

DATE: April 30, 2025

FILE NO: A05/2025WL

REPORT NO: COA-06-2025

SUBJECT: **Recommendation Report Application for Minor Variance, Rumph (Agent, Darren Draaistra – Draaistra Contracting)**

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

OVERVIEW:

A Minor Variance application has been submitted by Darren Draaistra on behalf of Albert and Ann Rumph, property owners of the subject property located at 4891 Vaughan Road.

A Minor Variance application has been applied for and is seeking relief from Part 3.10 Minimum Distance Separation of the Township's Zoning By-Law 2017-70, as amended. The required MDS I setback for the dwelling approved by the Ontario Land Tribunal was 515 metres to the neighbouring swine barn/manure storage.

This application is seeking relief of 1.46 metres to permit the dwelling at a reduced MDS I setback of 513.54 metres as the dwelling has been constructed closer to the swine barn/manure storage than permitted by the Ontario Land Tribunal.

RECOMMENDATION:

That, the application for Minor Variance submitted by Darren Draaistra, on behalf of the property owners of the subject property, as outlined in Report COA-06-25, to permit the constructed dwelling at a reduced MDS I setback no less than 513.54 metres, BE APPROVED.

BACKGROUND & SURROUNDING LAND USES:

4891 Vaughan Road is a 0.56 hectare (1.39 Acre) lot located on the north side of

Vaughan Road, south of Highway 20 (Regional Road 20), east of Wellandport Road, west of Boyle Road, and north of Elcho Road.

The subject property is also located north of the Hamlet of Wellandport, south east of the Hamlet of Bismark, and west of the Hamlets of Boyle and East Boyle.

The majority of the surrounding land uses are designated in the Township's Official Plan as *Good General Agricultural Lands* and *Natural Heritage System*. The subject property is designated within the *Good General Agricultural* area. The surrounding lands are actively farmed with a number of smaller agricultural parcels and rural residential properties on either side of Vaughan Road.

This property was severed from the abutting farmland as a retirement lot in 1997. The property is zoned Agricultural 'A' and currently contains a dwelling which was recently constructed last year.

The owner is now looking to construct an attached garage and mudroom to the west side of the dwelling. Upon review of the building permit submission for the proposed addition, it was identified on the survey that the dwelling was constructed closer to the east property line and the neighbouring swine barn/manure storage than permitted with a setback of 513.54 metres, whereas the Ontario Land Tribunal (OLT) approved a MDS I setback of 515 metres. The OLT order also approved a MDS I setback of 372m to the goat barn on the neighbouring property. The required setback to the goat barn is still maintained with a MDS I setback of 384.57 metres. The original permit for the dwelling showed compliance with both MDS setbacks, however, the dwelling was constructed in a different location following the issuance of the permit.

This minor variance application is seeking relief from Part 3.10 *Minimum Distance Separation* of the Township's Zoning By-Law 2017-70, as amended. This application is seeking relief of 1.46 metres to permit the dwelling at a MDS I setback of 513.54 metres as the dwelling has been constructed closer to the swine barn/manure storage than permitted by the Ontario Land Tribunal.

CURRENT SITUATION:

Planning Staff have completed an analysis of the proposed Minor Variance application and can provide the following evaluation:

Does the Proposal Maintain the General Intent of the Official Plan? Yes

The subject property is designated as *Good General Agriculture* in the Township's Official Plan (OP). The main objectives for the *Good General Agricultural Area* (Section 4.2) is protecting agricultural operations, preserving viable agricultural lands as well as, promoting small scale secondary uses which do not hinder the surrounding agricultural community. Another objective of the *Good General Agriculture* designation is minimizing the impact of non-farm uses (including new residential development) on the agricultural area. One of the mechanisms to minimize the impact between land uses in the agricultural area is the minimum distance separation formulae.

Minimum distance separation (MDS) is applicable when a non-agricultural use is proposed adjacent to an active or potential livestock facility. As per OP policy 4.2.1c) the minimum distance separation formulae is required to be utilized to determine separation distances between new or expanding livestock operations and new or expanding non-farm uses including any new residential development in all agricultural areas. The intent is to minimize land use incompatibilities relating to agricultural-related nuisances for example, odour between livestock operations and sensitive land uses (nearby residences).

The deficient MDS I setback does not appear to hinder the surrounding agricultural lands or worsening the existing conditions between the two land uses. This property permits the residential use and the provided setback of 513.54 metres still upholds the intent to minimize the impact between the newly constructed dwelling and abutting agricultural operation.

For these reasons, the proposal is still in alignment with the general intent and purpose of the Township's OP policies.

Does the proposal maintain the general intent and purpose of the Zoning Bylaw?
Yes

The subject property is zoned Agricultural 'A' with a total lot size of 0.56 hectares (1.39 acres). As outlined in Table 11 in Part 5 of the Township's Zoning By-law 2017-70, as amended, the residential use (single detached dwelling) is permitted on the property. Aside from the requested variance, the constructed dwelling complies with the applicable regulations outlined in Table 12 of the Township's Zoning Bylaw. The proposed mudroom and attached garage also comply with the applicable regulations outlined in Part 3.12.7 *Private Garages*.

Relief is required from Part 3.10 *Minimum Distance Separation* of the Township's Zoning Bylaw. As previously noted, the intent guiding the MDS requirements is minimizing land use incompatibilities between agricultural operations and surrounding residential uses. Minimum distance separation is organized into two calculations; a MDS I setback required for non-agricultural uses (construction of new residential development) whereas, MDS II setbacks are required for agricultural uses (new livestock facility or expanding of an existing operation). The Ontario Land Tribunal approved a MDS I setback of 515 metres to the neighbouring swine barn/manure storage. The dwelling was originally proposed and approved to meet the setback, however was constructed at a setback of 513.54 metres, contrary to the building permit and therefore requiring the requested relief of 1.46 metres.

The setback provided (513.54 metres) still maintains a significant distance between the constructed dwelling and the neighbouring manure storage and livestock barn. Given the large proximity still being maintained between the two land uses, the

intent and rationale behind requiring minimum distance separations is being upheld.

For these reasons, this proposal still maintains the general purpose of the Township's Zoning By-law 2017-70, as amended.

Is the Proposal desirable for the appropriate development or use of the land? Yes

The proposal can be considered appropriate development and use of land since there are no adverse impacts anticipated on the surrounding area, including the existing agricultural and residential land uses. This property permits the residential use and was created with the intention of being a residential lot. While the MDS I setback is deficient, 513.54 metres still provides a significant distance between the two land uses which is aligned with the intent to minimize the impact of agricultural-related nuisances associated with standard farming practices (such as odour, noise, dust or flies) on nearby residential uses.

Is the proposal minor in nature? Yes

This proposal can be considered minor in nature as the general intent of the Township's Official Plan and Zoning Bylaw provisions are being maintained, particularly the intent to limit the impact between agricultural operations and surrounding residential land uses.

INTER-DEPARTMENTAL & AGENCY COMMENTS:

Building Department: Have reviewed the application and provided the following comments.

- 1.0 The Building Department issued an Order to Comply #2024-0024 December 16, 2024 to Albert and Ann Rumph (Owners) stating "Foundation of dwelling not built according to approved permit plans".
- 2.0 The owners were advised to apply to the C of A to obtain approval for the now existing location of the dwelling.
- 3.0 The owners also had applied for a mudroom and garage addition to the dwelling but Building Department cannot issue a permit due to the location of the now existing dwelling not being built in accordance with the approved plans. Once C of A approves the location of the dwelling a building permit can be issued for the mudroom and garage addition.

Public Works and Engineering Department: Have reviewed the application and offers no comments or objections.

Septic System Inspection Manager: Has reviewed the application as submitted and offers no objections. A septic permit was issued for the property showing compliance with Part 8 (Sewage Systems) of the Ontario Building Code.

Niagara Peninsula Conservation Authority (NPCA): Have reviewed the application and notes that the property contains a regulated watercourse and an associated 15-metre buffer area that travels across the northwest corner of the property in the rear yard. The completed works do not encroach within the NPCA regulated area and as such, the NPCA have no objections with this minor variance application. Please see Attachment 3 for the comments received.

Niagara Region: Have reviewed the application and offers no comments as they have no interest in this matter.

PUBLIC COMMENTS:

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

CONCLUSION:

Based on the above analysis, Planning Staff recommend APPROVAL of the proposed Minor Variance Application (A05/2025WL) as outlined in Report COA-06-25, to permit the constructed dwelling at a reduced MDS I setback no less than 513.54 metres.

ATTACHMENTS:

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

Prepared & Submitted by:



**Stephanie Pouliot,
Planner**

Approved by:



**Susan Smyth,
Manager of Planning and Design**