



MUNICIPALITY OF **West Elgin**

Staff Report

Report To: Council
From: Heather James, Planner
Date: 2020-06-11
Report: 2020-17
Subject: Minor Variance 24156 Marsh Line

Recommendation:

That West Elgin Committee of Adjustment hereby receives the report from Heather James regarding the minor variance application for File No. D13 02-2020, Concession 9, Part of Lot 14 (being Part 1 on RP 11R-6283), 24156 Marsh Line; and,

That West Elgin Committee of Adjustment approve Minor Variance File No. D13 02-2020, subject to the conditions on the attached Decision Sheet.

Purpose:

An application for minor variance was submitted by the agent, Ted L. Halwa, Land Use Planner, who is representing the owner, Al Zhen Chen and applicant, Ron Lin. The owner and applicant are proposing to construct a greenhouse with an area of 2,322.58 m² (25,000.0 ft.²) to grow cannabis or vegetables on the subject lands (as shown on the attached Schedule 'A'). The purpose of the application is to seek relief from the following sections of the Municipality of West Elgin Comprehensive Zoning By-law 2015-36: 1) Section 5.1.1 Table 5-1 subsection 3, which states the maximum lot coverage is 20%; and, 2) Section 4.1 f) Accessory Uses, Buildings and Structures which states an accessory building or use shall not exceed ten (10) per cent coverage of the total lot area. The owner and applicant are proposing: 1) a maximum lot coverage of 32% for all existing buildings and the proposed greenhouse; and, 2) a proposed maximum lot coverage of 26.5% for all accessory buildings (existing two barns and shed and proposed greenhouse).

Background:

The subject lands are situated on the north side of Marsh Line, and municipally known as 24156 Marsh Line. The subject lands have an area of 0.87 ha (2.15 ac.), a depth of 103.5 m (339.57 ft.) and a frontage of 84.5 m (277.23 ft.) along Marsh Line. The lands currently contain a single unit dwelling, two barns and accessory building (shed) and used for non-farm residential use. The lands are serviced with municipal water and private septic system. Agricultural and non-farm residential uses surround the subject lands. Location of the subject lands is shown on the attached Schedule 'A' map.

The subject lands are designated Agricultural as shown on Schedule 'E' Rural Area Land Use & Transportation Plan in the Municipality of West Elgin Official Plan and are zoned Restricted Agricultural (A3) as shown on Schedule "A" Map No. 50 in the Municipality of West Elgin Comprehensive Zoning By-law 2015-36.

The application was circulated to Municipal staff for comment. Two comments were received from municipal staff:

Chief Building Official

'I have a concern regarding storm water drainage. Prior to the issuance of a building permit for a proposed greenhouse, I will need to see a drainage plan for the property prepared by a licensed Ontario Land Surveyor or Professional Engineer of Ontario.'

Comment: The agent, who representing the owner and applicant has been made of this requirement.

Manager of Utility Services

'This property has existing water service to the property.'

Comment: Upon receiving this comment, I spoke with the manager and asked if the proposed greenhouse could be accommodated with the existing service to the property. The manager indicated it is a 1" water service into the property and may possibly require an upgrade to a 2" water service. The manager also stated there is a 12" main water line on Marsh Line that could accommodate a 2" water service for this property, should it be required. I communicated this information to Mr. Halwa who stated the owner and applicant are unaware of how much water they will require and concur they may need to upgrade the service in the future for the proposed greenhouse. At this time, it is my recommendation that the existing water service remain.

All other comments received from municipal staff indicated they have no concerns.

The application was circulated to all applicable public agencies. Only one comment was received from Lower Thames Valley Conservation Authority, indicating they had no objections to the proposal. The application was circulated to all neighbouring property owners within 60 m (196.85 ft.) of the subject lands. No comments were received.

Financial Implications:

None.

Policies/Legislation:

Provincial Policy Statement (PPS):

Under Section 3(5) of the *Planning Act*, the Municipality "shall be consistent with" matters of provincial interest as set out in the Provincial Policy Statements (PPS). Agricultural and stormwater management policies were reviewed and no concerns were evident, as a drainage plan will be required for this development prior to the issuance of a building permit.

Upon review of the applicable PPS policies, the application is consistent with the PPS.

County of Elgin Official Plan:

The County Official Plan designates the subject property as Agricultural Area on Schedule 'A' Land Use. Agricultural uses such as secondary farm occupations are permitted.

Upon review of the applicable County Official Plan policies, the application conforms to the County of Elgin Official Plan.

Ontario Planning Act:

Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

Four Tests of the Minor Variance

1. Does the variance maintain the intent and purpose of the Municipality of West Elgin Official Plan?

Yes. An accessory structure (greenhouse) for a secondary use in the Agricultural designation is permitted. With the exception of the increase in maximum lot coverage and increase in maximum lot coverage for accessory buildings and structures, the application does not contravene the Municipality of West Elgin Official Plan policies.

2. Does the variance maintain the intent and purpose of the Municipality of West Elgin Comprehensive Zoning By-law 2015-36?

Yes. An accessory structure (greenhouse) for a secondary farm occupation is permitted in the Restricted Agricultural (A3). With the exception of the increase in maximum lot coverage and increase in maximum lot coverage for accessory buildings and structures, the application complies with all remaining Restricted Agricultural (A3) zone provisions.

3. Is the variance requested desirable for the appropriate and orderly development and use of the lands and buildings?

Yes. The variance will enable the owner to maximize the value and use of the property, in accordance with the Official Plan policies and Zoning By-law provisions. The increase in maximum lot coverage and increase in maximum lot coverage for accessory buildings and structures will allow the owner to construct an accessory structure (greenhouse) on their property to be used for a secondary farm occupation without the requirement to remove other existing accessory buildings and structures. The requirement for a drainage plan prior to the issuance of a building permit will ensure that stormwater management can be adequately addressed on-site and minimize the potential for negative impacts to the neighbouring agricultural parcel. The variance will not impede the function of the lot.

4. Is the variance minor in nature?

Yes. The meaning of 'minor' is not based on a specific number, where a difference of a number of metres or feet determines whether or not the development is acceptable. It is more appropriate to base this test on the degree of potential impact on neighbouring property owners; the environment; and municipal functions.

The impact from the proposed variance with respect to the neighbouring property owners and the environment will be minimized through the implementation of a drainage plan for the lands. There will be minimal impact from the proposed variance with respect to municipal functions. No comment of concern was received from the Municipal Manager of Operations and Community Services.

Summary/Conclusion:

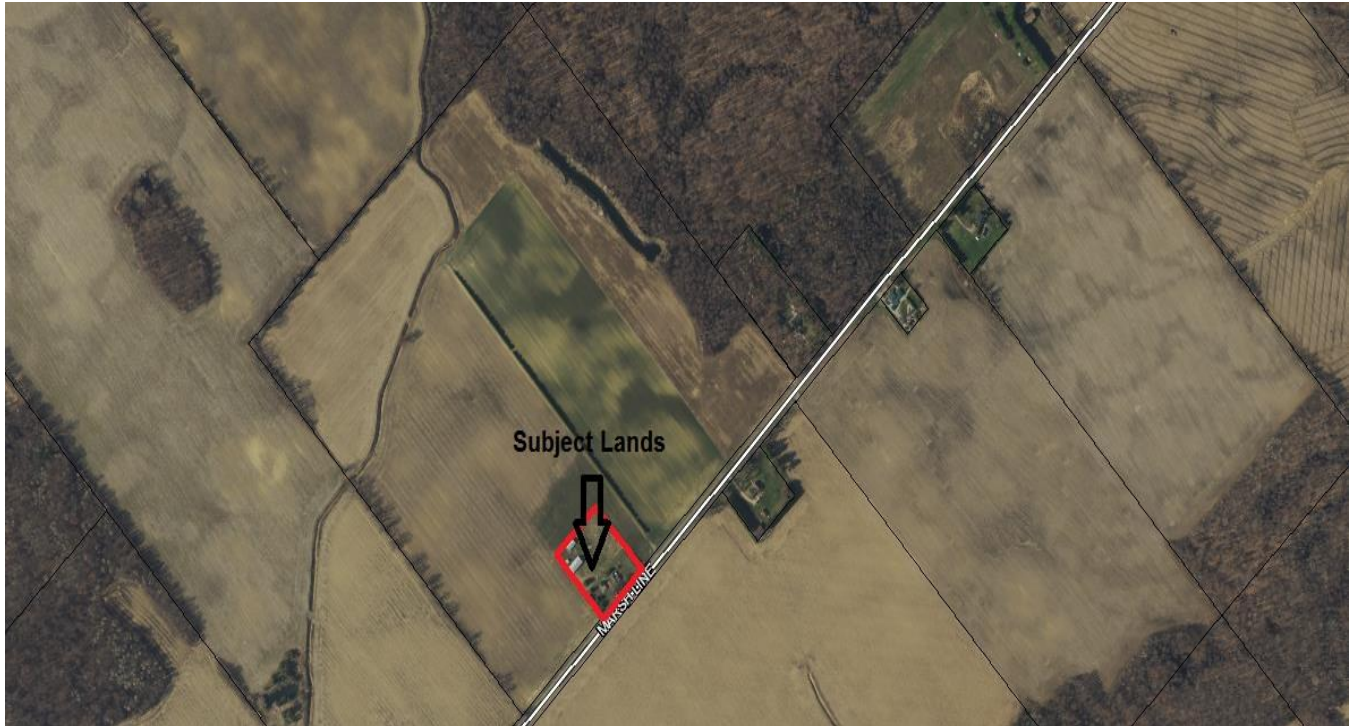
The application has been assessed for appropriateness with regard to existing policy and the impact of the proposal on the surrounding land uses. The application maintains the intent and purpose of the Official Plan and Zoning By-law and is not expected to have an impact on surrounding property owners, the environment, or municipal functions.

I am of the opinion that the application satisfies the four tests, constitutes good land use planning, and should be approved.

Related Documents:

Municipality of West Elgin Comprehensive Zoning By-law No. 2015-36.

Schedule 'A'



Report Approval Details

Document Title:	Minor Variance 24156 Marsh Line.docx
Attachments:	- Decision Sheet - Chen.docx
Final Approval Date:	Jun 8, 2020

This report and all of its attachments were approved and signed as outlined below:

Jana Nethercott