

DATE: February 8, 2021

REPORT NO: PD-14-2021

SUBJECT: **Technical Report – William and Cathleen Vitucci- Zoning By-law Amendment – File No. 1601-002-21**

CONTACT: Brian Treble, Director of Planning & Building

OVERVIEW:

- An application for rezoning was submitted by William and Cathleen Vitucci for the lands legally described as Concession 4, Part of Lot 13, in the former Township of Gainsborough now in the Township of West Lincoln, Regional Municipality of Niagara, municipally known as 5291 Regional Road 20.
- This application for rezoning is required as a condition of consent for surplus severance application B04/2020WL, that was conditionally approved by the Township of West Lincoln's Committee of Adjustment on November 25th, 2020.
- This rezoning application proposes to rezone 0.4 hectares of land from Agricultural 'A' to Rural Residential 'RUR' with no site specific exceptions.
- This rezoning application also proposes to rezoning the remaining agricultural land from Agricultural 'A' to Agricultural Purposes Only 'APO' with a site specific provision to prevent any residential development in perpetuity. The site specific exception proposes to also recognize a deficient lot size of 31 hectares (76.6 acres) whereas 40 hectares (100 acres) is the minimum required lot size.
- A Recommendation Report will be prepared by Township Staff following input from the public meeting and any agency comments, and will be presented at a future Planning/Building/Environmental Committee or Council Meeting.

RECOMMENDATION:

1. That, report PD-14-2021, regarding "William and Cathleen Vitucci - Zoning By-law Amendment File No. 1601-002-21", dated February 8th 2021, be RECEIVED; and,
2. That, a Recommendation Report be presented at a future Planning/Building/Environmental Committee meeting.

ALIGNMENT TO STRATEGIC PLAN:

- Strategic, Responsible Growth

BACKGROUND:

The subject lands are legally described as Concession 4, Part of Lot 13, Gainsborough, in the Township of West Lincoln, Regional Municipality of Niagara, municipally known as 5291 Regional Road 20 (see attachment 1 for a survey sketch).

This application for rezoning has been submitted to fulfil a condition of consent for application B04/2020WL, a surplus farm dwelling severance which was conditionally granted approval by the Committee of Adjustment on November 25th, 2020. This will enable the applicants to retain the farm parcel and dispose of the surplus farm dwelling on the property.

The Zoning By-law Amendment proposes to rezone 0.4 hectares of land from Agricultural 'A' to Rural Residential 'RUR' with no site specific exceptions. The remaining 31 hectare parcel of agricultural land to be retained is required to be rezoned to Agricultural Purposes Only 'APO' with a site specific exception to recognize a deficient lot area of 31 hectares whereas 40 hectares is the required minimum.

CURRENT SITUATION:

1. Provincial Policy Statement (PPS)

The PPS guides the growth and development of the Province and provides the general framework for planning in the Province. All planning decisions must be consistent with the PPS. The policies regarding Agriculture are within the 'Wise Use and Management of Resources' section of the PPS. The lot creation policies in the PPS for the Agricultural area are very specific and limited in the number of instances where severances in the agricultural area can occur. The PPS allows for surplus farm severances in the following instances:

As a result of farm consolidation, provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective.

The retained agricultural lands will need to be rezoned to Agricultural Purposes Only, which will meet the intent of the PPS to prohibit a new residential dwelling on the vacant severed agricultural parcel. The severed residential property will need to be rezoned to Rural Residential 'RuR' to recognize the continued residential use on the property.

2. A Place to Grow – Provincial Growth Plan (P2G)

Applications filed after June 16, 2006 must conform to the A Place to Grow – Provincial Growth Plan. Section 1.2.3 of the P2G provides direction on how to read the Growth Plan, specifically noting that: *This Plan must also be read in conjunction with other provincial plans as defined in the Planning Act that may apply within the same geography.*

Section 4.2.6 of the Growth Plan contains policies for the Agricultural System in Ontario. These policies aim to preserve, protect and enhance Ontario's Agricultural System. Where agricultural uses and non-agricultural uses interact outside of settlement areas, land use compatibility will be achieved by avoiding or where avoidance is not possible, minimizing and mitigating adverse impacts on the Agricultural System. Where mitigation is required, measures should be incorporated as part of the non-agricultural uses, as appropriate, within the area being developed (4.2.6.3). The geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network will be maintained and enhanced (4.2.6.4). The retention of existing lots of record for agricultural uses is encouraged, and the use of these lots for non-agricultural uses is discouraged (4.2.6.5).

3. Greenbelt Plan

Applications must conform to the Greenbelt Plan if they fall within the mapping provided with the Greenbelt Plan. Since the subject lands are outside the area designated in the Greenbelt Plan, the Greenbelt Plan does not apply.

4. Regional Policy Plan (RPP)

The Regional Policy Plan (RPP) provides general policies that are to be applied across the Niagara Region. The policies regarding severances in the agricultural area are similar to those found in the PPS. The policies allow for surplus farm severances as a result of a farm consolidation, so long as residential dwellings are prohibited in perpetuity on any vacant remnant parcel of agricultural land.

The policies in the RPP also permit surplus residential lot sizes to be a maximum of 1 acre, or 0.4 hectares, unless it has been identified that additional lands are required for legal or technical reasons. The consent application was approved conditionally to sever ± 0.4 hectares (± 1.0 acres) of residential land.

5. Township of West Lincoln Official Plan (OP)

The Township OP allows for severances in the agricultural area where two or more farms, being contiguous or non-contiguous, have been amalgamated under the ownership of a bona fide farmer and an existing house, which is capable of habitation and is considered surplus to the needs of the farmer. The remaining agricultural lands must be rezoned as Agricultural Purposes Only in perpetuity to prevent any future houses on the agricultural lands. As such, the severed agricultural land is being rezoned to Agricultural Purposes Only, which will prevent any future houses from being constructed on the agricultural lands.

The policies in the Township's OP state that a new residential lot being created through a surplus farm dwelling severance should not be larger than 0.4 hectares, nor include more Good General Agricultural land than is required to support the residence and private services required to serve that residence. The application proposes a residential lot size of ± 0.4 hectares. The Township's OP also requires the residential dwelling to be a minimum of 10 years of age. The existing residential house on the subject property was built in 1953 according to Municipal Property Assessment Corporation (MPAC) data.

6. Township of West Lincoln Zoning By-Law (ZBL)

The majority of the subject property is currently zoned Agricultural 'A' in the Township's Zoning By-law. The proposed application is to rezone the severed ± 0.4 hectare (± 1.0 acre) residential lot from Agricultural 'A' to Rural Residential 'RuR', with no site specific exception.

Additionally, the application proposes to rezone the remaining ± 31 hectares (± 76.6 acres) of retained Agricultural land to Agricultural Purposes Only 'APO' with a site specific exception to recognize the deficient lot area whereas 40 hectares (100 acres) is the required minimum. The APO zoning will preclude any new residential dwellings in perpetuity

FINANCIAL IMPLICATIONS:

There are no financial implications associated with this application.

INTER-DEPARTMENTAL COMMENTS:

Agencies were notified by way of e-mailed and mailed notice on Thursday January 14th 2021. Notice was also posted on the Municipality's website and through the posting of a Yellow Sign on the subject property once the notice was sent out to the public.

Township Public Works had no comments in regards to this application.

The Niagara Region commented on the original severance application, and addressed the rezoning application through those comments. The Region has no objection to the rezoning provided the severed agricultural lands are re-zoned to preclude any new dwellings in perpetuity. This is proposed to be done by rezoning the remnant lands to Agricultural Purposes Only (APO).

The Niagara Peninsula Conservation Authority (NPCA) also commented through the original consent application and provided no objections to the application as proposed.

PUBLIC COMMENTS

Public Notice was provided via regular mail to all property owners within a 120m distance of the property lines on January 14th 2021. No public comments have been received as of February 3rd 2021.

CONCLUSION:

Township Staff have completed a preliminary review of this application against the applicable planning policy.

The residential lot will need to be rezoned to a Rural Residential 'RuR' zone with no site specific exception. The ± 31 hectare (76.6 acre) parcel of agricultural land to be retained is required to be rezoned to Agricultural Purposes Only 'APO' with a site specific exception to recognize a deficient lot size whereas 40 hectares (100 acres) is the required minimum.

A future staff report will provide a recommendation to Planning/Building/Environmental Committee for this application following input received through the public meeting process.

ATTACHMENTS:

1. Survey Sketch
2. Draft By-law
3. Schedule A

Prepared by:



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