

ISSUE DATE:

June 12, 2013



PL121349

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 584653 Ontario Limited
Applicant: Grasslands Management Inc.
Subject: Consent
Property Address/Description: 169 Sideroad 15 Brant
Municipality: Municipality of Brockton
Municipal File No.: B-49-2012.34, B50-2012.34
OMB Case No.: PL121349
OMB File Nos.: PL121349, PL121350

APPEARANCES:

Parties

Agent

Grasslands Management Inc.	Stephen Vanderkolff
584653 Ontario Limited	Alan Emerson
Frances and Eugenia Zettler	Alan Emerson
County of Bruce	Jakob Van Dorp

DECISION DELIVERED BY H. JACKSON AND ORDER OF THE BOARD

[1] Grasslands Management Inc. and Wally Schauss (the "Applicant"), represented by Stephen Vanderkolff, Comptroller of Grasslands, applied to the County of Bruce (the "County") for two consents in order to change the configuration of a one-acre parcel of land in the Municipality of Brockton (former Township of Brant) to accommodate the construction of a private residence. There are two lots, a residential lot of 1.02 acres ("a.") with the description Con 2 SDR Pt Lt 35, and a farm lot with the description Con 2 SDR Pt Lot 35 & Pt Lot 36. The purpose of the consents is to increase the size of the

residential lot to 1.98 a. The Secretary Treasurer of the Land Division Committee of the County conditionally approved the applications on November 6, 2012. These were appealed by Frances and Eugenia Zettler, who live to the south, and by 584653 Ontario Limited, a company controlled by the three Zettler adult sons that owns lands to the west. Both appellant parties (the “Appellants”) were represented by Alan Emerson.

[2] Among other issues, the Appellants are concerned that the lot boundary adjustments will remove land from agricultural use, and that the Appellants may be constrained in the future if they wish to locate a new barn, as there would be minimum separation distances that would need to be considered because of the now larger area of land in residential use.

[3] Mr. Jakob Van Dorp, planner for the County, was qualified by the Board to provide opinion evidence in the matter. He began by providing background to the proposal. He testified that in this area of the County, 50 a. lots are the common lot size. He described that in this proposal there are two existing lots, a lot of about 49 a. that is being farmed, and a lot of 1.02 a. that is not being farmed. The proposal is to adjust the boundaries of both parcels. Consent Application B49-2012.34, entered as Exhibit 2, describes the lot adjustment to the residential parcel, and involves removing land from the residential lot to the farm lot. Consent Application B50-2012.34, entered as Exhibit 3, describes the lot adjustment to the farm lot and involves the removal of lands from the farm lot and adding it to the residential lot. The final residential lot is to be a dimension of 240 ft. frontage and 360 ft. depth, which is 1.98 a.

[4] Mr. Van Dorp testified that the Applicant also owns the adjacent 50 a. lot to the east that is farmed. This lot is not impacted by the proposal.

[5] Mr. Van Dorp testified that the existing residential lot is currently under-sized at 0.41 ha, and the increase in size to 0.8 ha (1.98 a.) will bring it into line with the provisions of the Brant zoning by-law that requires a minimum lot size of 0.5 ha for a residential lot, and a maximum recommended maximum size of 2 a. Mr. Van Dorp testified that the reduction of the farm lot area by 0.9 a. does not reduce the viability of the agricultural land.

[6] Mr. Van Dorp testified that as part of his assessment he undertook minimum distance separation (“MDS”) calculations. He stated that there is no concern with minimum separation distances in regards to the existing barn and the residential property, according to his calculations. Mr. Van Dorp testified as to the concerns that the Appellants’ have in regards to the configuration of the proposed new residential lot. Because the new residential lot will extend 360 feet deep into the farm lot, which is only 660 feet deep, the Appellants would need to give consideration to locating any new barn they may wish to construct at a sufficient distance from the new residence to meet MDS requirements. Mr. Van Dorp testified that MDS calculations are made for existing conditions, not what may exist in the future.

[7] Mr. Van Dorp testified that he was not the original planner on the application; however, he has reviewed the application and the staff report that recommended approval. He testified that the application does not yield a new lot, and is consistent with the official plan and complies with the zoning by-law applicable to the subject lands, and is consistent with the Provincial Policy Statement (“PPS”). He testified that it is in his opinion an appropriate development of the lands and he recommends approval of the application.

[8] In response to the concern of the Appellants regarding the configuration of the residential lot, the Applicant testified that he was prepared to reconsider the configuration of the residential lot in order to allay the concerns of the Appellants.

[9] Following discussions between the parties an alternative proposal was jointly presented to the Board. The modified proposal is to maintain the existing width of the residential lot at 374 feet frontage and to increase the depth of the residential lot by 100 feet from the existing 124 feet depth to 224 feet depth. This will result in a residential lot of 374 feet wide by 224 feet deep, equivalent to 1.92 a.

[10] Mr. Van Dorp testified that the agency comments would not differ from the original application to this new configuration therefore he had no further comment or concern. He testified that in his opinion this new configuration meets the requirements of the official plan and zoning by law, and conforms to the PPS.

[11] Pursuant to s. 53 (35.1) of the *Planning Act*, the Board is satisfied that the changes to the application are minor in nature and no further notice is required.

[12] A result of the alternative proposal is the dismissal of consent application B-49, which was to take land from the residential lot to and add it to the farm lot. The alternative proposal results in the modification of Application B-50, whereby the frontage is to remain at 374 feet, and the depth of the lot is to increase from 124 feet to 224 feet, an increase of 100 feet. Lands from the farm lot are to be added to the residential lot. The conditions on the original approval remain valid.

[13] All parties confirmed that they are in agreement with this alternative proposal.

[14] The Board relies on the testimony and opinion of Mr. Van Dorp that this new configuration meets the requirements of the official plan and zoning by law, and conforms to the PPS. The Board finds that the modified application represents good planning, is in the public interest, and meets the criteria of s. 51(24) of the *Planning Act*.

[15] The Board dismisses application B-49, and provides provisional consent to the modified application B-50, as provided in Attachment 1. Schedule A to the attachment shows the lands to be severed.

ORDER

[16] The Board orders that the appeal is allowed in part and that provisional consent is given to the modified application B-50, as provided for and subject to the Conditions set out in Attachment 1.

“H. Jackson”

H. JACKSON
MEMBER



M e m o

To: Ontario Municipal Board
From: Jakob Van Dorp
Date: April 5, 2013
Subject: Minutes of Settlement – OMB PL 121349
 County of Bruce Consent File No. B50-2012.34 Grasslands Management

PROPOSED DEVELOPMENT

The purpose of the application is for a lot adjustment to a farm parcel, being Con 2 SDR Pt Lot 35 (Brant)

Related File(s)	B49-2012.34-DISMISSED		
Owner	Grassland Management Inc		
Applicant	same		
Agent	Stephen Vanderkoff		
Legal Description	Residential lot – Con 2 SDR Pt Lt 35 (RP 3R4176 Pt 1) (Brant), Roll No: 410434000201610 Farm lot – Con 2 SDR Pt Lot 35 (Brant), Roll No: 410434000201600		
Municipal Address	169 Sideroad 15 Brant		
	B-50-2012.34 From Farm to Residential	Final Residential Lot	Final Farm Lot Pt Lot 35
Lot Description:	<i>Frontage</i>	114 m (374 ft)	201 m (660 ft)
	<i>Depth</i>	30.5m (100 ft)	1 006 m (3 300 ft)
	<i>Area</i>	3477 m ² (0.86 ac)	7809 m ² (1.93 ac)
Uses	<i>Existing</i>	Residential	Agricultural
	<i>Proposed</i>	No change	No change
Structures	<i>Existing</i>	Vacant	Vacant
	<i>Proposed</i>	Not known at this time	No change
Servicing	<i>Existing</i>	NA	NA
	<i>Proposed</i>	NA	Septic system & well
Access	NA	Sideroad 15 Brant	
County Official Plan	Agriculture Area		
Local Official Plan	N/A		
Zoning By-law	<i>Existing</i>	A1 General Agriculture	
	<i>Proposed</i>	No change	
Surrounding Land Uses	Agriculture & non-farm residential		
Subject Lands			

RECOMMENDED CONDITIONS OF CONSENT

1. That the owner enter into an Agreement with the Municipality, if deemed necessary by the Municipality, to satisfy all the requirements, financial or otherwise of the Municipality, which may include, but shall not be limited to, the provision of parkland (or cash-in-lieu of land), roads, installation of services, facilities, drainage and the timing and payment of a development charge.
2. That a Surveyor's drawing be completed and a copy filed with the Municipal Clerk, the Registrar and two copies filed with the Approval Authority for the County of Bruce, or an exemption from the survey be received.
3. That, pursuant to Section 53(42) of the Planning Act, the 'Certificate of Consent' be affixed to the deed within one year of the giving of the Notice of Decision. (Note: Section 53(43) of the Planning Act) requires that the transaction approved by this consent must be carried out within two years of the issuance of the certificate (i.e. stamping of the deed).
4. That the applicant pay a \$130.00 fee at the time of certification of the deeds.
5. That the Municipality provide written confirmation to the Approval Authority that the municipal conditions as imposed herein have been fulfilled.
6. That the application is for a lot addition to a residential parcel from a farm parcel. The lands to be severed from CON 2 SDR Pt Lots 35 (Brant) (Roll No. 410434000201600) are to be merged under the same ownership as the abutting lands, CON 2 SDR Pt Lot 35 RP3R4176 Pt 1 (Brant) (Roll No. 410434000201610), as shown on the attached Schedule and that Subsection (3) or (5) of Section 50 of the Planning Act, apply to any subsequent conveyance. A copy of the Registered Deeds to the abutting lands as noted above shall be filed with the Approval Authority for the County of Bruce.

SUMMARY

This Memo summarizes the settlement agreed to by the applicant and parties appealing Application B-50-2012.34 on April 3, 2013.

The Attached Schedule 'A' illustrates the configuration of the proposed lot.

Written endorsement of the agreement of the parties is attached on the following pages as Schedules 'B' and 'C'

Under Section 3(5) of the *Planning Act*, the County "shall be consistent with" matters of provincial interest as set out in the Provincial Policy Statements (PPS). I have reviewed the PPS and relevant policies, and conclude that the proposed development is consistent with the PPS.

The proposed development conforms to the Bruce County Official Plan and complies with the Corporation of the Municipality of Brockton (Brant) Zoning By-law No. 2007-60. The consent application has regard for the health, safety, convenience, and welfare of present and future inhabitants of the area, and is a reasonable and appropriate development.

Schedule 'A'

Part of Lot 35 Concession 2 SDR & Part of Lot 35 Concession 2 SDR, 3R4176 Part 1
Municipality of Brockton (Brant)

