

Committee of Adjustment Meeting
AGENDA

Monday, September 23, 2019, 5:00 pm
Tecumseh Town Hall - Council Chambers
917 Lesperance Road
Tecumseh, Ontario N8N 1W9

Pages

1. **Call to Order**
2. **Roll Call**
3. **Disclosure of Pecuniary Interest**
4. **Minutes**
 - a. Minutes of the regular Committee of Adjustment meeting dated Monday, August 26, 2019 2 - 5
5. **Submissions**
 - a. Agenda Cover Map 6 - 6
 - b. Agenda 7 - 8
 - c. Application for Minor Variance A-26/19 - Amicone Holdings Limited, 2155 Blackacre Drive 9 - 10
 - d. Application for Severance B-12/19 - Del Duca Industrial Park Ltd., 5240 8th Concession 11 - 12
 - e. Planning Report dated September 23, 2019 13 - 21
6. **Deferrals**
7. **New Business**
8. **Old Business**
9. **Adjournment**

**THE CORPORATION OF THE TOWN OF TECUMSEH
MINUTES OF THE COMMITTEE OF ADJUSTMENT MEETING**

A regular meeting of the Committee of Adjustment was held on Monday, August 26, 2019 at the Municipal Building, 917 Lesperance Road, Tecumseh, Ontario at 5:00 p.m.

I CALL TO ORDER

The Chairperson calls the meeting to order at 5:00 p.m.

II ROLL CALL

PRESENT:	Chairperson:	Tom Fuerth
	Vice-Chairperson:	Paul Morand
	Members:	Chris Carpenter
		Lori Chadwick
		Tom Marentette
		Tony Muscedere
	Director Planning & Building	
	Services	Brian Hillman
	Secretary-Treasurer	Donna Ferris

ABSENT: Chad Jeffery, Manager Planning
Bill Altenhof, Member

III DISCLOSURE OF PECUNIARY INTEREST

There is no disclosure of interest made.

IV MINUTES

1. Minutes of the regular Committee of Adjustment meeting held Monday, July 22, 2019.

Motion: (CA-47/19) Moved by Paul Morand
Seconded by Tony Muscedere

That the Minutes of the regular Committee of Adjustment meeting held Monday, July 22, 2019 be adopted, as printed and circulated.

Carried

V SUBMISSIONS

The following submissions were heard:

Application for Minor Variance A-25/19 – Pat and Diane Hayes, 12602 Riverside Drive

Interested parties present: Pat Hayes, Applicant and
Jerome Baillargeon, Agent for the Applicants

The purpose of the Application is to request relief Subsection 6.1.11 establishes that any building or addition on the north side of Riverside Drive shall not extend beyond the established building line. The Applicant is requesting relief for an addition to the existing dwelling, which is currently beyond the established building line. More specifically, the requested relief will allow for:

- i. The construction of a deck extension of 0.76 metres (2.5 feet) that will not exceed 0.4 metres (1.5 feet) above grade along the eastern side of the deck identified in orange on the Site Plan attached;
- ii. The construction of a roof over the remaining portions of the deck identified in yellow and orange on the Site Plan attached; and
- iii. Enclosing the entire covered deck with screening.

A minor variance was granted in 2011 (Application A-27/11) for a second storey addition above the existing first storey, the construction of a 3 metre wide deck that does not exceeding 0.4 metre (1.5 feet) above grade and the construction of a canopy overhang over a portion of the deck along the eastern wall of the dwelling.

The Corporation of The Town of Tecumseh
Minutes of Regular Committee of Adjustment Meeting held Monday, August 26, 2019
Page 2

The subject property is designated Residential in the Tecumseh Official Plan and zoned Residential Zone 1 (R1) in the Tecumseh Zoning By-law 1746.

Notice of hearing for the above submission was circulated to landowners within a radius of 60 metres (200 feet) of the subject property (a list of said owners is on file). Notice of Hearing with a sketch attached was sent to the Applicant, each Council Member, Clerk, Public Works and Engineering Department, Planning and Building Services, Fire Department and all required agencies and to each member of the Committee of Adjustment.

CORRESPONDENCE

ERCA: Recommend a deferral until such time as ERCA has an opportunity to undertake pre-consultation with the owners about the application.

County of Essex: No response.

Town Engineer: No comments.

Correspondence dated August 26, 2019 - Residents of 12554 Riverside Drive are not in support of the Application.

DISCUSSION

Pat Hayes, Applicant and Jerome Baillargeon, Agent for the Applicant appear before the Committee to discuss the Application. Jerome Baillargeon informs the Committee that the screens proposed are a roll down style from Seaton and that they will be used during the night hours when the insects are out. Jerome Baillargeon also advises that his clients would not be able to keep the shades down on a regular basis because if a strong wind came off the lake, it would destroy the blinds. Jerome Baillargeon further advises that the roof of the canopy proposed is a flat roof.

Brian Hillman, Director Planning and Building Services informs that a minor variance was granted in 2011 for a second storey addition above an existing first storey. Brian Hillman also explains that the sight line is established from the corner of the octagon shape from the house on the east side to the north-easterly corner of the house on the west side. The previous minor variance included the construction of a 3 metre wide deck, not exceeding 0.4 metres above grade and the construction of a canopy overhang over a portion of the deck along the eastern wall of the dwelling. The previous addition also included a second storey over the existing footprint. Jerome Baillargeon indicates that approximately 50 percent of the existing structure is beyond the sight line but as it was built in the late 50's, it is considered legal non-conforming. Brian Hillman referring to the sketch on the Notice, explains that the relief being sought is for a 2.5 foot deck extension to the east outlined in orange on the sketch and a canopy over all the yellow and orange area. The dark red on the sketch is the existing canopy. Jerome Baillargeon advises that the canopy will have one-foot wide decorative columns. Brian Hillman states that the relief being sought is for a deck extension, construction of a flat roof over the remaining portions of the deck and enclosing the entire covered deck with screening.

Lori Chadwick inquires as to what precludes the Applicant from working within the limits of the zoning by-law. What hardship is the Applicant enduring? Pay Hayes informs the Committee that they would like to sit out even when it is raining and that is it a lot of work to cover the patio furniture daily and that when the sun beats down, it is also extremely hot without any shelter. Jerome Baillargeon indicates his clients want to enjoy the views of the water while being protected from the elements. Lori Chadwick inquires if the Applicant could live with the existing proposal without the screening. Pay Hayes advises that it would not be a problem but it would be nice to have the screening as they are out a lot at night. Lori Chadwick indicates that the proposal without the screening would be more digestible. Jerome Baillargeon indicates that the blinds would be down only at night and that the neighbour to the east has no objection. Jerome Baillargeon indicates that there is no evidence to support the claim that it obstructs the view of the neighbour to the west. Jerome Baillargeon states that the Committee needs to consider the actual impact of the proposal. Tom Fuerth indicates that the concern with the screening is that if they allow one resident to have screening, then they would have to allow ten more. Tom Fuerth states that if the deck extension and canopy are granted, it is like giving the Applicant another room to their dwelling.

Brian Hillman indicates that there is a history on the shoreline and a high sensitivity to views on waterfront properties. Brian Hillman goes on to say that there is an OMB decision that supports the "right to a view on waterfront properties". Brian Hillman also informs the

Committee that a recent decision by the Committee for a covered porch beyond the established building line was granted provided it is not enclosed with walls. By-law Enforcement was recently involved with this property as blinds were installed which effectively become a wall when closed. The Planning Department has no concerns with the deck extension and as the canopy has a flat roof, no concerns with the canopy either however the screening does cause great concern. The difficulties arise when applying the four tests with respect to the screening. Pat Hayes explains the difficulties he has as a result of the house already being beyond the established building line.

Lori Chadwick questions Administration with respect to the deferral being requested by ERCA. Jerome Baillargeon indicates that they thought they would get approval for the minor variance prior to consulting with ERCA. Administration notes that there is some confusion on the part of ERCA with respect to the permit for the previous addition. The reason a permit was not needed from ERCA was because the addition was for a second storey over an existing single storey therefore there were no elevation issues thereby eliminating the need for a permit from ERCA.

Discussion ensues with respect to whether or not granting a decision without the Applicant having consulted with ERCA prior to the hearing. Would a decision by the Committee somehow put undue pressure on ERCA. ERCA's scope is shoreline protection. Tom Fuerth advises the Committee that they can defer the Application as recommended by ERCA until such time as the Committee has a report from ERCA. Tom Fuerth notes that with the current high elevation of water/lake levels, there is a heightened awareness with regards to damage to building on waterfront properties particularly if there is a north wind. Although, the Chair notes that ERCA is not present this evening. Tom Fuerth further advises that the Committee can approve the Application on the condition that the permit from ERCA is obtained but then the Applicant is taking a chance that if ERCA does not approve the existing proposal, then you would have to come back to the Committee with a new application for a revised proposal.

Tom Marentette also concurs with the comments made by Lori Chadwick and Brian Hillman with respect to the proposed Application. The difficulties with respect to properties on the waterfront is the desire to build closer to the lake and to want to sit out as much as possible therefore wanting to enclose the areas with screening. Whether the screening is motorized to go up and down, the fact is that when it is down, it is essentially a wall thereby creating an obstruction and violating the "right to a view". Pat Hayes indicates that they would be willing to withdraw Item iii) enclosing the entire deck with screening from the Application.

Lori Chadwick notes that the house to west is already impacted by sight lines as a result of the house being legal non-conforming and that the current owner to the east has no concerns but one must also consider future owners of the subject lands. Lori Chadwick also notes that as a result of the canopy having a flat roof there is no impact to the house to the west but some impact to the property to the east.

Brian Hillman notes that if the Application is revised to exclude the screening, that would eliminate the potential for future enforcement with respect to visual impediments.

Tom Fuerth advises that if ERCA is prepared to issue a permit for the deck and canopy with post it would eliminate the factor of granting a minor variance for relief that may not be supported by ERCA. The Committee has to balance the hardship the owners are facing while adhering to the four tests. Brian Hillman advises that the Committee has the capacity to make a decision. Tom Marentette points out that the property is close to the flood plan, is the Applicant hiring the services of an Engineer noting the deck is not to be attached to the house. Tom Fuerth indicates that the deck is existing and that just a 2.5 foot extension to the deck is being requested and a flat roof extension over the entire deck. Brian Hillman questions whether the flat roof will have post. Jerome Baillargeon confirms that it will have concrete columns.

Tom Fuerth is concerned that if the application is granted, ERCA may feel forced into a decision as a result of the Committee's decision. Tom Fuerth advises the Applicant that they have the right to object to the deferral of the Application but if ERCA does not concur with the proposed Application you might have to come back before the Committee, perhaps a special meeting and then wait the 20-day appeal period. Tom Fuerth also advises that if ERCA has concerns with the

proposal, ERCA has the authority to deny the Application. Alternatively, the Applicant's Engineer can work with ERCA through the permit process. Brian Hillman indicates that there are challenges with respect to the Application in regards to regulations as it relates to shoreline protection. It is noted by ERCA that they have no information on this property and that there is also a dock extension going out approximately 80 feet into the water as well as large stones that have been added for a break-wall for which they have no records.

The Committee concurs that as this Application has the potential to be revised by ERCA and the sensitivity surrounding the intent of the zoning by-law as it relates to construction beyond the building line, the Committee is desirous of deferring this Application as additional information is need by the Committee prior to rendering a decision.

Motion: (CA-48/19) Moved by Tom Marentette
 Seconded by Chris Carpenter

That Application A-25/19 is deferred.

Carried

VI DEFERRALS

VII NEW BUSINESS

VIII UNFINISHED BUSINESS

IX ADJOURNMENT

Motion: (CA-49/19) Moved by Paul Morand
Seconded by Tom Marentette

That there being no further business the August 26, 2019 regular meeting of the Committee of Adjustment now adjourn at 5:44 p.m.

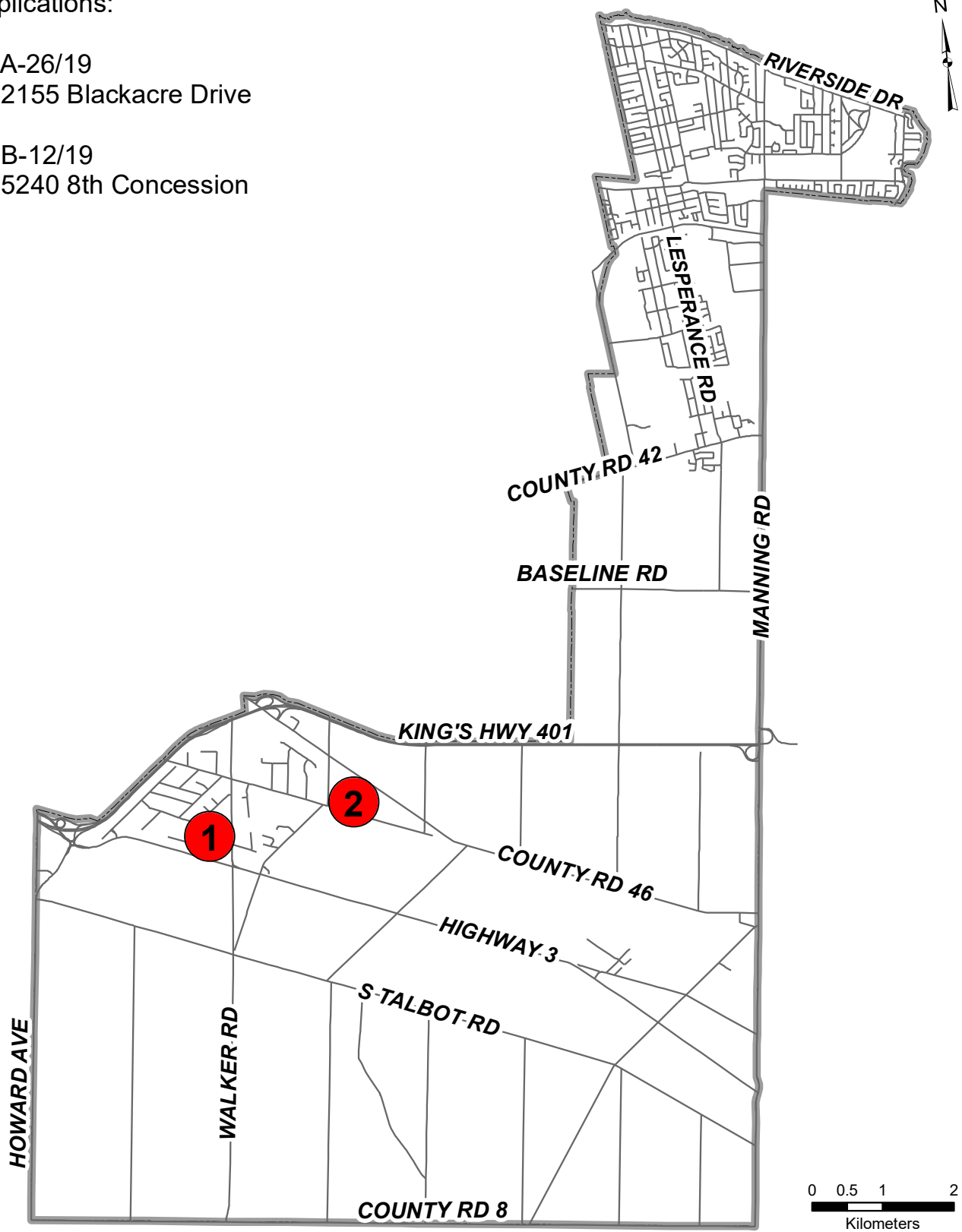
Carried

Tom Fuerth, Chairperson

Donna Ferris, Secretary-Treasurer

Applications:

1. A-26/19
2155 Blackacre Drive
2. B-12/19
5240 8th Concession



Prepared By:
Tecumseh Planning and
Building Department

1 - 2 Subject Properties

September 23, 2019
Committee of
Adjustment Meeting
Key Map

**Town of Tecumseh
Committee of Adjustment
Regular Meeting
Monday, September 23, 2019
5:00 p.m.
Tecumseh Town Hall**

AGENDA

I CALL TO ORDER

II ROLL CALL

III DISCLOSURE OF PECUNIARY INTEREST

IV MINUTES

1. Minutes of the regular Committee of Adjustment meeting dated Monday, the 26th day of August, 2019.

V SUBMISSIONS

5:00 p.m.

Application for Minor Variance A-26/19 – Amicone Holdings Limited, 2155 Blackacre Drive

The purpose of the Application is to request relief from subsection 5.37 e) of Zoning By-law 85-18 which establishes that every lot shall have a minimum of one driveway and a maximum of two driveways for any permitted use. As a result of the recent construction of a third driveway to/from the subject lot, relief is being requested.

The property is designated Business Park in the Sandwich South Official Plan and zoned Industrial Zone (M1) in the Sandwich South Zoning By-law.

5:05 p.m.

Application for Severance B-12/19 – Del Duca Industrial Park Ltd., 5240 8th Concession

The purpose of the Application is to request consent to sever a 0.74 ha (1.84 acre) parcel of land having an approximate frontage of 72.43 metres (237.63 feet) on North Talbot Road designated as Part 1 on the sketch attached (highlighted in yellow). The retained lands will have a lot area of 20.79 ha (51.37 acres). Parts 2, 3 and 4 (highlighted in pink) on the sketch attached will be conveyed to the Town for the purpose of a daylight corner and a multi-use pathway.

The proposed severed land is designated General Commercial in the Sandwich South Official Plan and zoned Holding General Commercial Zone (H) C1-9 in the Sandwich South Zoning By-law 85-18.

VI DEFERRALS

VII NEW BUSINESS

VIII OLD BUSINESS

IX ADJOURNMENT

NOTICE OF PUBLIC HEARING
OF APPLICATION FOR MINOR VARIANCE
TOWN OF TECUMSEH COMMITTEE OF ADJUSTMENT

Applicant: **Amicone Holdings Limited**

Location of Property: **2155 Blackacre Drive; Lot 304, NTR**
 (formerly Township of Sandwich South)

Purpose of Application: **Minor Variance**

The purpose of the Application is to request relief from subsection 5.37 e) of Zoning By-law 85-18 which establishes that every lot shall have a minimum of one driveway and a maximum of two driveways for any permitted use. As a result of the recent construction of a third driveway to/from the subject lot, relief is being requested.

The property is designated Business Park in the Sandwich South Official Plan and zoned Industrial Zone (M1) in the Sandwich South Zoning By-law.

TAKE NOTICE that an application under the above file number will be heard by the Committee on the date, time and place shown below:

**TOWN OF TECUMSEH MUNICIPAL BLDG.
917 LESPERANCE
TECUMSEH, ONTARIO**

ON

Monday, the 23rd day of September, 2019 at 5:00 pm

PUBLIC HEARING

You are entitled to attend this public hearing in person to express your views about this application or you may be represented by counsel for that purpose. If you are aware of any person interested in or affected by this application who has not received a copy of this notice you are requested to inform that person of this hearing. If you wish to make written comments on this application they may be forwarded to the Secretary-Treasurer of the Committee at the Town of Tecumseh, 917 Lesperance Road, Tecumseh, Ontario N8N 1W9.

FAILURE TO ATTEND HEARING

If you do not attend at the hearing it may proceed in your absence (including possible amendments to the original request) and, except as otherwise provided in the Planning Act, you will not be entitled to any further notice in the proceedings.

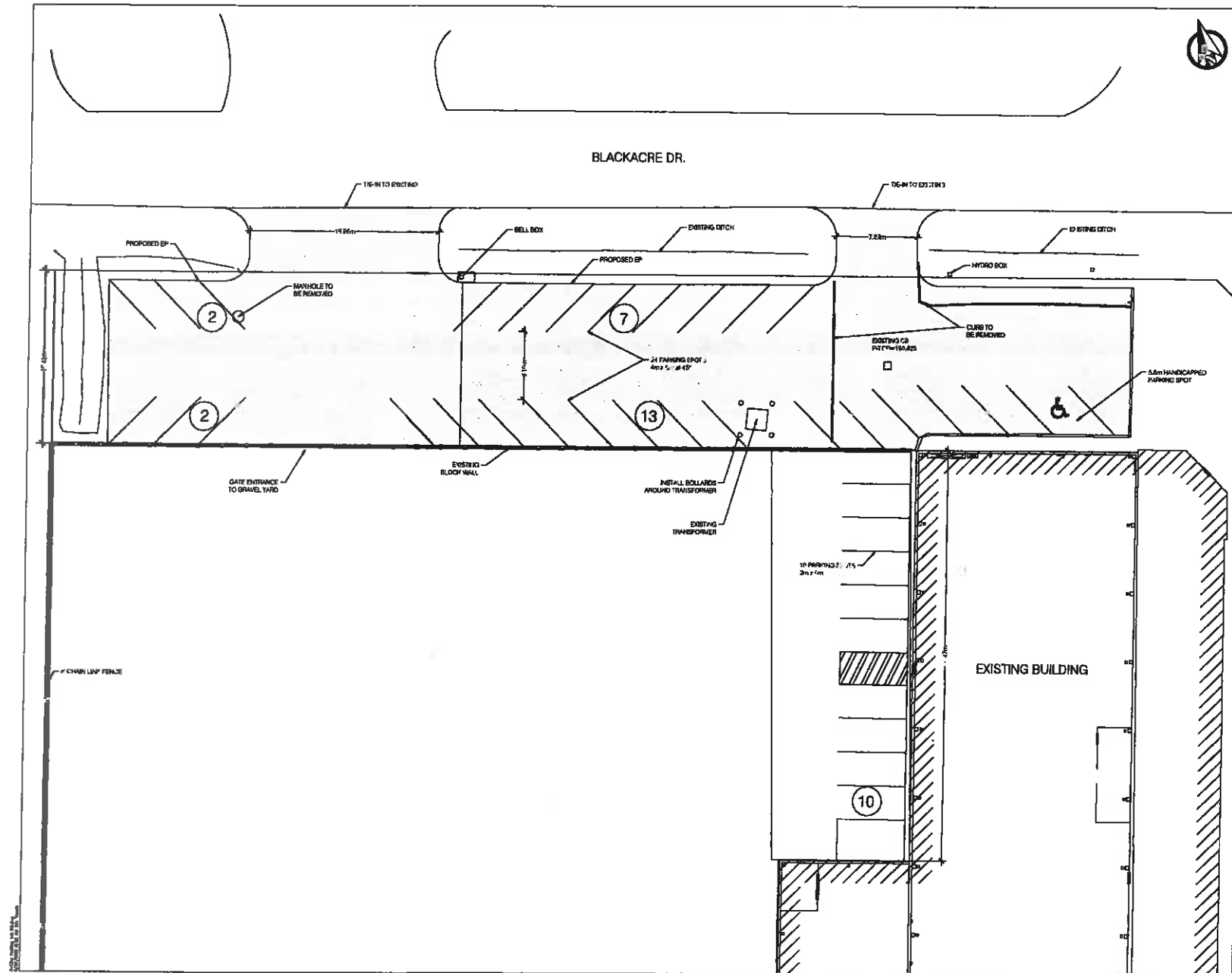
NOTICE OF DECISION

If you wish to be notified of the decision of the Town of Tecumseh Committee of Adjustment in respect to this application, you must submit a written request to the Secretary-Treasurer to the Committee of Adjustment. This will also entitle you to be advised of a possible Local Planning Appeal Tribunal Hearing. Even if you are the successful party, you should request a copy of the decision since the Town of Tecumseh Committee of Adjustment decision may be appealed to the Local Planning Appeal Tribunal by the Applicant or another member of the public. To appeal the decision to the Local Planning Appeal Tribunal, send a letter to the Secretary-Treasurer outlining the reasons for appeal. You must enclose the appeal fee of \$300.00 for each application appealed, paid by cheque, made payable to the Ontario Minister of Finance.

Donna Ferris
Secretary-Treasurer
Town of Tecumseh Committee of Adjustment

Dated this 11th day of September, 2019

A-26/19 2155 Blackacre Drive



GENERAL NOTES

1. DO NOT SCALE DRAWINGS.
2. THE LOCATIONS OF EXISTING UTILITIES ARE APPROXIMATE ONLY AND ARE SHOWN ON THE DRAWINGS FROM THE MOST CURRENT INFORMATION AVAILABLE.
3. THE CONTRACTOR IS RESPONSIBLE FOR ACCURATELY LOCATING UTILITIES PRIOR TO CONSTRUCTION AND FOR ADEQUATELY PROTECTING THE UTILITIES DURING CONSTRUCTION.

PROPOSED

ASPHALT PAVEMENT

A-LINX PARKING LOT

2	SITE PLAN
Sheet No.	Existing & Proposed Conditions
Scale: 1:150H	Drawn By: TW
Date: MAY 27, 2018	Checked By: TY

**NOTICE OF PUBLIC HEARING
OF APPLICATION FOR SEVERANCE**

TOWN OF TECUMSEH COMMITTEE OF ADJUSTMENT

Applicant: **Del Duca Industrial Park Ltd.**

Location of Property: **5240 8th Concession Road; Parts 1 & 2, 12R-27533
(formerly Township of Sandwich South)**

Purpose of Application: **Severance**

The purpose of the Application is to request consent to sever a 0.74 ha (1.84 acre) parcel of land having an approximate frontage of 72.43 metres (237.63 feet) on North Talbot Road designated as Part 1 on the sketch attached (highlighted in yellow). The retained lands will have a lot area of 20.79 ha (51.37 acres). Parts 2, 3 and 4 (highlighted in pink) on the sketch attached will be conveyed to the Town for the purpose of a daylight corner and a multi-use pathway.

The proposed severed land is designated General Commercial in the Sandwich South Official Plan and zoned Holding General Commercial Zone (H) C1-9 in the Sandwich South Zoning By-law 85-18.

TAKE NOTICE that an application under the above file number will be heard by the Committee on the date, time and place shown below:

**TOWN OF TECUMSEH MUNICIPAL BLDG.
917 LESPERANCE
TECUMSEH, ONTARIO
ON**

Monday, the 23rd day of September, 2019 at 5:05 pm

PUBLIC HEARING

You are entitled to attend this public hearing in person to express your views about this application or you may be represented by counsel for that purpose. If you are aware of any person interested in or affected by this application who has not received a copy of this notice you are requested to inform that person of this hearing. If you wish to make written comments on this application they may be forwarded to the Secretary-Treasurer of the Committee at the Town of Tecumseh, 917 Lesperance Road, Tecumseh, Ontario N8N 1W9.

FAILURE TO ATTEND HEARING

If you do not attend at the hearing it may proceed in your absence (including possible amendments to the original request) and, except as otherwise provided in the Planning Act, you will not be entitled to any further notice in the proceedings.

NOTICE OF DECISION

If you wish to be notified of the decision of the Town of Tecumseh Committee of Adjustment in respect to this application, you must submit a written request to the Secretary-Treasurer to the Committee of Adjustment. This will also entitle you to be advised of a possible Local Planning Appeal Tribunal Hearing. Even if you are the successful party, you should request a copy of the decision since the Town of Tecumseh Committee of Adjustment decision may be appealed to the Local Planning Appeal Tribunal by the Applicant or another member of the public. To appeal the decision to the Local Planning Appeal Tribunal, send a letter to the Secretary-Treasurer outlining the reasons for appeal. You must enclose the appeal fee of \$300.00 for each application appealed, paid by cheque, made payable to the Ontario Minister of Finance.

Donna Ferris
Secretary-Treasurer
Town of Tecumseh Committee of Adjustment

Dated this 6th day of September, 2019

Part 1,
Plan 12R-12869

LOT
CONCESSION

P. I. N. 75236-0370

Part 1, 12R-27533

INTEGRATION DATA

COORDINATES ARE DERIVED FROM GPS OBSERVATIONS USING THE CAN-MET NETWORK SERVICE AND ARE REFERRED TO UTM ZONE 17 (81° WEST LONGITUDE) NAD83 (CSRS) (1997.0).		
COORDINATE VALUES ARE TO AN URBAN ACCURACY IN ACCORDANCE WITH SECTION 14(2) OREG 218/10		
POINT ID	NORTHING	EASTING
CRP-A	N4677708.814	E339316.982
CRP-B	N4677343.809	E339786.371
COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.		

"METRIC" DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

NOTES

BEARINGS ARE UTM GPS DERIVED FROM OBSERVED REFERENCE POINTS "A" AND "B" BY REAL TIME NETWORK OBSERVATIONS.

DISTANCES ON THIS PLAN ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.999890.

PARTS SCHEDULE

PART	LOT	CON/PLAN	P.I.N.	AREA (Sq.m.)
1				7,435
2	PART OF	CONCESSION 8	PART OF	39
3	LOT 11		75236-0285	217
4				283

PARTS 1 to 4, (Incl.) COMPRISE PART OF P.I.N. 75236-0370.

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.

DATE _____

ANDREW S. MANTHA
ONTARIO LAND SURVEYOR

PLAN 12R-
RECEIVED AND DEPOSITED

DATE _____

REPRESENTATIVE FOR LAND REGISTRAR FOR THE LAND TITLES DIVISION OF ESSEX (12)

PLAN OF SURVEY

OF
PART OF LOT 11,
CONCESSION 8
GEOGRAPHIC TOWNSHIP OF SANDWICH EAST
NOW IN THE
TOWN OF TECUMSEH
COUNTY OF ESSEX, ONTARIO
VERHAEGEN • STUBBERFIELD • HARTLEY • BREWER • BEZAIRE INC.

SCALE = 1:1250



LEGEND

- SB DENOTES 25mm X 25mm X 1.22m STANDARD IRON BAR
- SSB DENOTES 25mm X 25mm X 0.61m SHORT STANDARD IRON BAR
- IB DENOTES 18mm X 18mm X 0.61m IRON BAR
- RB DENOTES 19mm diameter X 0.61m ROUND IRON BAR
- CC DENOTES CUT-CROSS
- CP DENOTES 5mm X 50mm STEEL PIN
- MF DENOTES SURVEY MONUMENT FOUND
- MS DENOTES SURVEY MONUMENT SET AND MARKED 1744
- WT DENOTES WITNESS
- SD DENOTES SET
- OP DENOTES OBSERVED REFERENCE POINT
- SSB'S SHOWN ON THIS PLAN HAVE BEEN SET IN LIEU OF SB'S WHERE THE POSSIBILITY THAT UNDERGROUND UTILITIES EXIST.
- (S/P) DENOTES SET PROPORTIONALLY
- (P) DENOTES PLAN 12R-27210
- (408) DENOTES VERHAEGEN LAND SURVEYORS - A DIVISION OF J.B. BARNES LTD.
- (VBL) DENOTES VERHAEGEN AND BEZAIRE LIMITED, O.L.S.
- (1114) DENOTES JOHN B. SWEETON INC., O.L.S.
- (1144) DENOTES VERHAEGEN STUBBERFIELD HARTLEY BREWER BEZAIRE INC., O.L.S.
- FM DENOTES FIRE HYDRANT
- UP DENOTES UTILITY POLE WOOD
- (OU) DENOTES ORIGIN UNKNOWN
- (PI) DENOTES 12R-27533
- (608) DENOTES VERHAEGEN LAND SURVEYORS - A DIVISION OF J.B. BARNES LTD.
- (VBL) DENOTES VERHAEGEN AND BEZAIRE LIMITED, O.L.S.
- (1114) DENOTES JOHN B. SWEETON INC., O.L.S.
- (1144) DENOTES VERHAEGEN STUBBERFIELD HARTLEY BREWER BEZAIRE INC., O.L.S.
- UP DENOTES UTILITY POLE WOOD

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT, THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- THIS SURVEY WAS COMPLETED ON THE _____ DAY OF AUGUST, 2019

DATE AUGUST 16, 2019

ANDREW S. MANTHA
ONTARIO LAND SURVEYOR
for VERHAEGEN • STUBBERFIELD • HARTLEY
BREWER • BEZAIRE INC.

WINDSOR
475 Devonshire Road, Suite 200
N9Y 2L5
Ph: (519) 258-1772
Fax: (519) 258-1791

VERHAEGEN
STUBBERFIELD
HARTLEY
BREWER
BEZAIRE
INC.

LEAMINGTON
187 Talbot Street East
N8H 1L8
Ph: (519) 322-2375
Fax: (519) 322-2875

ONTARIO LAND SURVEYORS

DRAWN BY: A.S.M. CAD Date: September 5, 2019 8:51 AM
CHECKED BY: A.S.M. CAD File: 194718502.dwg
WORK ORDER: 19-47-185 FILE NO.: E-SANDS.-8-11 PLAN FILE NO.: B-7019'B



THE CORPORATION OF THE TOWN OF TECUMSEH

Planning Report

TO: Committee of Adjustment

FROM: Chad Jeffery, MA, MCIP, RPP
Manager, Planning Services

HEARING DATE: September 23, 2019

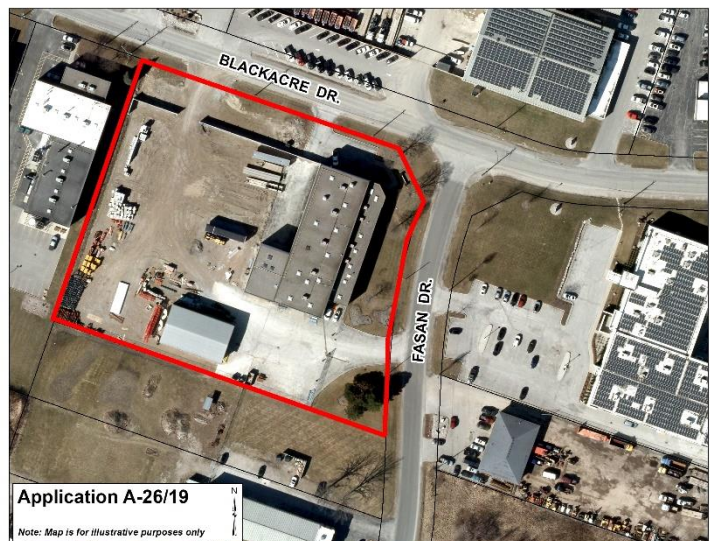
SUBJECT: Minor Variance Application A-26/19 and
Severance Application B-12/19

Please note that these Planning Comments were prepared as of September 20, 2019. Any public comments received after this date have not been incorporated into the following comments, however consideration of such public comments will be given at the Committee of Adjustment hearing on September 23, 2019 as the normal practice.

Application:	Minor Variance Application A-26/19
Applicant:	Amicone Holdings Limited
Location of Property:	2155 Blackacre Drive

The purpose of the Application is to request relief from subsection 5.37 e) of Zoning By-law 85-18 which establishes that every lot shall have a minimum of one driveway and a maximum of two driveways for any permitted use. As a result of the recent construction of a third driveway to/from the subject lot, relief is being requested.

The property is designated Business Park in the Sandwich South Official Plan and zoned Industrial Zone (M1) in the Sandwich South Zoning By-law.



In accordance with the *Planning Act*, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:

i) Is the intent of the Official Plan maintained?

The subject property is designated Business Park in the Official Plan. This designation permits the contractor's yard and associated office use that currently occupies the subject property. Accordingly, it is my opinion that the intent of the Official Plan is maintained.

ii) Is the intent of the Zoning By-law maintained?

The purpose of the driveway regulation is to ensure adequate access to industrial properties while minimizing the number of access points along municipal roads. Too many access drives in close proximity to one another can contribute to traffic conflicts. Given the relatively large size of the subject property, and the fact that it is a corner lot abutting two roads, it can readily accommodate three access drives without undermining this objective.

Given the foregoing rationale, it is my opinion that the intent of the By-law will be maintained.

iii) Is the variance desirable for the appropriate development or use of the land?

It is acceptable, and sometimes preferable, for larger properties, such as the subject lot, to have more than two access drives to facilitate larger volumes and different forms of traffic to/from the site. The applicant owns lots on the opposite side of both Fasan and Blackacre Drives from the subject property. These lots each have three access drives and the lot to the north has a similar parking lot configuration. The Town has received no complaints regarding these sites and it is understood that they are functioning well.

In addition, there are numerous smaller lots along Blackacre Drive that have two access points. On these lots, the access drives are situated much closer to one another than the ones on the subject property. Again, the Town is not aware of any issues related to these smaller lots and their associated accesses.

It also appears that the second access facilitates one-way movement of traffic through the parking lot abutting Blackacre Drive. This controlled traffic circulation will assist with minimizing conflicts on this road.

Based on the foregoing and on the comments in item ii) above, it is my opinion that the proposed third access will result in the appropriate use of the land.

iv) Is the variance requested minor?

The three driveways on the subject lot are separated from one another and from the intersection of Blackacre and Fasan Drives at an adequate distance. The second access along Blackacre appears to facilitate one-way movement of traffic through the parking lot thereby reducing the potential for conflicts along Blackacre Drive. Accordingly, there is no anticipated adverse impact and it is my opinion that the proposed variance is minor in nature.

Administration/Agency Comments

1. Engineering

- The requested third entrance is to a portion of the subject property that was recently developed (placement and grading of fill) without the required permit from the Town Building Department. A condition of the minor variance should be that the owner is required to submit site service drawings and detailed stormwater management reports (addressing quantity and quality) to address the recent site alterations which will be reviewed/approved by the Town Engineer and that the owner be required to construct the related stormwater facilities prior to construction of the third entrance.

2015



2019



- The stormwater management facilities will require approval from the Ministry of Environment, Conservation and Parks (MECP) under Section 53 of the Ontario Water Resources Act.

2. Essex Region Conservation Authority (refer to formal correspondence in Agenda package)
 - No concerns relating to stormwater management.

Public Comments

To date, none received on this application.

Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act* in that the intent of the Zoning By-law has been met, the variance will result in appropriate development, the variance will not create undue adverse impact on adjacent properties and the variance is minor in nature.

The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear additional concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. Given the nature of this variance request and the purpose of the provision from which relief is being requested, it is particularly important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

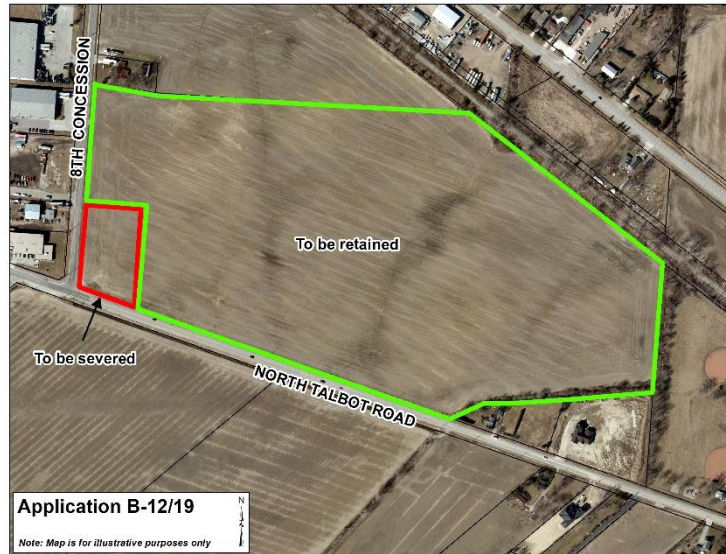
Recommended Conditions

That the owner submit site service drawings and a detailed stormwater management report (addressing quantity and quality) to address the recent site alterations which will be reviewed/approved by the Town Engineer and that the owner be required to construct the related stormwater facilities prior to the approval of the third entrance coming into effect.

Application:	Severance Application B-12/19
Applicant:	Del Duca Industrial Park Ltd.
Location of Property:	5240 8th Concession

The purpose of the Application is to request consent to sever a 0.74 ha (1.84 acre) parcel of land having an approximate frontage of 72.43 metres (237.63 feet) on North Talbot Road designated as Part 1 on the sketch attached to the agenda (highlighted in yellow). The proposed retained lands have an area of 20.79 ha (51.37 acres). Parts 2, 3 and 4 (highlighted in pink) on the sketch attached to the agenda will be conveyed to the Town for a road widening to facilitate a daylight corner and a multi-use pathway.

The proposed severed land is designated General Commercial in the Sandwich South Official Plan and zoned Holding General Commercial Zone (H) C1-9 in the Sandwich South Zoning By-law 85-18. The proposed retained land is designated Low Density Residential and zoned Holding Residential Zone 2 (H) R2-4 and Holding Parks and Open Space Zone (H)P-5.



The land use designations and zones that apply to the subject land came into effect by way of an Order of the Ontario Municipal Board (now the Local Planning Appeal Tribunal). This Order was issued after the original applications to permit the lands to development industrially were denied by the OMB. As part of that decision, the OMB directed that the Town, Owner and resident group work towards an alternative land use plan that included Commercial land (as proposed in this severance application), residential land (the bulk of the retained land) and a “buffer strip” between the residential land and the industrial development to the west across the 8th Concession Road. Ultimately, Town Council endorsed an alternative land use plan that was consistent with the OMB’s direction and which was then approved by the issuance of Order of the OMB. In summary, the severance application before the Committee of Adjustment is in keeping with the land use designations and zoning that was ultimately approved by the Board, subject to the inclusion of appropriate conditions.

Provincial Policy Statement (PPS)

The Planning Act establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2014 Provincial Policy Statement (“PPS”) issued under *The Planning Act*.

The OMB determined that the Commercial designation at this location (and its severance from the balance of the subject land in accordance with the appropriate Official Plan Land Use Policies), was consistent with the PPS.

County of Essex Official Plan (COP)

The subject lands are within a Primary Settlement Area, as identified in the County of Essex Official Plan.

The OMB determined that the Commercial designation at this location (and its severance from the balance of the subject land in accordance with the appropriate Official Plan Land Use Policies), was in conformity with the COP.

Sandwich South Official Plan

The subject property is designated General Commercial in the Sandwich South Official Plan. The following sections of the Sandwich South OP are relevant in the evaluation of the proposed severance:

4.1 GENERAL POLICIES

- (e) *Consents shall be granted only if they comply with the provisions of the zoning by-law. Where a by-law amendment or minor variance is necessary, it shall be a condition of the decision.*

4.5 GENERAL COMMERCIAL, NEIGHBOURHOOD COMMERCIAL AND BUSINESS PARK

On those lands designated "General Commercial", "Neighbourhood Commercial" or "Business Park", consents will be granted for the creation of a new lot for a permitted use as outlined in this Plan, provided the consent is in compliance with the Town's zoning by-law and a registered plan of subdivision is deemed not to be required.

Commercial uses are proposed for the severed property in accordance with the current General Commercial Zone C1-9 zoning, subject to the approval of a site plan control agreement and the removal of the Holding (H) symbol by way of Council by-law.

Sandwich South Zoning By-law

The subject property is zoned Holding General Commercial Zone (H) C1-9 in the Sandwich South Zoning By-law. The C1-9 Zone permits various commercial uses.

Administration/Agency Comments

1) Engineering

- The Owners must enter into, and provide the Town of Tecumseh, a written agreement for the reapportionment of the drainage assessment for the subject lands, in accordance with Section 65(2) of the Ontario Drainage Act, RSO. 1990, as amended and that the associated costs of same be borne solely by the Applicant.
- The owner should be made aware that site service drawings and detailed stormwater management reports (addressing quantity and quality to the satisfaction of the Town's Engineer) will need to be submitted for future developments on these lands as part of site plan control processes or Building Permit application processes, which will then be reviewed/approved by the Town Engineer prior to issuance of site plan control approvals and/or Building Permits.
- That the parcel to be retained and the parcel to be severed are to be serviced with separate water supplies and sanitary sewer systems to the satisfaction of the Town of Tecumseh Public Works and Water Departments prior to this severance being finalized. Please note that the Town installed existing sanitary service connections to both the retained and severed portions of this property as part of the Oldcastle Hamlet Sanitary Sewer Improvements (Phase 1) project. Cost related to the installation of these service connections has not yet been assessed to the subject property. Prior to this severance being finalized, the Town is to be reimbursed the cost of the previously installed sanitary service connection to the severed lot.
- At this time, it is unknown if storm drainage for the severed lot will be provided by future development on the retained property or if a site specific storm drainage system will be required. If development on the severed lot proceeds on its own, it is anticipated that a new storm service connection will be required across North Talbot Road and into the open drain located on the south side of North Talbot Road and that the costs related to same will be the responsibility of the owner of the severed property.

2) Essex Region Conservation Authority

- The property is subject to the Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Washbrooke Drain, Hurley Drain and the 8th Concession Drain.
- Consistency with Section 3.1 of the PPS has been demonstrated.

- Ontario Regulation (158/06) applies to the retained lands. A permit or clearance from ERCA will be required prior to any development taking place. Ontario Regulation 158/06 does not apply to the severed lands associated with Parts 1, 2, 3 and 4 of the application. No further permit or clearance is required prior to further development taking place.
- No objection to the application.

Public Comments

To date, none received on this application.

Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, and given that the OMB has determined the proposed commercial land use to be consistent with the PPS and County OP, it is my opinion that the proposed severance conforms to the Sandwich South OP and the Sandwich South Zoning By-law.

The public hearing, in accordance with the requirements of *the Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

Recommended Conditions

Based on the information provided within this Application and in this report, it is recommended that this Application, if approved, be subject to the following conditions:

1. That at the time the conveyance is prepared for certification, two (2) copies of the reference plan by an Ontario Land Surveyor as well as digital files (.pdf and .dwg) with the .dwg files being in NAD 83 format (UTM Zone 17 Metric), which has been numbered, dated, signed and registered must be submitted to the Town;
2. That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year paid in full, as well as any and all arrears owing on the total parcel;
3. That the appropriate documents for the conveyance be prepared in triplicate (3) suitable for registration, all copies to have original signatures, with one copy to remain as a record with the Town;

4. That any cost in excess of the \$600.00 non-refundable application fee, incurred to process this application such as legal and engineering fees, appraisal reports, etc. shall be the responsibility of the applicant and shall be payable to the Town of Tecumseh where applicable, prior to final consent;
5. That the Owners enter into, and provide the Town of Tecumseh, a written agreement for the reapportionment of the drainage assessment for the subject lands, in accordance with Section 65(2) of the Ontario Drainage Act, R.S.O. 1990, as amended, and that the associated costs of same be borne solely by the Applicant. Apportionments for affected Municipal Drains are required and are to be assessed against the lands affected in accordance with any past, current or future drainage by-laws, until otherwise determined under the provisions of the Drainage Act;
6. That the parcel to be retained and the parcel to be severed are to be serviced with separate water supplies and sanitary sewer systems to the satisfaction of the Town of Tecumseh Public Works and Water Departments prior to this severance being finalized. Please note that the Town installed existing sanitary service connections to both the retained and severed portions of this property as part of the Oldcastle Hamlet Sanitary Sewer Improvements (Phase 1) project. Cost related to the installation of these service connections has not yet been assessed to the subject property. Prior to this severance being finalized, the Town is to be reimbursed the cost of the previously installed sanitary service connection to the severed lot;
7. That the Owner convey to the Town Part 2 on the draft plan, being a 9.0 metre X 9.0 metre daylight corner at the southwest corner of the severed lot, where it abuts the northeast corner of the 8th Concession/North Talbot Road intersection;
8. That the Owner convey to the Town Parts 3 and 4 on the draft plan, being a 3.0 metre strip of land along the north side of North Talbot Road and the east side of the 8th Concession Road for the extent of the severed lot for the purpose of a road widening to facilitate a multi-use pathway;
9. That the Owner pay a proportionate cash contribution toward the future construction of a multi-purpose pathway and associated works along the north side of North Talbot Road and the east side of the 8th Concession Road for the extent of the severed lot;
10. That the above conditions be fulfilled on or before September 24, 2020 prior to this severance being finalized.