Section 2.26 of By-law 046-17 (Township Operation and Licensing of Kennel By-law) states the following with respect to setbacks:

No person shall own or operate a kennel or facility or structure used in connection with the kennel and established before the passage of this bylaw, located less than 150 metres (492 feet) of any adjacent property owners habitable building or buildings for the keeping of livestock.

The setbacks exceed the minimum 150 metres required by By-law 046-17.

The applicant is proposing that the kennel house a maximum of 25 dogs. The applicant will be required to provide a detailed site plan as part of the kennel license application. This site plan will need to include an outdoor fenced area for the animals to access on their own accord.

Draft Zoning By-law

A draft zoning by-law amendment has been attached to this report for public review and Council's consideration which introduces a site specific exception permitting a kennel on the subject lands.

Respectfully submitted
County of Wellington Planning and Development Department



Michelle Innocente, RPP
Senior Planner

**THE CORPORATION OF THE TOWNSHIP OF WELLINGTON NORTH
BY-LAW NUMBER _____.**

**BEING A BY-LAW TO AMEND ZONING BY-LAW NUMBER 66-01
BEING THE ZONING BY-LAW FOR THE TOWNSHIP OF WELLINGTON NORTH**

WHEREAS, the Council of the Corporation of the Township of Wellington North deems it necessary to amend By-law Number 66-01; as amended pursuant to Section 34 of The Planning Act, R.S.O. 1990, as amended.

NOW THEREFORE the Council of the Corporation of the Township of Wellington North enacts as follows:

1. THAT Schedule "A" Map 1 to By-law 66-01 is amended by changing the zoning on lands described as Part Lot 18, Concession 10 in the Geographic Township of Arthur as shown on Schedule "A" attached to and forming part of this By-law from:
 - **Agricultural (A) to Agricultural Exception (A-91)**

2. THAT Section 33, Exception Zone 3 – Rural Areas, is amended by the inclusion of the following new exception:

33.91 Part Lot 18, Con 10 8949 Concession 11	A-91	Notwithstanding any other section of this by-law to the contrary, a Kennel may be permitted in addition to the uses permitted under the Agriculture (A) Zone, and shall operate in accordance with the regulations set out in the Townships Dog Licencing By-law, as amended;
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4. THAT except as amended by this By-law, the land as shown on the attached Schedule 'A' shall be subject to all applicable regulations of Zoning By-law 66-01, as amended.
5. THAT this By-law shall come into effect upon the final passing thereof pursuant to Section 34(21) and Section 34(22) of The Planning Act, R.S.O., 1990, as amended, or where applicable, pursuant to Sections 34 (30) and (31) of the Planning Act, R.S.O., 1990, as amended.

READ A FIRST AND SECOND TIME THIS _____ DAY OF _____, 2019

READ A THIRD TIME AND PASSED THIS _____ DAY OF _____, 2019

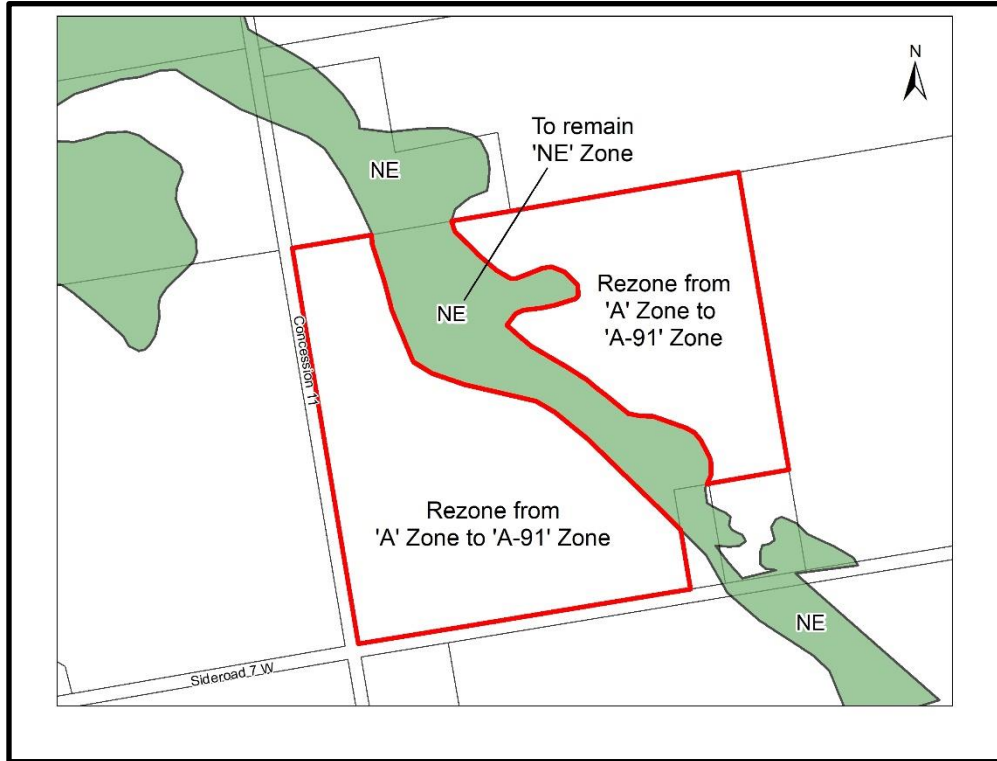
MAYOR

CLERK

THE TOWNSHIP OF WELLINGTON NORTH

BY-LAW NO _____.

Schedule "A"



Rezone from Agricultural (A) to Agricultural Exception (A-91)

Passed this ___ day of _____ 2019.

_____.

MAYOR

_____.

CLERK

EXPLANATORY NOTE

BY-LAW NUMBER _____.

THE LOCATION being rezoned is Part Lot 18, Concession 10, Geographic Township of Arthur, with a civic address of 8949 Concession 11. The lands subject to the amendment is 37.37 ha (92.34 ac) in size and is currently zoned Agriculture (A).

THE PURPOSE AND EFFECT of the amendment is to rezone the subject lands to permit a Dog Kennel to operate on the subject lands.

Ms. Karren Wallace,
Director of Legislative Service/Clerk
Township of Wellington North
519-848-3620 ex 27

10/15/2019

**Re: Amendment to Comprehensive Zoning By-Law 66-01
(Establishment of Puppy Production Facility - Lot 18, Conc. 10, Wellington North Township)**

Dear Ms. Wallace:

I am writing with respect to the application to establish a commercial puppy production facility on Lot 18, Conc. 10 Geographic Township of Arthur. You will recall that I submitted a brief written summary of my concerns to Council on June 2, 2018 relating to an earlier attempt to situate the production center in an existing bank barn. The concerns are the same today, regardless of where the operation is located within the cluster of buildings on the farm.

In the interests of conserving Council's time I am requesting that my original submission to Council be included with the upcoming agenda, along with the additional summarized points that appear below. Although - apart from the sentence which follows immediately below - I am not copying the contents of my previous letter into this current communication, this should not be misconstrued by the proponents as weariness on my part or a relenting of my strong objection and opposition to this proposition. In my view and in the view of at least two other adjoining property owners this facility is not in keeping with our community's best interests and it will have a detrimental effect on our lives.

I want to be a good neighbor. I hope that the applicant has the same intention.

On at least 3 occasions over the past two decades neighboring members of the applicants' community have sought to make changes to their properties and farm operations that would affect my property. In each previous case, these good neighbors have contacted and met with me and my family to go over their ideas and plans, to discuss and determine how we could accommodate each other and reach a final design that would work for everyone, and which would not diminish my use or enjoyment of property. In each case we found common ground. In one case it was possible to arrange, by way of mutual concessions and a straightforward indemnification, a minor variance agreement that in fact provided for *more* relief from the Bylaw than the applicant originally thought was feasible, principally because *there were no associated adverse effects on me or my family.*

There was no such pre-application conversation with this application – either now or prior to the June 2018 application. At the very least this demonstrates a lack of due regard, or even disrespect, for one's neighbors. Perhaps worse than this is the thought that because a technical argument, however spurious, could be made for this production facility, the applicant may be misusing our community's Kennel and Zoning Bylaws as a cudgel to force those opposed into submission.

The letter sent to Council on June 2, 2018 outlined the situation with respect to farm economics, specifically the need for many farmers to seek off-farm or non-agricultural income to subsidize a cheap food economy and prop up farms that are minimally (operationally) profitable in real accounting or financial terms.

Some farmers are desperate, and it's important to understand how tempting and correspondingly lucrative/profitable these puppy units are. I encourage Councilors to do a quick calculation. According to a published report, "U.S. Department of Agriculture (USDA) documents show that one (producer) sold 1,293 puppies last year for an estimated \$290,000 though federal inspectors have cited his farm for numerous violations since 1992 including overcrowded cages and inadequate sanitation, pest control, feeding and watering of animals."

As a civil society, are we prepared to enter this profiteering domain in the interests of cheap food?

One puzzling aspect of this application is the question of the amendment itself. The amendment would basically leave the property zoned as Agricultural. However, discussions with MPAC indicate that, if the application were to be accepted, it (the property) would be taxed as a Commercial property. Does this then mean that the applicant's (significantly discounted) farm property tax rate would be discontinued? Also, would it not be more correct to seek a re-zoning application that accurately describes what the property use would be, i.e., Commercial?

The Provincial Policy Statement PPS advises that "permitted uses" include "on-farm diversified uses". It also stipulates that "Proposed ... on-farm diversified uses shall be compatible with, and shall not hinder surrounding agricultural operations." To those who have no concerns with this application I would say: You try getting up at 5:30 in the morning in June and operating an air-blast sprayer in an apple orchard after being kept up most of the night by barking dogs. If that isn't a hindrance to safe agricultural operations, then I don't know what is.

As I outlined in my June 2, 2018 letter, I ask that my concerns be given fair consideration, by both Council and the applicant, with whom, as I said at the outset, I want to continue to be a good neighbor to.

I thank Council and Staff for their time and diligence.

Respectfully submitted

Terence Rothwell, P.Eng.,
8927 Farewell Road
Lot 19, Conc. 10
Geographic Township of Arthur

Ms. Karren Wallace,
Director of Legislative Service/Clerk
Township of Wellington North
519-848-3620 ex 27

6/2/2018

Re: Amendment to Comprehensive Zoning By-Law 66-01

Dear Ms. Wallace:

In connection with the application to operate a dog kennel on Lot 18, Conc. 10 Geographic Township of Arthur I am submitting to Council the following points:

1. I want to be a good neighbor. I hope that the applicant has the same intention.
2. In the time available I have reviewed, as I am able, the background information concerning the application. In the planning report the closest house to the proposed kennel is shown to be 340m distant. The distance to the property to the south of the site is shown as 190m. My property is 122m south of that line, meaning that I am about 315m away and well within audible range of barking dogs, as I have experienced for the past number of years.
3. It should be evident to Council and the applicant that the proposed kennel will impair my enjoyment of my property. There is little more disturbing or distracting than the incessant barking of a number of dogs at any time of day or night. From this perspective I am opposed to the application.
4. Notwithstanding my personal disagreement with the proposition, as a fellow farmer I can fully sympathize with the applicant's attempt to garner some kind of income in an industry whose margins are euphemistically described in the popular agricultural press as "thin." The returns farmers receive on their capital and labor bear no relationship to commodity, land and quota prices. Many farmers work off the farm in order to subsidize their operations – and by extension those who consume the food they produce. Other farmers resort to desperate (non-agricultural) diversifications of the type being proposed here. From this perspective, I understand the reason for the application; however, who will ultimately pay the price for this non-conforming, *non-agricultural* source of revenue?
5. As farmers, we face an ever-increasing array of zoning regulations and restrictions related to what we are allowed to do on our farms to earn a living. While local economic development efforts encourage things such as value-added diversification, the province is actually in the process of designating enterprises that add value to our crops and livestock as "non-agricultural occupancies." I sympathize with any municipal Council caught up in this internal government conflict, one which invites all manner of *ad hoc* go-arounds and exemptions as farmers struggle for financial viability. Our Township has spent a significant amount of our tax dollars developing official plans and zoning by-laws. Now we are spending more time debating whether we should deviate from the by-law by means of amendment.
6. I personally have little difficulty with the many furniture shops, bakeries, dry goods stores, nurseries and tractor/automotive parts and repair shops in our community that generate badly needed income to keep farms going. These are comparatively unobtrusive and tend not to generate conflict within the community. However, the same definitely cannot be said for kennels.
7. The past experience of my family with agencies such as local Humane Societies and Humane Society International tells us that there are far too many dogs and cats for which homes cannot be found, and euthanizing these unfortunate animals is a significant cost, as is finding homes for the lucky ones. In some instances it is necessary to put animals down in groups. (Dogs are much more difficult to find homes for than kittens according to people in the industry). The explanation is given that there is simply no more room, and that the animals that are euthanized are the ones that are not "desirable" or wanted by anyone. If we are presently spending our money destroying animals that are deemed surplus, what rational – or at least moral – argument is there for breeding even more animals?
8. As Mr. Rauwerda, the Township's Animal Control Officer has advised Council, there is a Code of Practice for Canadian Kennel Operations that has been prepared by the Canadian Veterinary Medical Association.

I have been in contact with the Canadian Kennel Club, and was able to obtain the 2018 pdf of the Code and I am enclosing it with this correspondence. I would ask every Councilor and the planners to carefully review this comprehensive document and ask themselves if they are prepared to ensure that the applicant will, as Rick Rauwerda has stipulated follow *all* of the requirements for construction **and operation** set out in the Code of Practice. In particular, I would encourage Councilors to refer to page 55 of the Code which instructs that euthanasia is not to be used as a means of population control for healthy rehomingable dogs.

9. Is Council ready to make a decision on this proposal when, according to the information I have, no building or site plans exist and there is *no demonstration of compliance with even the construction requirements of the CVMA Code of Practice*?
10. My final point that I offer for Council's consideration is this: Are there mechanisms such as semi-annual, third-party, veterinary compliance certification agreements that Council can order to be put in place as a condition of approval, and reports for which would be provided to the Animal Control Officer *and* password-accessible by the citizenry on the Township's website that would firstly assure citizens that the facility is operating in conformance with the CVMA Code, and which secondly demonstrate that Council has done its due diligence in respect to animal health and welfare? This is a *minimum* level condition that many would deem reasonable for Council to expect, as such protocols are used extensively in quality assurance, biosecurity and safety programs such as the one provided by the Electrical Safety Authority. The cost for these programs is of course borne by the operator and not the municipality or Province. Absent any tangible and continuous verification of full compliance with the CVMA Code as well as fulfilling the requirements set out by Mr. Rauwerda, I would have great difficulty understanding how Council could in conscience even table this matter for discussion.

In closing, it's not up to the citizenry to make a decision on this application. I went through the 214-page comprehensive by-law as best I could. The zoning by-law understandably doesn't dwell on economics, i.e., it gives us a list of things you can do – but it doesn't say whether these things necessarily make any economic sense or are in the best interests of the community. As a result, the question I kept coming up against was, given all the time and money used to create our by-law, how useful is it if it becomes necessary to repeatedly go around/amend it as farmers grasp at non-agricultural enterprises to keep their farms going? What price must be paid for that? Does one neighbor profit at the expense of another neighbor's well-being and enjoyment of property? These are the difficult questions Council faces.

My only request is that my concerns be given fair consideration, by both Council and the applicant, with whom, as I said at the outset, I want to continue to be a good neighbor to.

Respectfully submitted

Terence Rothwell, P.Eng.,
8927 Farewell Road
Lot 19, Conc. 10
Geographic Township of Arthur