

DATE: October 28th 2020

REPORT NO: COA-004-20

SUBJECT: **Recommendation Report**
B03/2020WL
Caistorville United Church
9550 York Road, Caistorville

CONTACT: Madyson Etzl, Planner II

OVERVIEW:

- This application for severance has been submitted by The Trustees of the Sinclairville Community United Church to sever the existing 579 square metre church parcel (Part 3) and merge it with Part 4, 5, 6, and 8. This is to acquire enough land for the church to comply with the required minimum lot size provisions when the church building is sold.
- The church is requesting that an easement be granted over Part 2 in favour of Part 3. The trustees are proposing to sell the church to a community organization and retain and maintain the cemetery. (Parts 1 & 2)
- This application has been reviewed in accordance with the Planning Act, Provincial and Regional Policy and has been deemed to meet these criteria.
- Planning Staff recommend the approval of this application with the appropriate conditions.

RECOMMENDATION:

That, report PD-119-20, regarding an application for Consent made by The Trustees of the Sinclairville Community United Church. BE APPROVED; subject to the following conditions:

1. That the approval applies to the transaction as applied for.
2. That the applicant provide the Secretary-Treasurer with a copy of the transfer documents for the conveyance of the subject parcel, or a legal description of the subject parcel to be registered, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
3. That the applicant applies for, and receives approval of, a Zoning by-law amendment application that recognizes that all of the newly created lot Parts 3, 4, 5, 6, and 8 be zoned Institutional.

4. That any unused wells be decommissioned to the satisfaction of the Director of Planning & Building, if required.
5. The owner/applicant providing information to confirm that Part 3 and road piece do not encroach onto or include any headstones or plots associated with the adjacent cemetery. This could be addressed through providing an updated survey sketch and/or letter of opinions.
6. That the owner agrees to complete a Stage 1-2 Archaeological Assessment at the time of zoning by-law approval (and any required subsequent studies) for Parts 4, 5, 6 and 8. The Assessment(s) shall be submitted to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) to receive an acknowledgement letter confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
7. That the owner dedicate a 3.05 metre road widening to the Regional Municipality of Niagara along the frontage of Regional Road 9 (York Road) prior to the issuance of final certification and a building permit, to the satisfaction of the Niagara Region Planning and Development Services Department. All costs for providing the necessary survey plan and all related documents are the responsibility of the applicant.
8. That all municipal requirements be met to the satisfaction of the municipality including servicing connections if required, cash-in-lieu of park land dedication, property maintenance, compliance with Zoning By-Law provisions for structures, and any related requirements, financial or otherwise.
9. That the hydrogeological assessment review report be updated to include an assessment of the location of existing septic systems on adjacent lands such that any deficiencies/encroachments are properly noted, documented and recorded for future reference, to the satisfaction of the Septic inspector.
10. That a final certification fee, payable to the Township of West Lincoln, be submitted to the Secretary-Treasurer.
11. That all conditions of consent be fulfilled within one (1) year from the date of the notice of decision pursuant to Subsection 53(41) of the Planning Act, failing which this consent shall be deemed to be refused.

BACKGROUND:

A consent application has been submitted by Ian Attema on behalf of The Trustees of the Sinclairville community Church (owners). This application proposes to sever the existing 579 square metre church parcel and merge on title with parts 4, 5, 6 and 8 to make it one parcel with a total area of 4,261 square metres (1 acre) Currently, Part ____ is considered one lot as it is separated from the church by an unopened road allowance (which is now closed by bylaw)

The subject Open Space lands are legally described as Plan 26, Lots 1-3 & 8-11 and Part of David Street RP30R9727 Pt 2. In the former Township of Caistor, now in the Township of West Lincoln and are municipally known as 9550 York Road. The subject lands are located to the south of York Road and North-East of David Street (See Attachment 1)

In order to make this severance possible, the unopened church street road allowance from York Street, south to David Street had been closed and is in the process of being changed. Previous staff report PD-170-19 started this road closing process. The Caistorville United Church and cemetery are all under one ownership along with the vacant land to the west side of the unopened Church street road allowance. The church is now closed and deemed to be surplus to the needs of the local congregation. As a result, there is a proposal in the works to sever the church to allow conveyance to a new group who would like to use the church building.

This is complicated because the cemetery is so close that the land area available for severance with the church building is too small to meet land use policy and planning requirements.

Further, it appears that the septic holding tank for the church may be on the unopened Church Street road allowance. This allowance has also been used for parking to the west of the church building. The street also looks like it has historically been used as access to accessory buildings on the lands to the west of the unopened road allowance. The closing of the road allowance along with the proper conveyance and merger of some of the lands with the church building makes a severance of the church building that much more feasible.

CURRENT SITUATION:

Provincial Policy Statement (2020)

The Provincial Policy Statement (PPS) was amended and approved by the Municipal Affairs and Housing on May 2020 and provides guidance on all land use planning matters in Ontario. All planning decisions must conform to the policies of the PPS. According to the PPS the subject lands are located within the Settlement Area and are designated as a Hamlet (Caistorville) in the Regional Official Plan. Hamlets are designated in local Official Plans for further development of a low-density nature without the provision of municipal water and sewer services. Development in the Hamlet Settlement Area must be on lots that have an adequate water supply and are suitable for private waste disposal systems.

In order to conform to Provincial Policy, the severed and merged lands will need to be rezoned to Institutional 'I'. The rezoning is a condition of committee approval to ensure the application conforms to the PPS.

A Place to Grow (2019)

On May 16, 2019, A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan, 2019) took effect. The Growth Plan, 2019 replaces the Growth Plan for the Greater Golden Horseshoe, 2017 that took effect on July 1, 2017.

Existing hamlets or similar existing small settlement areas that are long-established and have been identified in the official plan. These communities are serviced by individual private on-site water and/or private wastewater systems, contain a limited amount of undeveloped lands that are designated for development and are subject to official plan policies that limit growth.

Greenbelt Plan (2017)

Applications must conform to the Greenbelt Plan if they fall within the established Greenbelt Plan boundary. Since the Subject Lands are outside of the identified Greenbelt area, the Greenbelt Plan does not apply.

Regional Official Plan

The Regional Official Plan (ROP) provides general policy direction for planning in the Niagara Region. The ROP designated the subject parcel within the Hamlet Settlement Area of Caistorville. Policy 5.B.8.1 in the Regional Official Plan states that consents to convey may be permitted in an Open Space zone only in circumstances where the consent is for lot adjustments for legal or technical reasons such as easements, corrections to deeds, quit claims and minor boundary adjustments which do not result in the creation of a new lot. The ROP requires that the minimum lot size for new lots within Hamlets shall be 1 hectare, unless it is determined through a hydrological study that a smaller lot size will adequately accommodate private water and sewage treatment systems for long term operation. The proposed new lot/lot enlargement (Parts 3, 4, 5, 6 and 8 will total 4,261 square metres in area).

A letter dated September 17th 2020 prepared by Ken Egger – Egger Excavating Ltd, was submitted with the application and notes that the church is currently serviced by an existing Class 5 Sewage System (Holding Tank).

Township of West Lincoln Official Plan

The Township's Official Plan designated the subject property within the Hamlet Settlement Area of Caistorville. The Township Official Plan allows for severances in the hamlet area provided that the minimum lot size is 1 hectare, unless a hydrological study is completed which states that a smaller lot size can accommodate private water and wastewater servicing.

As previously mentioned a letter dated September 17th 2020 prepared by Ken Egger – Egger Excavating Ltd, was submitted with the application and notes that the church is currently serviced by an existing Class 5 Sewage System (Holding Tank). The Township feels that this is sufficient enough documentation to no longer require a Hydrogeological Assessment on the property. Adequate land has been added to accommodate a septic system in the future should one be the preferred form of septic requirement.

Township Zoning By-Law

The subject property is currently zoned "Open Space" OS in the Townships Zoning by law. In order to meet zoning regulations the severed lands will be rezoned to

Institutional “I” and the severed lands will remain Open Space. Any zoning deficiencies will need to be recognized through the rezoning process. If a rezoning application is applied, and approved, the proposed severance would meet the requirements of the Townships Zoning By-Law.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this application.

INTER-DEPARTMENTAL COMMENTS

Circulation was provided to interested agencies on October 2nd 2020 by way of mail and e-mail.

The Township Building Department and Drainage Superintendent have no objections to this application.

The Septic System Inspector provided comments (Attachment 3) which state that Table 8.2.1.6 B, Ontario Building Code, Minimum Clearances for Distribution Piping is specific relating to sewage system location. Assurance is required to indicate that no part of the adjacent properties currently have any part of their existing sewage systems encroaching within the required separation distances from Parts 7 or 8. Thus, it is recommended the Committee consider the following as a Condition of Severance: confirmation from a licensed sewage system designer and/or contractor be provided to the satisfaction of Township of West Lincoln Building Department indicating minimal separation distances as specified in Part 8, Ontario Building Code are fulfilled.

The Region has provided comments (attachment 3) which state that they will require a 3.05 metre road widening to be added to York Road (Regional Road 9). The Region will also enter into an encroachment agreement with the owners if there are any signs or other features located within this 3.05 metres. The Region also initially required a Hydro-Geological Study as the proposed lot is smaller than 1 hectare and is within a hamlet. However, the applicant has provided a letter from Egger Excavating which confirms that the holding tank on the property is sufficient.

The Region is not opposed to the subject consent application, as proposed, subject to the satisfaction of any local requirements and conditional on:

1. The owner/applicant providing information to confirm that Parts 2 and 3 do not encroach onto or include any headstones or plots associated with the adjacent cemetery. This could be addressed through providing an updated survey sketch.
2. That the owner agrees to complete a Stage 1-2 Archaeological Assessment (and any required subsequent studies) for Parts 4, 5, 6 and 8. The Assessment(s) shall be submitted to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) to receive an acknowledgement letter confirming that all archaeological resource concerns have met licensing and resource conservation requirements prior to zoning by-law amendment approval.
3. The owner dedicating a 3.05 metre road widening to the Regional Municipality of Niagara along the frontage of Regional Road 9 (York Road) prior to the

completion of the severance process, to the satisfaction of the Niagara Region Planning & Development Services Department. All costs for providing the necessary survey plan and all related documents are the responsibility of the applicant.

PUBLIC COMMENTS:

Circulation by way of mail was given to property owners within a 120 metre radius of the subject property on October 8th 2020. No comments have been received from the public as of October 26th, 2020.

CONCLUSION:

Planning staff have reviewed all applicable Provincial, Regional and Township policies as they relate to the proposed application and conclude that the proposal meets the intent of these policies. Accordingly, Township staff recommend approval of the consent application for the Trustees of the Sinclairville Community United Church to sever off 579 square metres of the church parcel and merge it on title with parts 4, 5, 6 and 8. Township staff are satisfied that the application meets all criteria and can thus recommend approval of this application, with the appropriate conditions.


ATTACHMENTS:

1. Severance Sketch
2. Agency Comments

Prepared by:

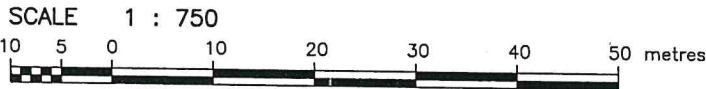


Madyson Etzl
Planner II



Brian Treble, RPP, MCIP
Director of Planning and Building

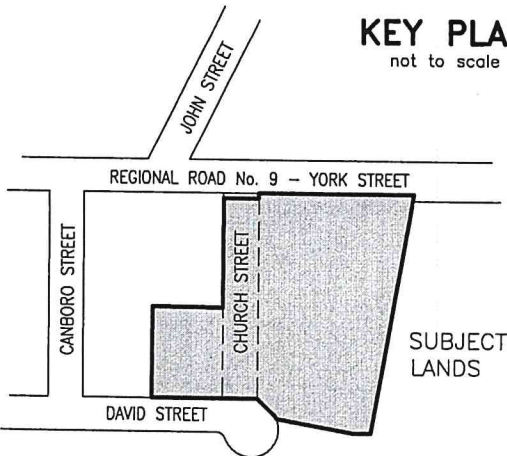
SKETCH FOR SEVERANCE APPLICATION



ROY S. KIRKUP, O.L.S.
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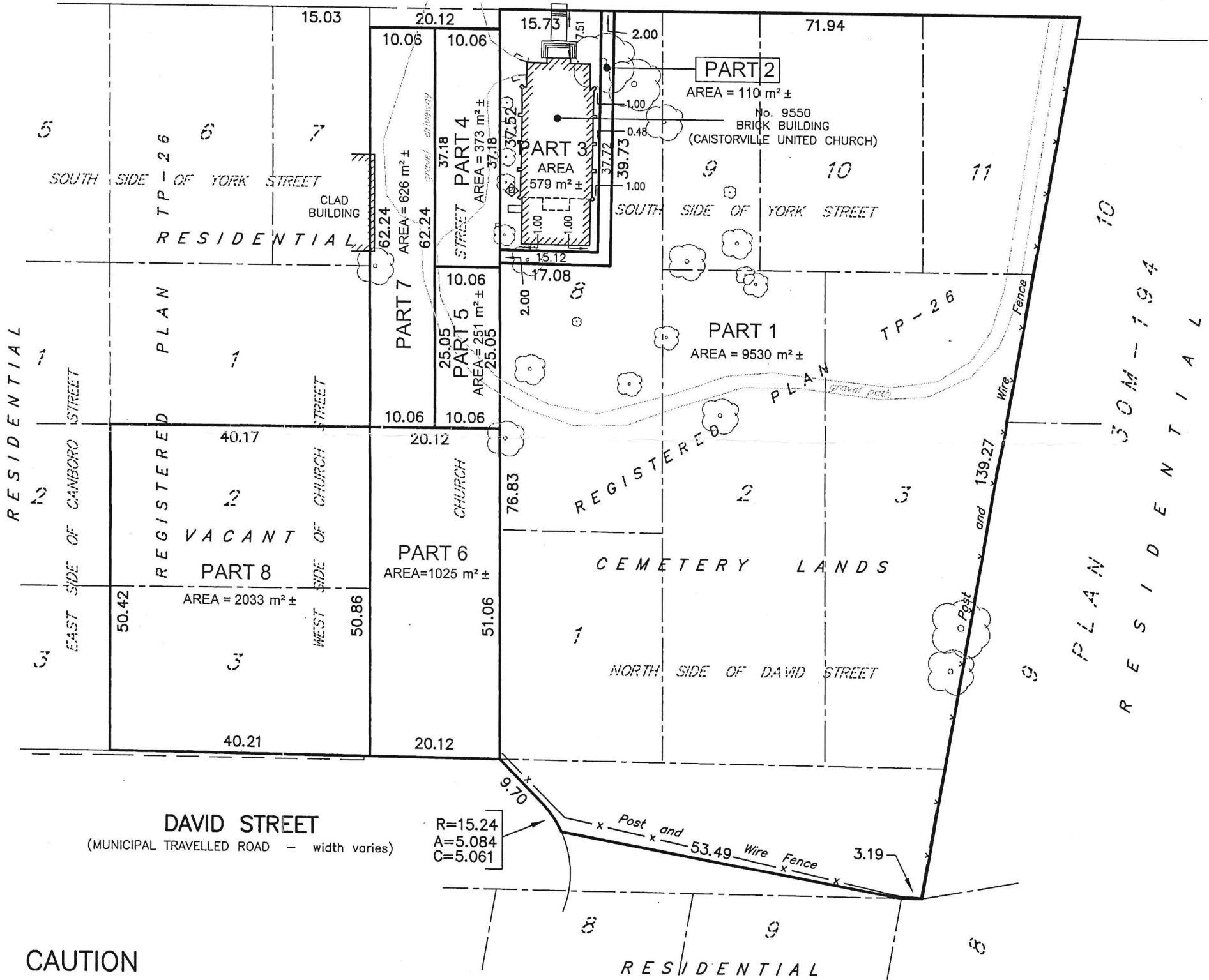


KEY PLAN
not to scale



REGIONAL ROAD NO. 9 - YORK STREET

given road
(MUNICIPAL TRAVELLED ROAD - width varies)



CAUTION

THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED EXCEPT FOR THE PURPOSES INDICATED IN THE TITLE BLOCK.

THIS SKETCH IS PROTECTED BY COPYRIGHT ©

NOTES

GEOGRAPHIC LOCATION BEING LOTS 8, 9, 10 AND 11, SOUTH SIDE OF YORK STREET, LOTS 1, 2 AND 3, NORTH SIDE OF DAVID STREET, LOTS 1, 2 AND 3, WEST SIDE OF CHURCH STREET AND PART OF CHURCH STREET, REG'D, PLAN 26, TOWNSHIP OF WEST LINCOLN, REGIONAL MUNICIPALITY OF NIAGARA.

DISTANCES SHOWN HEREON ARE BASED ON FIELD MEASUREMENTS AND CALCULATIONS USING OFFICE RECORDS.

THIS SKETCH IS PREPARED FOR SEVERANCE APPLICATION ONLY AND IS NOT TO BE USED FOR MORTGAGE OR TRANSACTION PURPOSES

DATE : AUGUST 27, 2020

ROY S. KIRKUP
ONTARIO LAND SURVEYOR

THIS SKETCH IS NOT VALID UNLESS EMBOSSED WITH THE ORIGINAL SURVEYORS SEAL

KIRKUP MASCOE URE

SURVEYING LTD.

49 EASTCHESTER AVENUE, ST. CATHARINES, ONTARIO L2P-2Y6
TELEPHONE (905) 685-5931, FAX (905) 685-1972
E-MAIL info@niagarasurveyors.com
www.niagarasurveyors.com

JOB No. : 2019-0223

DWG FILE : 19-0223-21dc

METRIC

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.



Planning and Development Services

1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free: 1-800-263-7215

Via Email Only

October 23, 2020

File No.: D.06.12.CS-20-0048

Madyson Etzl
Planner II
Township of West Lincoln
318 Canborough Street
Smithville, ON L0R 2A0

Dear Ms. Etzl:

**Re: Regional and Provincial Comments
Proposed Consent (Severance) Application
Township File No.: B03/2020WL
Owner: The Trustees of the Sinclair Community United Church
Address: 9550 York Road
Township of West Lincoln**

Regional Planning and Development Services staff has reviewed the information circulated for the above noted consent application. The application proposes to sever 579 square metres (Part 3, the existing church) and merge this parcel with Parts 4, 5, 6 and 8. The application is sought to acquire enough land for the church to comply with the required minimum lot size provisions when the church building is sold. The church is requesting that an easement be granted over Part 2. The owner is proposing to sell the church to a community organization and retain and maintain the cemetery (Parts 1 and 2). A pre-consultation meeting was held for this proposal on October 3, 2019, with staff from the Region and Township, and an agent, in attendance. The following comments are provided from a Provincial and Regional perspective to assist the Committee in considering this application.

Provincial and Regional Policies

According to the 2020 Provincial Policy Statement (PPS), the subject lands are located within the Settlement Area, and are designated as a Hamlet (Caistorville) in the Regional Official Plan (ROP). Hamlets are designated in local Official Plans for further development of a low-density nature without the provision of municipal water and sewer services. Development in the Hamlet area must be on lots that have an adequate water supply and are suitable for private waste disposal systems.

The ROP requires that the minimum lot size for new lots within Hamlets shall be 1 hectare, unless it is determined through a hydrogeological study that a smaller lot size will adequately accommodate private water and sewage treatment systems for long term operation. The proposed new lot (Parts 3, 4, 5, 6 and 8) will total 4,261 square metres (0.43 hectares) in area. A letter (dated September 17, 2020, prepared by Ken Egger – Egger Excavating Ltd.) was submitted with the application and notes that the church is currently serviced by an existing Class 5 Sewage System (holding tank). Since the property is serviced with this system, there is no sewage discharge into a septic system which could potentially impact the groundwater quality. Accordingly, the Region does not require the submission of a Hydrogeological Study for the proposed lot creation. The proposed lot creation and easement aligns with Provincial and Regional policies.

Archaeological Potential

Based on Provincial screening criteria, the subject lands exhibit potential for the discovery of archaeological resources due to the abutting cemetery and nearby Welland River. According to the PPS, development shall not be permitted within areas of archaeological potential unless significant archaeological resources have been conserved. Based on available aerial imagery, it does not appear that Parts 4, 5, 6 or 8 have been subjected to intensive and/or extensive ground disturbance as defined by the Province. The subject consent application does not propose any development on these lands; however, the applicant/owner should be aware that an archaeological assessment should be completed prior to any future site alteration or development in accordance with Provincial and Regional policies, including the Regional Official Plan, Provincial Policy Statement, *Planning Act* and *Ontario Heritage Act*. The assessment should be submitted to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for review, and to satisfy Provincial criteria. Regional staff recommends that a clause be included in the Development Agreement between the Owner and the Township requiring that an archaeological assessment be completed for Parts 4, 5, 6 and 8 prior to any site alteration or development in these areas. Regional staff further requires confirmation that the proposed lot lines (Parts 2 and 3) are wholly outside of any nearby plots and/or headstones.

Regional Road Allowance

The subject property is situated along Regional Road 9 (York Road). This section of road has a substandard road allowance. The designated road allowance is 26.2 metres. Therefore, in accordance with the current approved Regional Official Plan, the following widening is to be granted gratuitously to the Region:

A 3.05 road widening across the Regional Road 9 (York Road) frontage of the subject property in order to achieve 13.1 metres from the original centerline of the Regional Road allowance.

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Please note that the actual width of the required widening would need to be confirmed by an Ontario Land Surveyor as the information provided is only an approximation of the requirement.

The requested widening is to be conveyed free and clear of any mortgages, liens or other encumbrances, and is to be described by Reference Plan. The widening portion of the Plan will be the responsibility of the owner to order. The cost of providing this plan will be the full responsibility of the applicant. The applicant will arrange for the land surveyor for the property to submit the preliminary undeposited survey plan along with all related documents to Regional Surveys staff for approval. Regional Surveys staff will advise the land surveyor of any required revisions to the plan. Once the plan is deposited and the transfer registered, the Region will clear the applicable condition.

Regional Contact Information:

Norma Price, Law Clerk, 905-980-6000 ext. 3339.

E-mail norma.price@niagararegion.ca

(Inquiries specific to the transfer of property to the Region)

Normans Taurins, Manager, Surveys & Property Information, 905-980-6000 ext. 3325.

E-mail: normans.taurins@niagararegion.ca

(Inquiries specific to the review of the preliminary survey plan)

Regional Permit Requirements

Please be advised that prior to any construction taking place within the Regional Road 9 (York Road) road allowance, the applicant is required to obtain the necessary Regional Construction Encroachment and/or Entrance permits from Niagara Region's Transportation Services Division, Public Works Department. Regional Road Permit applications can be made online through the Region's website using the following link:

<http://niagararegion.ca/living/roads/permits/default.aspx>

Protection of Survey Evidence

Survey evidence adjacent to Regional Road allowances is not to be damaged or removed during the development of the property.

Conclusion

Regional Planning and Development Services staff is not opposed to the subject consent application, as proposed, subject to the satisfaction of any local requirements and conditional on:

1. The owner/applicant providing information to confirm that Parts 2 and 3 do not encroach onto or include any headstones or plots associated with the adjacent cemetery. This could be addressed through providing an updated survey sketch.
2. The owner entering into a Development Agreement with the Township of West Lincoln to require and implement the following prior to any construction or site alteration, to the Region's satisfaction:
 - That the owner agrees to complete a Stage 1-2 Archaeological Assessment (and any required subsequent studies) for Parts 4, 5, 6 and 8. The Assessment(s) shall be submitted to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) to receive an acknowledgement letter confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
 - That the following warning clause be included in the Development Agreement:

"Should deeply buried archaeological remains/resources be found on the property during construction activities, the activities impacting the archaeological resources must cease immediately and the Archaeology Programs Unit of the Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries (416-212-8886) and an archaeological consultant is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists. In the event that human remains are encountered during construction, all activities must cease immediately and the local police or coroner, as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, the Ministry of Heritage, Sport, Tourism, and Culture Industries should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act."
3. The owner dedicating a 3.05 metre road widening to the Regional Municipality of Niagara along the frontage of Regional Road 9 (York Road) prior to the issuance of a building permit, to the satisfaction of the Niagara Region Planning & Development Services Department. All costs for providing the necessary survey plan and all related documents are the responsibility of the applicant.

D.06.12.CS-20-0048

October 23, 2020

Regional staff notes that, as of the day of this letter, outstanding Regional review fees are required of the applicant (\$15). The applicant was advised on October 19, 2020 to pay these fees directly to the Region.

If you have any questions or wish to discuss these comments, please contact the undersigned at extension 3352, or Lola Emberson, MCIP, RPP, Senior Development Planner, at extension 3518.

Please send notice of the Committee's decision on this application.

Best regards,

A handwritten signature in black ink, appearing to read 'Aimee Alderman', with a stylized, flowing script.

Aimee Alderman, MCIP, RPP
Development Planner

cc: Mr. R. Alguire, C. Tech., Development Approvals Technician, Niagara Region
Mr. P. Lambert, P.Eng., Director, Niagara Region
Mr. B. Treble, Director of Planning & Building, Township of West Lincoln



318 Canborough St. P.O. Box 400
Smithville, ON L0R 2A0
T: 905-957-3346
F: 905-957-3219
www.westlincoln.ca

**BUILDING DEPARTMENT
MEMO**

DATE: OCTOBER 23, 2020

TO: Planning Department (Committee of Adjustment)
Jeni Fisher – Vice-Secretary Treasurer

FROM: Lyle Killins, Septic Inspector

SUBJECT: File B03/2020WL - Caistorville United Church
9550 York Road, Caistorville

Dear Ms. Fisher,

Please be advised the submitted application, pertinent files and supporting documentation have been reviewed relating to this file.

Upon review, the required information has been submitted except for documentation relating to the location of neighbouring adjacent sewage systems. Table 8.2.1.6 B, Ontario Building Code, Minimum Clearances for Distribution Piping is specified relating to sewage system location. Assurance is required to indicate that no part of the adjacent properties currently have any part of their existing sewage systems encroaching within the required separation distances from Parts 7 or 8.

Thus, it is recommended the Committee consider the following as a Condition of Severance: confirmation from a licensed sewage system designer and/or contractor be provided to the satisfaction of Township of West Lincoln Building Department indicating minimal separation distances as specified in Part 8, Ontario Building Code are fulfilled.

We trust the preceding serves as required; however, should additional information be required please contact this office at 905-957-3346.

Yours truly,

A handwritten signature in black ink, appearing to read "Lyle Killins".

Lyle Killins C.P.H.I.(c)
BCIN # 11112
/jk