

DATE: September 25, 2024

REPORT NO: [COA-35-2024](#)

SUBJECT: **B08/2024WL – Recommendation Report – Application for Consent – Dwight and Carrie TeBrake (Niagara Planning Consultants – Jeremy Brown, Agent) for 1985 Hodgkins Road**

CONTACT: Stephanie Pouliot, Secretary Treasurer of the Committee of Adjustment

OVERVIEW:

A Consent application has been applied for to permit a surplus farm dwelling severance for the lands located at 1985 Hodgkins Road.

The land being severed with the dwelling is proposed to be 0.613 hectares (1.51 acres) shown as Parcel 1 and Parcel 2, being the remnant farmland will be approximately 21.1 hectares (52.14 acres) following the severance.

If approved, a condition will be required that the severed holding be zoned to Rural Residential and the remnant farmland be zoned to Agricultural Purposes Only (APO), restricting any future residential use or merging the lands onto an abutting property.

Staff are recommending the lot size for the new residential lot (Parcel 1) be reduced to no greater than 0.4 hectares (1 acre) in accordance with Provincial, Regional, and Township policies.

RECOMMENDATION:

THAT, the application for Consent made by Niagara Planning Consultants on behalf of the property owners, Dwight and Carrie TeBrake as outlined in Report COA-35-24, to permit a Surplus Farm Dwelling Severance at 1985 Hodgkins Road, BE APPROVED, subject to the following conditions:

1. That the approval applies to the transaction as applied for, subject to condition 3.
2. That all municipal requirements be met to the satisfaction of the municipality including servicing connections if required, remitting the cash-in-lieu of park land dedication fee, property maintenance, compliance with Zoning By-Law provisions for structures, and any related requirements, financial or otherwise.
3. That the new residential lot (Parcel 1) be reduced to no greater than 0.4 hectares (1 acre) in lot size in accordance with the Township's lot creation policy to the

satisfaction of the Planning Department.

4. That upon conditional approval of the Consent Application, the agricultural portion (Parcel 2 –retained lands) of the property is rezoned to Agricultural Purposes Only (APO) to preclude its use for residential purposes and (Parcel 1 –severed lands) be rezoned to Rural Residential (RuR) and any zoning deficiencies be addressed by a future Zoning By-law Amendment application.
5. That the applicant applies for and obtains a 911 house number (sign, post and installation) to the Township of West Lincoln, if required.
6. In accordance with Section 65 of the *Drainage Act*, R.S.O. 1990, c. D.17 will be required to reapportion the assessment schedule for the newly created lot. The proponent will be responsible for the cost associated with this work.
7. That the accessory building shown on the survey sketch provided as “Barn” located in front of the dwelling, be demolished to the satisfaction of the Township’s Planning and Building Department.
8. That the applicant provides 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.
9. That any unused wells be decommissioned to the satisfaction of the Director of Planning and Building, or designate, if required.
10. That a final certification fee, payable to the Township of West Lincoln, be submitted to the Secretary-Treasurer.
11. That all of these conditions shall be fulfilled within a period of two years after the giving of the Notice of Decision of the Committee of Adjustment, pursuant to Subsection 53(41) of the Planning Act, failing which this consent shall be deemed to be refused.

BACKGROUND:

The subject property is situated on the east side of Hodgkins Road, east of Silverdale Road, west of Rosedene Road and Victoria Avenue (Regional Road 24), and north of Concession 4 Road and Highway 20 (Regional Road 20). The lands are also located north of the Hamlets of Boyle and East Boyle, south of the Hamlet of Silverdale and east of the Hamlet of Bismark. 1985 Hodgkins Road is currently 21.67 hectares (53.56 acres) in size.

The subject property along with the surrounding land uses are designated in the Township’s Official Plan as *Good General Agricultural Lands* and *Natural Heritage System*. A portion of the subject lands as noted forms part of the *Natural Heritage System* in the Township’s OP, effectively being located along part of the south and east property lines, covering the forested portion of the property of approximately 4.78 hectares (11.82 acres) in size. There is also a fish habitat that runs through the middle of the property with an associated Environmental Protection area.

The present Natural Heritage features include Provincially Significant Wetlands, Significant Woodlands, floodplain, and a fish habitat. An Environmental Conservation and Environmental Protection area are also designated over these features to further protect

and conserve the environmental features. Please see the attached map (Attachment 1) for the noted Natural Heritage features, however, these are not a factor of this application.

The surrounding lands are actively farmed with a number of small rural residential properties. Both the *Good General Agricultural Lands* and *Natural Heritage System* designations protect and maintain long-term agricultural and conservation use within West Lincoln.

Planning Staff attended a site visit of the property with the Township's Septic System Inspection Manager and the agent on Tuesday, August 20th, 2024.

CURRENT SITUATION:

Staff have completed an analysis of the proposed consent and can provide the following evaluation:

Provincial Policy Statement and A Place to Grow: Growth Plan for the Greater Golden Horseshoe

Provincial Policy Statement

The 2020 Provincial Policy Statement is still in effective until October 20, 2024, as such, this consent application has been reviewed against the applicable policies still in effect as of the date of writing this report.

Land use planning decisions must be consistent with the Provincial Policy Statement (PPS), which ensures appropriate development while protecting resources of provincial interest, public health, and the quality of the natural and built environment. Land use will be managed to accommodate appropriate development to meet the full range of current and future needs. Efficient land use and development patterns will contribute to achieving equitable outcomes for all.

The lands are located within the *Prime Agricultural Area*. Section 2.3 *Agriculture* speaks to the long-term protection for agriculture within *prime agricultural areas*. Specifically, Section 2.3.4 *Lot Creation and Lot Adjustments* outlines the criteria to support lot creation within the *prime agricultural area* as follows. A *residence surplus to a farming operation* as a result of farm consolidation provided that the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services, and that new residential dwellings are prohibited on any remnant parcel of farmland.

This proposal is aligned with the PPS with the conditions of approval that the lot be reduced to the minimum requirement to service the lot which has been determined by the Township's Staff to be one acre. The additional land area proposed with the severed residential lot provides a substantial reserve area which is not necessary for future servicing. Additionally, through the rezoning application, the retained lands will be rezoned to agricultural purposes only 'APO' which will preclude future residential use on the remnant parcel of farmland. For these reasons, the proposal is consistent with the PPS policies.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe

A Place to Grow, the Growth Plan for the Greater Golden Horseshoe (Growth Plan) builds on the PPS that supports the achievement of complete communities, a thriving economy, a clean and healthy environment and social equality. The *Growth Plan* guides how and where to grow communities, how to support growth while protecting and enhancing where possible, valuable assets, features and systems, including the long-term productivity of agriculture by protecting *prime agricultural areas* and the *agri-food network*.

This proposal is consistent with the *Growth Plan*, given the remnant farmland will be rezoned to preclude any future residential use. Doing so, also protects these lands for long-term agricultural production. It's also important to note, the severed lot will not be removing any lands that are actively farmed, as such there is no loss in farmland or fragmentation to the existing agricultural uses in the area. For these reasons, this proposal can be considered in alignment with the *Growth Plan*.

Niagara Official Plan

The *Niagara Official Plan* (NOP) provides a framework for growth and development within the Niagara Region. The NOP regulations are consistent with Provincial policies; the PPS, Growth Plan, and Greenbelt Plan as noted above. The NOP states how properly protecting resources while planning for growth is critical. Specifically, protecting the *Agricultural System* is outlined in Section 4.1 of the NOP.

The main objectives of this section are to facilitate a strong, diverse, and resilient agricultural economy and to protect the region's agricultural land base, ensuring agricultural sustainability for present and future generations. Lot creation within the agricultural land base must meet a set of conditions outlined in Section 4.1.4.2, including the size of any new lot shall be an area of 0.4 hectares, proposed lots shall be configured to minimize impacts on surrounding farming operations, and sustainable on-site and long-term operation of a private sewage disposal system to service the new lot. Specifically, Section 4.1.5.2 speaks to the severance of a *residence surplus to a farming operation*. The residence that is rendered surplus as a result of farm consolidation has to have existed as of 2004 which is the case with the surplus residence at 1985 Hodgkins Road. In accordance with 4.1.5.2(b), the new lot shall be an area of 0.4 hectares except to the extent where additional area is determined necessary to support an on-site private water supply and private sewage disposal system.

The proposed lot size for Parcel 1 exceeds the above requirement, the lot will incorporate the dwelling, the existing septic system and an area for a future new septic system to service the lot. The existing barn which was built on the property line will be removed and demolished as part of this consent application and has been included as a condition of approval. It has been determined that only one acre is required to ensure private servicing are captured on the proposed lot. Based on Township's staff review, it appears that both the existing system and proposed new system can be located within the 0.4 hectare requirement.

The applicants do not own any abutting or adjoining lands, as such a condition has been

included to rezone the retained farmland as agricultural purposes only precluding its use for residential purposes.

For these reasons, Administrative Staff believe the proposed consent application is in alignment with the NOP, with the conditions as indicated, including that the lot be reduced and be no greater than one acre.

Township of West Lincoln Official Plan

The Township's Official Plan permits consents for agricultural purposes, and only allows non-farm rural residential lots as part of a surplus farm dwelling severance which are subject to the regulations found in Section 18.13. The application meets the required criteria. The applicant meets the criteria for being a bona-fide farmer and owns over 100 acres of land which corn, soybeans and wheat are farmed.

The subject properties being 1985 Hodgkins Road is designated as *Good General Agricultural* in the Township's Official Plan (OP). The purpose of the Township's *Good General Agricultural* designation is to ensure that these areas are protected and preserved for Agricultural purposes. Specifically, Section 4.2 of the OP provides the framework for all Agricultural Areas, the main objective being to promote and protect viable agricultural areas for the production of crop resources and livestock operations which in turn, will also strengthen the economic wellbeing of West Lincoln. As noted in Section 4.4 of the OP, *Good General Agriculture Areas* are designated with the second highest level of protection and preservation.

Additionally, in relation to the proposed consent application, Section 18.13.2(g) of the OP states that the residential parcel shall not exceed 0.4 hectares (1 acre), except where necessary to accommodate the residence and private services. The proposed parcel size of approximately 0.613 hectares (1.51 acres) includes the residence, existing septic system, proposed new septic system and an older barn at the front of the property. The barn is on the property line, the building will be demolished through this consent and has been included as a condition of approval.

Similar to the Niagara Official Plan, the Township's Official Plan limits the residential severed lot to 0.4 hectares unless more is needed for servicing. Please see Staff's comments under the Niagara Official Plan section of this report.

There are portions of the subject property designated as part of the Township's *Natural Heritage System*. Section 10 *Natural Environment* of the Township's Official Plan priorities maintaining a healthy natural environmental for present and future generations and where possible, encourage environmental stewardship and restoration. The main objective of the *Natural Heritage System* is maintaining, restoring and where possible, enhancing the long term ecological health, integrity and biodiversity of the system within West Lincoln.

The *Natural Heritage* features present on the property includes Provincially Significant Wetlands, Significant Woodlands, floodplain, and a fish habitat as well as, an

Environmental Conservation and Environmental Protection area over these environmental features. The proposed lot creation will not impact these features on the retained lands. There will be no change in the environmental zoning of the retained property (Parcel 2), only the agricultural lands will change to agriculturally purposes only. For these reasons, Administrative Staff believe the proposed consent follows the intended objectives of Section 10 of the Township's OP.

Furthermore, as previously noted, a condition of approval has been included to rezone the farmland to Agricultural Purposes Only 'APO' which will preclude any future residential use. The rezoning to 'APO' will also protect and preserve this area for continuous agricultural purposes which maintains and promotes the general intent and purpose of Section 4 *Agricultural Land Use Policies* and Section 18.13 *Land Severances* of the Township's OP.

Township of West Lincoln Zoning By-law

The subject property being 1985 Hodgkins Road is zoned as Agricultural 'A', Environmental Protection 'EP' and Environmental Conservation 'EC'.

As a condition of approval, the remnant farmland will be rezoned to Agricultural Purposes Only 'APO' to restrict any future residential uses on Parcel 2 (see Survey Sketch, found in Attachment 2). The Zoning By-law Amendment application will also recognize the deficient lot size of Parcel 2. Following the severance, Parcel 2 (remnant farmland) will be approximately 20.68 hectares (51.10 acres) whereas, Table 12 in Part 5 of the Township's Zoning By-law 2017-70, as amended, identifies 39 hectares (96.37 acres) to be the minimum lot area within an Agricultural Purposes Only 'APO' zone.

There is also a Type 3 storage building on the subject lands. The storage building was initially proposed with the severed lot, but given the Rural Residential 'RuR' regulations which do not permit Type 3 accessory buildings (greater than 120 square metres), the applicants have revised their request and will either remove the building or it will stay with the retained farmland. If the building is to stay with the farmland (Parcel 2), the rezoning application will address the existing circumstance and a site specific provision will be added to the new Agricultural Purposes Only zoning. Clarification will need to be provided at the time of rezoning whether this building will be demolished or whether the site specific provision is required.

Additionally, as part of the zoning bylaw amendment application, the severed holding (Parcel 1) will be rezoned to Rural Residential 'RuR'. The existing barn built on the front property line is being demolished so there will be no site specific provision required for Parcel 1.

Furthermore, it appears there is an existing access to the farm property, south of the new proposed residential lot. As the retained frontage along Hodgkins for Parcel 2 will be approximately 490 metres, the Township's Zoning By-law 2017-70, as amended, permits a maximum of 3 driveways on the lot as per Policy 3.12.2(h), subject to meeting the remainder of the regulations found in Part 3.12.2 *Driveways and Parking Aisles*.

Given both Parcel 1 and 2 will be subject to a future rezoning application and the noted zoning issues will be addressed, the proposal can be considered consistent with the general intent of the Township's Zoning By-law 2017-70, as amended.

For these reasons, Administrative Staff can support this consent application, and recommend approval of the Surplus Farm Dwelling Severance, subject to the appropriate conditions including the lot size being no greater than one acre.

INTER-DEPARTMENTAL & AGENCY COMMENTS:

Building Department: At the time of writing this report, there have been no comments received from the building department. As there is a new lot being created, a condition has been included that the applicants apply for and obtain a 911 house number.

Public Works: Has reviewed the application and have no objections on the proposal. Public Works have provided the following comment regarding Fifteen Mile Drain. 1985 Hodgkins Road is located within the Fifteen Mile drain, compliance with Section 65 of the Drainage Act, R.S.O. 1990, c. D.17 will be required to reapportion the assessment schedule for the newly created lot. This has been included as a condition of approval severance to satisfy the noted concern. Please see Attachment 3 for the comments received.

Septic System Inspection Manager: Has reviewed the application as submitted and attended an on-site visit with the agent on Tuesday, August 20th, 2024. Please see below for the comments received which can also be found in Attachment 3.

Based upon our observations and documentation provided by Mr. Maddalena, the existing Class 4 sewage system presently servicing the dwelling is in compliance with Section 8.9.1.2 *General Requirements for Operation Maintenance*, Ontario Building Code. Further evaluation indicated a new sewage system could be located on-site with compliance with Part 8 Ontario Building code requirements. It would appear the sewage systems, existing and proposed, could be located within the required 0.4 hectare Township of West Lincoln definition. The additional land area proposed within the application provides substantial reserve area.

Given the above analysis, a condition has been included to reduce the lot size to no greater than 0.4 hectares (1 acre) for the new residential lot (Parcel 1) in accordance with Provincial, Regional, and Township Policies.

Niagara Peninsula Conservation Authority (NPCA): The NPCA has reviewed the subject property (associated NPCA mapping of ARN 260202000509400) and notes that the subject property contains the following NPCA Regulated Features: Provincially Significant Wetland, potential unevaluated wetlands, watercourses, and flood hazards. As the proposed lot lines do not encroach on the NPCA regulated features, the NPCA offers no objections to the proposal. Please see Attachment 3 for more information.

Niagara Region: Regional Growth Strategy and Economic Development Staff do not object to the request for a consent of a dwelling surplus to a farming operation, subject to the Township's satisfaction that a larger lot size for Parcel 1 is required for septic purposes and the remnant parcel (Parcel 2) is rezoned to Agricultural Purposes Only (APO) to preclude its use for residential purposes. Additionally, Regional Staff acknowledge that private servicing is under the jurisdiction of the Township and recommend the Committee look to Township Staff to confirm the additional lands are required for private servicing. Please see Attachment 3 for the Regional comments received. The Township's Septic System Inspection Manager's comments can also be found in Attachment 3 as well as, noted above.

PUBLIC COMMENTS:

At the time of writing this report, no formal public comments have been received.

CONCLUSION:

Based on the above analysis, Planning Staff recommend APPROVAL of the proposed Consent application (B08/2024WL) submitted by Jeremy Brown (Niagara Planning Consultants) on behalf of the property owners; Dwight and Carrie TeBrake as outlined in Report COA-35-24, to permit a Surplus Farm Dwelling Severance at 1985 Hodgkins Road, subject to the conditions as indicated, including that the severed lot be reduced to no greater than one acre.

ATTACHMENTS:

1. Location Map
2. Survey Sketch
3. Agency Comments

Prepared & Submitted by:



**Stephanie Pouliot,
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Approved by:



**Gerrit Boerema, RPP, MCIP
Manager of Planning**