

DATE: October 30, 2024

REPORT NO: COA-37-2024

SUBJECT: Recommendation Report Consent Application B09/2024WL – Bradley and Kimberly Killins. (Agent- Ethan Laman – Upper Canada Consultants) 5357 and 5377 Elcho Road

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

OVERVIEW:

- A consent application for a boundary adjustment has been applied for by Ethan Laman of Upper Canada Consultants, agent for Bradley and Kimberly Killins for the property located at 5357 Elcho Road.
- This application is requesting to permit a boundary adjustment where approximately 2.03 hectares (5 acres) of farmland (Parcel 2) is proposed to be severed from 5357 Elcho Road (Parcel 3) and added to 5377 Elcho Road, (Parcel 1) a 2.03 hectare (5 acre) commercially zoned lot which contains agricultural service and supply establishment/ commercial uses.
- Boundary adjustments are permitted in the agricultural area provided that no new lot is created and the minimum amount of agricultural land is taken to support the non-agricultural or agricultural related use.
- If approved, 5377 Elcho Road would be a total of 4.05 hectares (10 acres) (See attached Site Sketch).

RECOMMENDATION:

That, the application for Consent, submitted by Upper Canada Consultants, as outlined in Report COA-37-2024, to permit a boundary adjustment where approximately 2.03 hectares (Parcel 2) be severed from 5357 Elcho Road and merged to Parcel 1, BE APPROVED, subject to the following conditions:

1. That the approval applies to the transaction as applied for.
2. 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.
3. That an undertaking be provided to provide with certainty that the Ownership for Parcel 2 on the attached survey sketch will match the ownership of Parcel 1

- following consent approval to the satisfaction of the Township of West Lincoln, and that following consent approval Parcel 2 merge with Parcel 1 and the PINs are consolidated.
4. That the applicant apply for, and obtain a zoning by-law amendment to rezone the merged parcel of land to an Agriculturally Related 'AR' zone.
 5. That the applicant apply, and obtain approval of a Site Plan Amendment Application.
 6. 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.
 7. That a final certification fee, payable to the Township of West Lincoln, be submitted to the Secretary-Treasurer.
 8. 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 property municipally known as 5357 Elcho road is currently 32.67 hectares (80.73 acres) in size and contains a single detached dwelling and a detached garage on the southeast corner of the property. The balance of the lot contains manicured lawns, agricultural fields and a wooded area which contains a provincially significant wetland regulated by the Niagara Peninsula Conservation Authority.

The neighbouring property municipally known as 5377 Elcho Road is currently used for commercial purposes. The businesses that run on the property include an excavation company known as Anthony's Excavating, Ontario Agra Piping (agricultural pipe and tile vendor), Kor Rentals (Farm Equipment Rental and Repairs) and Enercon, which provides supports to the local windfarm. The additional lands being severed from 5357 Elcho Road are intended to be used by Ontario Agra Piping and Kor Rentals, which require additional lands for temporary material and equipment storage prior to being sent to site for installation.

The proposal is to sever 2.03 hectares from 5357 Elcho Road and merge it with the existing 2.03 hectares (5 acres) property located at 5377 Elcho road, resulting in a 4.05 hectare (10 acre) total commercial lot.

CURRENT SITUATION:

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

Provincial Planning Statement, 2024

The new Provincial Planning Statement (PPS) is now in effect as of October 19th 2024. The PPS requires the protection of lands designated as Prime Agricultural Lands for long term agricultural use. The subject lands are designated as Prime Agricultural Lands in the PPS.

The PPS additionally permits lot adjustments and agricultural related uses in the Prime Agricultural area provided the minimum amount of land is utilized. Where agricultural land is to be used for a non-agricultural use, the PPS requires that the use must comply with the Minimum Distance Separation Formula, demonstrate an identified need for the lands within the planning horizon, and consider alternative locations that avoid Prime Agricultural Areas. Additionally the PPS requires that any new or expanding non-agricultural use are not avoid or mitigate any negative impacts on the agricultural system.

Upper Canada Consultants (UCC) have provided a planning justification report to the Township in support of this application where they state that 2.03 hectares (5 acres) is the minimum amount of additional land needed to support the existing business. UCC has also provided information stating that a number of the businesses currently on the property primarily support agricultural operations and farmers in the area.

Based on the location of the existing business, it is more efficient for the use to expand on Prime Agricultural Lands as opposed to relocating on a lower class of land.

Based on Planning's Staff review, there is an identifiable need for the additional lands in support of what can be defined as an agricultural service and supply establishment and a minimal amount of farmland is being severed. Planning Staff further support this boundary adjustment on the provision that the additional lands be zoned to Agricultural Related. As such, this application is aligned with Provincial Policy.

Niagara Official Plan

The Niagara Official Plan (NOP) provides a framework for growth and development within the Niagara Region. In alignment with the PPS, the NOP also permits consents for agriculture-related uses provided that the lot is the minimum size needed to accommodate the proposed use and private services. Additionally the NOP requires that no residential uses be permitted.

The applicants have demonstrated through the PJR that the additional 2 hectares (5 acres) of land are needed for outdoor storage and in support of the expanding agriculturally related businesses. As no additional buildings are being proposed, no additional land is needed for private septic services.

There is also a portion of 5357 Elcho Road designated as Natural Heritage in the Region's Official Plan. As the proposed boundary adjustment is located farther than 120 metres from the feature, there are no concerns related to the Natural Environment.

This application, subject to the conditions outlined above, is consistent with the Niagara Official Plan.

Township of West Lincoln Official Plan

The subject properties are designated as Good General Agriculture and Natural Environment in the Townships Official Plan. The Township's Official Plan outlines the

general objectives for Agricultural Areas which include the protection of the viable agricultural industry, the promotion of small scale secondary uses and agriculturally related uses which do not hinder surrounding agricultural operations.

The Township's Official Plan permits agriculturally related uses within the agricultural area where they require close proximity to the surrounding agricultural area. The Township's Official Plan further requires that where land from a farm is being severed to be added to an abutting non-agricultural use, it only be permitted where the minimum amount of productive agricultural land is involved. Further, consents that support commercial operations that support agriculture and require to be in close proximity to farms, be permitted.

The Township's Official Plan also requires that expansions to agricultural-related and non-farm uses meet the Minimum Distance Separation guidelines and demonstrate that they can be supported by private sewage disposal systems. The closest livestock barns (poultry barns located at 5225 Elcho Road) are nearly 600 metres away and comply with the MDS setback. Additionally, as no new buildings are being proposed, the existing septic system on the property is sufficient to provide private services to the property.

Based on the above policy, the proposed boundary adjustment meets the general intent of the Township's Official Plan, provided the additional lands are used as an agriculturally related use.

Township of West Lincoln Zoning Bylaw

The property located at 5357 Elcho Road is zoned as Agricultural 'A', Environmental Protection 'EP' and Environmental Conservation 'EC' in the Townships Zoning Bylaw. The property located at 5377 Elcho Road is zoned as Service Commercial 'C3'.

If approved, the retained agriculturally zoned lands at 5357 Elcho Road (Parcel 3) will be 30.65 hectares in area. The Township's Zoning Bylaw requires a minimum lot area of 40 hectares. As such, a zoning bylaw amendment is required to recognize the deficient lot area. 5357 Elcho Road will meet all other zone requirements in the Township's Zoning Bylaw.

As Parcel 2 is proposed to be used as part of the agriculture-related/commercial use expanding from 5377 Elcho Road, a zoning amendment is also needed to rezone the land out of the agricultural zone. The applicants have already submitted a zoning bylaw amendment application requesting a commercial zone with an increased allowance on outdoor storage. Based on the review completed as part of the consent application, staff can only support this application if Parcel 2 is zoned Agricultural-Related, ensuring that this expansion is only used for agricultural related uses in the future. The proposed commercial zone would allow for a significant number of non-agricultural uses which would not be appropriate in this area and could hinder surrounding agricultural land. Staff have added a condition requiring the zoning amendment.

INTER-DEPARTMENTAL & AGENCY COMMENTS:

Building and Septic Department: Comments have been provided indicating no objections to the proposed application as no buildings or septic systems are proposed.

Public Works: Public Works provided no objections to the proposed application on October 21st 2024.

Niagara Peninsula Conservation Authority (NPCA): The NPCA has provided comments that they do not object to the application.

Niagara Region: The Region of Niagara has provided comments with respect to the consent application. In summary the Region is not opposed to the application on the basis that the commercial use primarily supports farm operations in the area. Additional comments will be provided for the future Zoning Bylaw and Site Plan applications.

PUBLIC COMMENTS:

There have been no public comments received relation to this consent application.

CONCLUSION:

Based on the above analysis, Planning Staff recommend APPROVAL of the proposed consent application (B09/2024WL) as outlined in Report COA-37-2024. This will allow for a proposed expansion to the Agriculturally Related use, subject to the conditions of approval as indicated.

ATTACHMENTS:

1. Location Map
2. Survey Sketch
3. Site Plan
4. Agency Comments

Prepared & Submitted by:



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Approved by:



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