

TOWNSHIP OF WELLINGTON NORTH

PUBLIC MEETING - MINUTES

Monday, January 13, 2014

The Public Meeting was held Monday, January 13, 2014 at 7:00 p.m. at the Township of Wellington North Council Chambers, Kenilworth to consider two Zoning Amendment applications.

Present:

Mayor: Raymond Tout
Councillors: Sherry Burke
Mark Goetz
Andy Lennox
Dan Yake

Also Present:

C.A.O./Clerk: Michael Givens
Deputy Clerk: Catherine More
Executive Assistant: Cathy Conrad
Township Planner: Mark Van Patter
Director of Public Works: Deb Zehr
Fire Chief: Jeff Dahms

Mayor Tout called the meeting to order.

Declaration of Pecuniary Interest:

None declared.

Owner/Applicant: Roger and Antonia Villeneuve

Location of the Subject Land

The property subject to the proposed amendment is described as Lot 9, Concession 10, Geographic Township of West Luther, with a civic address of 8397 Line 10. The property is 0.5 hectares (1.25 acres) in size.

The Purpose and Effect of the Application

The Purpose and Effect of the amendment is to amend the zoning of the property to permit an auto body repair and paint shop use on the subject lands. The property is currently designated Prime Agricultural in the Official Plan. The zoning amendment may also address site specific regulations for the proposed use such as appropriate yard setbacks.

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Please note – Section 34 (12) of the Planning Act.

Information – At a meeting under subsection (12), the Council shall ensure that information is made available to the public regarding the power of the Municipal Board under subsection (14.1) to dismiss an appeal if an appellant has not provided the Council with oral submissions at a public meeting or written submissions before a By-law is passed.

1. Notice for this public meeting was sent to property owners within 120 m and required agencies and posted on the property on December 12, 2013.

2. Presentation by:

Mark Van Patter, Senior Planner, reviewed his comments dated January 9, 2014.

Contrary to the zoning by-law, Mr. Villeneuve has been operating an autobody and auto repair shop, fixing up older muscle cars and antique cars. He has applied for this rezoning to permit the same use. Mr. Van Patter's main concern is compatibility with neighbouring dwellings. One neighbour has objected and another neighbour has written a letter of support. The use is similar to a home industry in scale; however, the setbacks to neighbouring dwellings are considerably less than that required by the Home Industry regulations. Mr. Villeneuve should provide additional details on the size and intensity of the operation. Ms. Wooten should provide details on negative impacts she has experienced. I will prepare an amending by-law if Council wishes me to do so.

The property subject to the proposed amendment is described as Lot 9, Concession 10, Geographic Township of West Luther, with a civic address of 8397 Line 10. The property is 0.5 hectares (1.25 acres) in size and is located in Monk. A residential dwelling and garage are present.

The purpose and effect of the proposed amendment is to amend the zoning of the property to permit an auto repair, auto body and paint shop use on the subject lands.

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The application indicates that Mr. Villeneuve has owned the property since 2002 and the current use, “*to refurbish antique , classic and modified street rods*” was started in 2010. The application indicates that the building size is 1,200 square feet; however, it does not specify whether this is the dwelling or the shop. From the air photo, the garage building appears to be approximately 1,300 sq. ft. in size.

Mr. Van Patter spoke with Mr. Villeneuve by phone and he indicated that there are three bays in the garage. He noted that he does not have any employees and that he just focuses on old muscle cars and antique cars and that it’s a relatively small operation.

Township Chief Building Official, Darren Jones, in his letter of October 24, 2013 to Mr. Villeneuve, stated that the autobody shop was not permitted and must cease operation.

The subject property is considered to be within a PRIME AGRICULTURAL area under the Provincial Policy Statement. Within prime agricultural areas, permitted uses include agricultural uses, secondary uses and agriculture-related uses.

Secondary uses “*means uses secondary to the principal use of the property, including but not limited to, home occupations, home industries, and uses that produce value-added agricultural products from the farm operation on the property.*”

Under the General County Policies in the Wellington County Official Plan – Section 4.2, Economic Development - home businesses are encouraged.

“In the Urban System, home businesses will be small in size and normally restricted to the occupants of the property. These uses will be oriented towards providing services rather than retail functions. Compatibility with surrounding residential development is a primary consideration.”

“In the Rural System, home businesses similar to those allowed in the Urban System are encouraged”. One of the uses that may be considered are “home industries which are small in scale with limited employees, and minimal off site impact”.

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The settlement of Monk is not recognized as a Hamlet in the Wellington County Official Plan, and therefore, is part of the Rural System, not the Urban System. The subject lands are designated PRIME AGRICULTURAL. Section 6.4.4 of the Official Plan states:

“Home businesses are home occupations and home industries that are secondary to the principal use of the property, and may be allowed subject to zoning provisions as a means of supplementing farm incomes and providing services in agricultural areas and may include:”

“Home industries which are small in scale with a limited number of employees, and minimal off-site impacts – examples include minor equipment repair, woodworking, crafts, and welding.”

Mr. Van Patter scaled the zoning map as it applies to the subject property. It appears that the garage is within the Agricultural Commercial (AC) zone and the dwelling is in the Agricultural (A) zone.

Mr. Van Patter suspected that the AC zone was meant to recognize the store use on the lot at the corner and not the subject lands. However, when the new zoning by-law was approved in 2001, this zone was somewhat oversized. The former zoning by-law of the Township of West Luther confirms this; the small corner lot was in the Rural Commercial zone.

In the Wellington North Zoning By-law an “automotive body repair shop” is permitted in the Industrial zone and in the Rural Industrial zone. Neither the Agricultural Commercial zone nor the Agricultural zone permits the autobody use. The use is not permitted in a Prime Agricultural area in either the Provincial Policy Statement or the County Official Plan. Thus, it would be contrary to policy to rezone the property for a “full scale” body shop.

However, as noted above, a secondary “home industry” use can be considered in a Prime Agricultural area, provided it is small scale, does not hinder agriculture and is compatible with the surrounding land uses.

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Section 6.14 of the Wellington North Zoning By-law has regulations for Home Industries. The scale of home industries is controlled by the size of the shop and the number of employees. Section 6.14(d) limits the ground floor area of the shop to 2,000 square feet or less. Section 6.14(e) limits the number of employees to 2 persons or less, that do not reside on site. The autobody shop is approximately 1,200 to 1,300 sq. ft. in size and only employs the owner.

It was Mr. Van Patter understands that the owner specializes in older classic cars and only works on 3 or 4 cars per year. The owner should provide Council more information on the operation and possible noise and odor impacts.

Section 6.14 (b) of the zoning by-law's Home Industry regulations, explicitly prohibits "*autobody repairs, or automobile sales, service and repair...*". This restriction is in the by-law to prevent the outside storage of unlicensed automobiles and parts, and the creation of a nuisance (noise, odors) for neighbours. If Council was satisfied that these matters were not issues in the current case, or that they could be sufficiently mitigated through zoning controls, an small scale autobody shop could be permitted through this rezoning.

Two neighbours with opposing views have provided letters on the proposed rezoning:

- Mr. Bill Balch who lives at the Monk corner, 9276 Wellington Rd 16, has provided a letter in support of the rezoning. He indicates no noise, fumes or junk present. His dwelling is located about 150 feet from the shop (air photo measurement), His November 11 letter was provided as part of the application.
- Ms. Elizabeth Ellen Wooten has provided a letter of objection to the rezoning dated January 1. Her letter is quite detailed and raises the following issues:
 - Compatibility with neighbouring uses
 - Compliance with Ministry of Labour regulations
 - Compliance with Ministry of Environment regulations
 - Conformity with Wellington County Official Plan and Wellington North Zoning By-law.

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Her letter indicates that it was copied to both the Ministry of Labour and the Ministry of Environment.

One important thing that is not noted in her letter is whether she is experiencing negative nuisance impacts from the operation. She should provide Council with information in this regard.

She correctly points out that Wellington North Council could require the applicant to provide a Planning Impact Study prepared by a qualified professional to evaluate the seriousness of impacts (Section 4.6.2 – Official Plan).

In my opinion, Ms. Wooten is correct in stating that compatibility is a primary consideration for this application. Section 6.14 (g) of the Home Industry regulations of the Zoning By-law attempts to ensure compatibility:

“No building or structure used for a home industry shall be located within 22.8 m (74.8 ft.) of a lot line, nor within 121.9 m (400.0 ft.) of a lot line of a vacant lot (less than 4.1 ha (10 ac) in size) or within 121.9 m (400.0 ft.) of a residence on a separate lot ;”

Mr. Van Patter estimated from the air photo put the garage about 10 feet from the side lot line, 100 feet from Wooten dwelling and 150 feet from the Balch dwelling. There is considerable variance between the actual setbacks and what is required in the by-law.

Mr. Van Patter suggested that Council provide adequate time to allow the two Ministries to provide a response to Ms. Wooten’s letter.

3. Review of Correspondence received by the Township:

- Pasquale Costanzo, County of Wellington Engineering Services
 - No objection
- Bill Balch, 9276 Wellington Road 16, Conn
 - Whole heartedly support the application
- Elizabeth Ellen Wootton, 8399 Line 10, Conn
 - Objection

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4. The by-law will not be considered at the Regular Council Meeting following the public meeting. Mayor Tout asked those wishing to receive further notices regarding this application to make their request in writing.

5. Mayor Tout opened the floor for any questions/comments.

The Applicants were present to answer any questions regarding the application.

Mr. Villeneuve explained that the Ministry of Labour visited his location. They prepared a field visit report; which shows issues such as health were discussed but they did feel there were issues needing attention. He is a licenced bodyman and painter. In the beginning refurbishing cars at home was a hobby. When he got laid off his hobby became full time. A couple years ago Ellen Wooten complained about odours so he put in a ventilation system to eliminate odours. His business is registered. It is operated on a small scale working on about 5 cars a years

Bill Balch, neighbour and owner of business of the corner in Monck, stated that he has known the Villeneuve's since they moved in. He is in favour of this type of business but understands there are rules that must be followed. The property is neat and tidy and he has never had a problem with odors. Mr. Balch is in favour of this business.

Gord Trask, neighbour, commented that the Villeneuve property is clean. Mr. Villeneuve doesn't do that many cars; perhaps two or three a year. He has filters and a stack to remove odours to keep the neighbour happy. Mr. Trask thinks this business is a good thing.

6. Comments/questions from Council.

Councillor Lennox asked about the history of the split zoning on the Villeneuve property. Mr. Van Patter explained that in the 1990's the commercial zone was for the corner property where a store is located. When the Zoning By-law was updated the line was moved.

Councillor Goetz asked what the hours of work are. Mr. Villeneuve stated that he works Monday to Friday from 8 am to 4 pm. Some Saturday's he works till noon.

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Mayor Tout asked if the MOL inspector checked the equipment. Mr. Villeneuve stated he had. Waste products, such as paint and thinners, are sent for recycling, not thrown on the property.

Councillor Yake expressed a desire to try to accommodate Mr. Villeneuve. He has done everything that he has been asked to do. This doesn't seem to be an issue of business but more about lot lines. Councillor Yake would like to find a way to resolve issues. There is not a lot of room in Monck and we should try to come up with a way to help. Council does this all the time. Sometimes it is a small change and sometimes a large change. This would be considered a large change.

Mr. Villeneuve explained that prior to this they never had a problem with their neighbour. They helped her by blowing snow, cleaning out eaves troughs and cleaning windows. She was invited to their home for barbeques and parties. Then one day she changed. When this happened he contacted his real estate agent and asked if there was a location available where he could have his business. The agent replied that he didn't think there was another location available.

Mayor Tout agreed with Councillor Yake about working under the home industries. There has to be a way to work with it as it is only a small operation. If it was three to five cars a week it would be different.

Mr. Van Patter asked if there are noise impacts that she would be hearing. Mr. Villeneuve stated that there might be hammering for ten to fifteen minutes. She wouldn't hear the compressor. She has never mentioned noise.

Mr. Trask asked where the application goes from here.

Mayor Tout explained that it will come back to Council when more information is received.

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Owner/Applicant: Thomas and Wanda Smith

The location of the subject land is described as Part Lot 10, Concession 5, Geographic Township of West Luther, with a civic address of 8803 Wellington Road 16. The property is 41.9 hectares (103.5 acres) in size.

The purpose and effect of the amendment is to rezone the subject lands to restrict any future residential development on the agricultural, “retained” portion of the property. Additionally, relief from the zoning by-law’s regulations pertaining to maximum floor area for accessory buildings on the severed portion is required. This rezoning is a condition of severance application B125/13 under the surplus farm dwelling policies that were granted provisional approval by the Wellington County Land Division Committee December 5th, 2013.

Please note – Section 34 (12) of the Planning Act.

(12) Information. – At a meeting under subsection (12), the council shall ensure that information is made available to the public regarding the power of the Municipal Board under subsection (14.1) to dismiss an appeal if an appellant has not provided the council with oral submissions at a public meeting or written submissions before a By-law is passed.

7. Notice for this public meeting was sent to property owners within 120 m and required agencies and posted on the property on December 12, 2013.

8. Presentations by:

Mark Van Patter, Senior Planner, reviewed his comments dated January 8, 2014.

The zoning amendment is required as a condition of provisional consent (B125/13) by the Wellington County Land Division Committee. The Planning Department had no objections to implementing this decision. Both the Provincial Policy Statement and County Plan provide for surplus farm dwelling severances, provided the agricultural lands (the retained parcel) are rezoned to prohibit future residential dwellings. The intention of this policy is to allow farmers to reduce their costs of acquiring additional farm parcels where the impact on existing and future farm operations can be kept to a minimum.

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Additional zoning relief is also required for the severed parcel's existing accessory buildings. The applicant would like to retain four buildings which have a combined ground floor area of 2,314 ft², for personal use, whereas 1,800 ft² is permitted. Council should be satisfied that the accessory buildings are intended for personal use and not for commercial purposes.

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The subject property is considered to be within a PRIME AGRICULTURAL area under the Provincial Policy Statement. Section 2.3.4.1(c) of the PPS provides consideration for the severance of a surplus residence, provided that new residential dwellings are prohibited on the remnant parcel of farmland.

The subject land is designated PRIME AGRICULTURE. Section 10.3.4 of the Wellington County Official Plan implements the Provincial Policy Statement and requires that the remnant parcel be rezoned to prohibit dwellings.

Under the Zoning By-law the subject lands are zoned Agricultural (A). There will be two site specific zones required on the subject lands. The first site specific zone will prohibit a dwelling on the 93.9 acre, retained agricultural parcel. The second one will address the accessory structures on the 9.6 acre residential parcel.

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As a result of the severance, the residential dwelling would be considered the main use and the existing accessory buildings would be reviewed under section 6.1. In this case there are the following accessory buildings – shop 1,001 ft², workshop 689 ft², trailer 366 ft², garage 258 ft² - with a combined ground floor area of 2,314 ft², which exceeds the allowable ground floor area of 1,800 ft² for a 9.64 acre parcel. (Section 6.1.4 (b) has a sliding scale for permitted ground floor area depending on the parcel size).

9. Review of Correspondence received by the Township:
 - Nathan Garland, Resource Planner, GRCA
 - No objection
 - Pasquale Costanzo, County of Wellington Engineering Services
 - No objection
10. 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.
11. Mayor opens floor for any questions/comments.

The applicant's agent, Nathan Martin, was present to answer questions regarding the application. His clients would prefer to keep the buildings as they are being used for personal storage.
12. Comments/questions from Council.

Mayor Tout questioned if there was an opportunity that the trailer and garage be removed. Mr. Martin stated that his clients would prefer to keep them and he would have to consult with the client if removal was requested.
13. Adjournment 7:36 p.m.

C.A.O./CLERK

MAYOR