

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: April 07, 2016

CASE NO(S): PL150703

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Henderock Farms Inc.
Subject:	By-law No. 2015-66
Municipality:	Township of Middlesex Centre
OMB Case No.:	PL150703
OMB File No.:	PL150703
OMB Case:	Henderock Farms Inc. v. Middlesex Centre (Township)

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Henderock Farms Inc.
Subject:	Consent
Property Address/Description:	6474 Bells Road
Municipality:	Township of Middlesex Centre
Municipal File No.:	B-21/15
OMB Case No.:	PL150703
OMB File No.:	PL150704

Heard: January 14, 2016 in Ilderton, Ontario

APPEARANCES:

Parties

Counsel

Henderock Farms Inc.

A. Patton

Municipality of Middlesex Centre

P. Lombardi

DECISION DELIVERED BY K. J. HUSSEY AND ORDER OF THE BOARD

[1] Henderock Farms Inc. (the “Applicant”) made an application for severance of a 0.945 hectares parcel of land with approximately 155 metres of frontage at 6424 Bells Road in the Municipality of Middlesex County, which would contain a surplus farm residence, an implement shed, a grain bin, a pool and an associated shed on the lot. The Applicant also proposed a supporting zoning amendment that would permit the residential use on the severed parcel, prohibit livestock and prohibit development of new dwellings on the parcel that is to be retained.

[2] The Committee of Adjustment (“COA”) approved the applications for a reduced lot area to 0.612 hectares and reduced frontage of approximately 108.4 metres, subject to conditions. The Applicant objected to certain conditions and appealed the COA’s decision to this Board.

[3] At the start of the hearing the Board was advised by Counsel that a settlement had been achieved.

[4] The Board heard evidence from qualified land use Planner William Pol, in support of the settlement. Mr. Pol provided the Board with planning evidence that was thorough and detailed. His evidence consisted of the suitability of the location for the proposed development and a comprehensive review of the relevant planning documents as they apply to the applications before the Board. He examined the severance approved by the COA, which was accepted by the Applicant, as well the conditions imposed.

[5] It was his opinion that the settlement, as proposed, meets the criteria set out under s. 51(24) of the *Planning Act* and the proposed Zoning By-law amendment which would facilitate the uses on the severed parcel, is consistent with the provincial policy statement, conforms to the County of Middlesex Official Plan and the Middlesex Centre Official Plan, and complies with the Middlesex Centre Comprehensive Zoning By-law. There was no other evidence before the Board that challenged Mr. Pol’s conclusion.

[6] The Board is satisfied based on the un-contradicted evidence of Mr. Pol that the proposed modifications is consistent with the Provincial Policy Statement 2014, and in particular, the lot creation policies under Policy 2.3.4. The Board is also satisfied that the modification conforms to the County of Middlesex Official Plan and the Middlesex Centre Official Plan, and it complies with the Middlesex Centre Comprehensive Zoning By-law. On this basis the Board finds that the settlement represents appropriate land use planning and is in the public interest.

ORDER

[7] Accordingly, the Board Orders as follows:

- The appeal is allowed in part.
- Provisional consent is to be given, subject to the conditions set out in Attachment 1 to this Order.
- Comprehensive Zoning By-law 2005-005 for the Municipality of Middlesex Centre is hereby amended in the manner set out in Attachment 2 to this Order.

“K. J. Hussey”

K. J. HUSSEY
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.elfto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elfto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

PL150703

Conditions

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within one year of the date of the notice of the decision.
2. That the fee for the Certificate of Consent be paid in accordance with the Municipality's Fees and Charges By-law.
3. That, if necessary, a revised assessment schedule in accordance with the *Drainage Act*, as amended, be commissioned and paid for by the Owner.
4. That the Zoning By-law Amendment for the severed and retained lots of Consent B-21/15 be in full force and effect.
5. That a notice be registered on the title of the severed lot of Consent B-21/15; specifically notifying future owners of normal farm practices, as outlined in the *Farming and Food Production Protection Act, 1998*, as amended.
6. That the total size of all accessory buildings on the severed lot of Consent B-21/15 not exceed 200.8 square metres. The removal of any buildings, or portions thereof, from the land shall be subject to the permitting processes of the Municipality's Building Division; including the payment of fees.
7. That the grain bin contained on the severed lot of Consent B-21/15 be removed from the land with the appropriate permits being obtained from the Municipality's Building Division and with the payment of any associated fees.
8. That the Owner submit to the Municipality the Consent fees associated with the creation of the utility easements over the retained farm of Consent B-21/15 should these easements be required, in accordance with the Municipality's Fees and Charges By-law.
9. That the purchaser of the retained lot of Consent B-21/15 provide confirmation that he or she will operate at least two farms following the purchase of the land and that the dwelling on the severed lot of Consent B-21/15 is surplus to the needs of the farming operation.

X7

PL150703

ATTACHMENT 2

MUNICIPALITY OF MIDDLESEX CENTRE

BYLAW NUMBER 2016-

**BEING A BY-LAW TO AMEND THE MIDDLESEX CENTRE
COMPREHENSIVE ZONING BY-LAW NUMBER 2005-005
WITH RESPECT TO PART LOT 20, CONCESSION 3
(GEOGRAPHIC TOWNSHIP OF DELAWARE)
MUNICIPALITY OF MIDDLESEX CENTRE
ROLL NUMBER: 393901904003500**

WHEREAS it is deemed advisable to amend the Middlesex Centre Comprehensive Zoning By-law 2005-005;

AND WHEREAS this By-law is in conformity with the Middlesex Centre Official Plan;

NOW Therefore the Ontario Municipal Board ENACTS as follows:

1. That Zoning Map Schedule 'A', Key Map 97 to the Middlesex Centre Comprehensive Zoning By-law 2005-005, is hereby amended by changing from the Agricultural (A1) zone to a site-specific Surplus Residence (SR-2) zone and Agricultural – No Residences (A3) zone that land drawn in heavy solid lines and identified on Schedule 'A', attached hereto and described as being Part of Lot 20, Concession 3 (geographic Township of Delaware), Municipality of Middlesex Centre.
2. That Section 14.3 "Exceptions" be amended by adding the following subsection:

"14.3.2 (a) DEFINED AREA
SR-2 as shown on Schedule 'A', Key Map 97, to this By-law

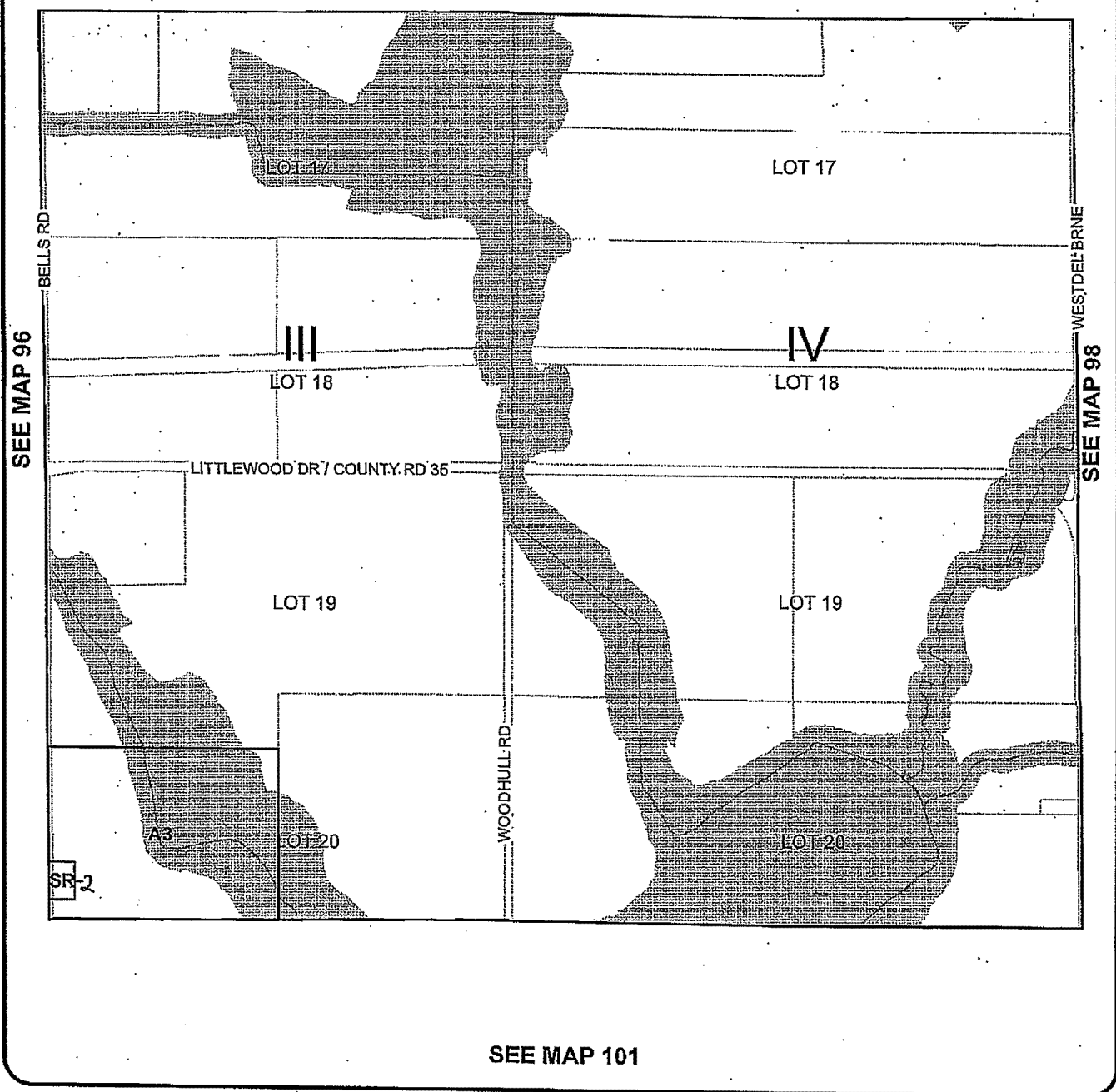
(b) MAXIMUM TOTAL AREA PERMITTED FOR ALL RESIDENTIAL ACCESSORY BUILDINGS 200.8 m²"
3. This by-law comes into force and takes effect in accordance with the provisions of Section 34 of the Planning Act, R.S.O 1990, c. P.13.



MUNICIPALITY OF MIDDLESEX CENTRE

SCHEDULE 'A'

SEE MAP 94



SEE MAP 101

NOTE: Schedules should be read in conjunction with applicable provisions of the Zoning By-Law.

