

TOWNSHIP OF WELLINGTON NORTH

PUBLIC MEETING - MINUTES

Monday, November 7, 2011

The Public Meeting was held Monday, November 7, 2011 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: Lorraine Heinbuch
Executive Assistant: Cathy Conrad
Township Planner: Mark Van Patter

Mayor Tout called the meeting to order.

Declaration of Pecuniary Interest:

None declared.

Owner: Danny Clark and Donna Clark

THE LOCATION OF THE SUBJECT LAND is described as Part of Lot 15, Concession 4 (Former Township of West Luther) and is municipally known as 8702 Sideroad 15.

THE PURPOSE AND EFFECT of the amendment is to rezone the property from Extractive Industrial (EI) to Agricultural (A) and Natural Environment (NE). This parcel is a former gravel pit, which has been rehabilitated and has had the license surrendered back to the Ministry of Natural Resources. The NE zone is to recognize an existing wetland on the property.

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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 120m and required agencies and posted on the property on October 17, 2011.

2. Presentations by:

Linda Redmond, Planner, reviewed the comments provided by Mark Van Patter, Senior Planner, dated November 2, 2011

The Planning Department had no concerns with the proposal to amend the zoning of the property from Extractive Industrial (EI) to Agriculture (A) and Natural Environment (NE). The former gravel pit has been rehabilitated and the pit license surrendered. This would allow the property to have a dwelling constructed on it. The GRCA has indicated that the existing wetland on the property should be placed in a NE zone.

The location of the subject land is described as Part of Lot 15, Concession 4 (Former Township of West Luther) and is municipally known as 8702 Side Road 15. The property is approximately 36 acres in area.

The purpose is to rezone the property from Extractive Industrial (EI) to Agricultural (A).

Under the Wellington County Official Plan the land is designated Prime Agricultural, with a Mineral Aggregate Area overlay designation.

The land is zoned Extractive Industrial (EI) under the Wellington North Zoning By-law.

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This is a straight-forward application. A residential dwelling is not permitted in the EI zone so the Clark's need to return the zoning to the Agricultural zone, where a dwelling would be allowed. A September 26 letter from the Ministry of Natural Resources to the Clarks indicates that the gravel pit has been rehabilitated and that the license has been surrendered.

An October 21 letter from the Grand River Conservation Authority indicates that a wetland is present in the northeast corner of the property and that it should be rezoned to Natural Environment.

3. Review of Correspondence received by the Township:
 - Liz Yerex, Resource Planner, GRCA
 - No objection
4. The by-law will 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 Owner was present to answer any questions
6. Comments/questions from Council.

None.

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Owners/Applicants: Noah Martin and Verna Martin

THE LOCATION being rezoned is in Part of Lot 18, Concession 10, RP 61R9990; Part 1, with a civic address of 7044 Sideroad 7 West. The property is approximately 1.86 hectares (4.59 Acres) in size and occupied by a residence.

THE PURPOSE AND EFFECT of the amendment is to rezone the subject lands to allow a combination accessory structure and hobby barn of 371.6 sq. m. (4000 sq.ft) on the subject lands.

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 120m and required agencies and posted on the property on October 17th, 2011.
8. Amended Site Plan, submitted by Applicant.
9. Presentations by:

Linda Redmond, Planner, reviewed her comments dated November 2, 2011.

The zoning amendment would allow an oversized accessory structure on a rural residential lot and provide for a reduced setback to the Natural Environment (NE) zone for a hobby barn. The by-law will regulate the size and use of the structure including any future structures on the property.

The Maitland Valley Conservation Authority (MVCA) has conducted a site visit of the subject property and has no objection to the proposal provided certain conditions are imposed.

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Council should be satisfied that the application would maintain the general intent and purpose of the Official Plan and Zoning By-law and further that the proposed use of the structure will be for personal storage only and not for commercial or residential purposes except as permitted and regulated under the home industry criteria as outlined in section 6.14.

The subject land is legally described as Part of Lot 18, Concession 10, RP 61R9990; Part 1, with a civic address of 7044 Sideroad 7 West. The property is approximately 1.86 hectares (4.59 Acres) in size and occupied by a residence.

The purpose of the amendment is to rezone the subject lands to allow a combination accessory structure and hobby barn of 371.6 sq.m. (4000 sq.ft) on the subject lands. The hobby barn will consist of approximately 51.9 sq.m (559 sq.ft.) and the accessory structure will have a floor area of 319.6 sq.m (3441 sq.ft.).

The subject lands are designated PRIME AGRICULTURE under the Wellington County Official Plan. Section 6.4.3 of the Prime Agricultural Areas land use policies permits single detached homes. The proposed building is permitted as accessory to the residential use.

Under the Zoning By-law the subject lands are zoned Agricultural (A) and Natural Environment (NE). The property is approximately 1.86 hectares (4.59 Acres) in area, the applicants are proposing to construct an accessory structure and hobby barn of 371.6 sq.m. (4000 sq.ft.) Under the current zoning provisions, the property would be permitted an accessory structure of 92.9 sq.m. (1000 sq.ft.) and a hobby barn of 51.9 sq.m (559 sq.ft.) The applicants have indicated that they have four horses. The remaining floor area of the building (3441 sq.ft.) would be used as an accessory storage area. The applicants have indicated that the large accessory structure is required in order to store personal vehicles, lawn and garden equipment as well as excavation equipment.

The accessory structure/hobby barn is located adjacent to the Natural Environment (NE) zone on the property. The applicants had met with the Maitland Valley Conservation Authority (MVCA) on site to determine a location for the structure that would not have a negative impact on the natural features. As a result the structure was relocated marginally to ensure it is located outside of the NE zone. The Township relies on the discretion of the Conservation Authorities in determining the location of natural features as stated in Section 2.6:

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The Natural Environment (NE) zone boundaries identified on the schedules to this By-law are intended to generally identify the location of potentially hazardous environmental features. During review of development applications and building permit applications, if necessary, the boundaries of the NE zone shall be more precisely determined in consultation with the Conservation Authority or other agencies having jurisdiction in the area. Where detailed resource mapping and/or site inspection results in a re-interpretation of the limits of the NE zone boundary, all requirements of this by-law shall be reviewed relative to the revised interpretation of the NE Zone boundary, including any applicable setbacks.

The MVCA has supported the new location of the accessory structure with the following conditions:

1. The shed is constructed outside the drip line of the forest edge.
2. Existing vegetation within the treeline is not disturbed during the construction.
3. The natural features will not be disturbed post development
4. The shed be located outside the NE zone and a new site plan be submitted to illustrate the new location.

The by-law requires, under Section 6.20.1b), that all accessory buildings/structures have a minimum 3m (9.8 ft) setback from the NE zone boundary. Additionally under Section 8.3.2d) a hobby barn is required to be setback a distance of 30m (98.4 ft). Based on aerial mapping (figure 2) and the applicants sketch we have determined that the closest point of the proposed structure to the NE boundary is approximately 6m (20 ft.).

Based on this the draft by-law will address the oversized structure and the reduced setback to the NE zone for a hobby barn.

This application was originally submitted as a minor variance and was before the Committee of Adjustment in September, 2011. At that time staff had raised concerns regarding the size and use of the proposed structure and the application was deferred to allow staff to obtain more information. Since then we have had an opportunity to discuss the use of the structure with the applicant and have been advised of the following:

- The applicants currently live on 100 acre parcel and are relocating to this smaller parcel.

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- Mr. Martin currently owns a bulldozer and backhoe and works for a concrete contractor (Oscar Brubacher). He does not own a contracting business and has no intention of starting a business at this location.
- Would be using accessory structure for storage of equipment (backhoe and bulldozer) and personal use.

Mr. Martin has four horses and would require a barn also. We discussed utilizing a portion of the building for this purpose which would reduce the floor area being used for the accessory structure.

Given the size of the proposed accessory structure staff felt that the request could not be considered minor and would have to be reviewed as a zone amendment. Furthermore, staff determined that a zone amendment would provide tighter controls in terms of the use of the structure that a variance may not.

10. Review of Correspondence received by the Township:
 - Brandi Walter, Environmental Planner, MVCA
 - No objection, subject to recommended conditions
 - Terrance Rothwell, Rothwell Family Farm & Apple Orchard, Wagram Corp.
 - Concerns
11. 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.
12. Mayor opens floor for any questions/comments.

Applicant was present to answer questions regarding this application.

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13. Comments/questions from Council.

Councillor Lennox expressed his concerns with the size of the building and the precedent it could set. He stated that he would have a hard time supporting the application.

Councillor Goetz inquired what size of building Mr. Martin currently uses. Mr. Martin provided that the equipment is stored in a 36 X 34 shed plus there are other buildings (a barn and shed) on the property he currently lives at.

Mayor Tout inquired why Mr. Martin wants to move to this property and if he could build a smaller building that would still meet his needs. Mr. Martin wants to move to this property to be closer to Mr. Brubacher for work purposes. He can't move there now because there is only a house on the property. He needs to build before they can move. Mr. Martin would like to build a 4,000 sq. ft. building; but, could make a 3,400 sq. ft. building work for his needs.

Councillor Yake asked about the concerns raised by Mr. Rothwell.

Mr. Rothwell felt most of his questions had been answered. The lack of information on the notice prompted most of his questions. The Rothwell's would support the application in principle as long as there are restrictions, particularly for subsequent owners. There have been situations like this before. Rezoning or redesignation is granted and then the use deviates afterwards. It is almost up to other property owners to report the deviation. Do property standards and building officials enforce the zoning? Does the Township have the ability to enforce the zoning?

Mayor Tout responded that if the Property Standards and Building Officials were to act on something of this nature it would most likely come in as a complaint.

Ms. Redmond explained that if a use was legal non-conforming at the time of the passing of the by-law then it is considered legal. The Building Official can enforce the return to the former use if it has changed.

Mr. Rothwell stated that he spoke with Mr. Bennett and if he has no objection to the rezoning then they are okay with it too.

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14. Adjournment 7:10 p.m.

C.A.O./CLERK

MAYOR