

**COMMITTEE OF ADJUSTMENT
PLANNING REPORT**

Application: B6/24
Related Application(s): N/A
Owner(s): Tim Urech & Heather Sayder
Meeting Date: September 27th, 2024
Prepared by: Oliver Ward, Policy Planner

PROPERTY INFORMATION:

Municipal Address	4992 25 th Sideroad & 5002 25 th Sideroad
Legal Description	CON 9 W PT LOT 26 & PLAN 51M310 BLK 9 & 10
Roll No.	432101000316602 & 432101000316601
Official Plan	Rural & Environmental – Significant Areas
Zoning By-law	Environnemental Protection (EP) Zone & Rural (RL) Zone

RECOMMENDATION:

Staff recommends DEFERRAL of Application B6/24 for the following reasons:

1. Concerns from neighbouring residents over rights on-title to use the lands described legally as blocks 9 and 10.
2. Additional concerns from the Essa Public Works Department over the safety of the driveway entrance onto the 25th Sideroad.
3. Certain title issues are required to be addressed through the process described within the Township Solicitor's comments.

PROPOSAL:



REASON FOR THE APPLICATION:

The applicant has proposed a lot line adjustment between their two abutting properties 4992 25th Sideroad and 5002 25th Sideroad. The proposal would transfer a portion – approximately 10.0 hectares of the existing 10.983 hectares – of 4992 25th Sideroad to 5002 25th Sideroad. The existing dividing lot line running north-south would be shifted significantly towards the east into the current lands of 4992 and the existing rear lot line of 4992 would be shifted southward towards the 25th sideroad. The result would be a larger (approximately 20 hectare) parcel at 5002 25th Sideroad and smaller parcel (approximately 1 hectare) at 4992 25th Sideroad. The adjustment would also transfer the existing residence at 4992 to 5002, making the smaller 4992 a vacant lot.

DATE OF SITE INSPECTION:

September 12th, 2024

PLANNING ANALYSIS

1. Provincial Policy Statement

The Provincial Policy Statement 2020 (PPS) provides policies that direct development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. It supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

The subject lands are located outside of a settlement area and are designated “Rural” and “Greenlands” by the County Official Plan, therefore being classified as Rural area and not Prime Agricultural Lands in the context of the PPS.

Section 1.1.4 of the PPS contains policies that apply to lot creation in Rural Areas in Municipalities. No new lot is being created; the boundary lines of an existing lot are being adjusted.

The proposed Consent (lot line adjustment) would not result in the creation of a new lot and would facilitate a boundary adjustment. Therefore, the proposed Consent is generally consistent with the policies of the Official Plan

2. Growth Plan for the Greater Golden Horseshoe (2005)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019) (“Growth Plan”) was prepared by the province to guide the development of stronger, more prosperous communities through the management of growth. The Growth Plan contains various principles that guide decisions on how land is to be developed and provide direction on how to properly manage growth across the Greater Golden Horseshoe. These principles include building

compact, vibrant and complete communities, managing growth, protecting natural resources, optimizing the use of infrastructure, and providing for different approaches to managing growth that recognizes the diversity of communities.

Section 2.2.9 contains policies concerning Rural Areas. The policies do not describe in any detail regulations or restrictions for lot creation or lot adjustment, and so this proposal does not conflict with any of the relevant policies of the Growth Plan.

The proposed Consent would not result in the creation of a new lot. Thus, the proposed Consent is generally consistent with the intent and purpose of the Growth Plan for the Greater Golden Horseshoe.

3. County of Simcoe Official Plan

The County of Simcoe Official Plan (“County OP”) was adopted by the County of Simcoe Council on November 25, 2008 and was fully approved by the Ontario Municipal Board in December 2016. Within the County OP, the subject properties are designated as “Greenlands” and “Rural” in accordance with Schedule 5.1.

Section 3.3.5 states Consents for the purpose of legal or technical reasons and consolidation of land holdings may be permitted but shall not be for the purpose of creating new lots except as otherwise permitted in this Plan, Provincial policies and legislation.

The proposed lot line adjustment would not result in a new lot and would only transfer lands between existing properties.

The proposed lot line adjustment would not result in a new lot and would only transfer lands between existing properties. Therefore, the proposed Consent is generally consistent with the intent and purpose of the County of Simcoe’s Official Plan.

4. Township of Essa Official Plan

The Township of Essa Official Plan designates both of the subject properties partially as “Rural” and partially “Environmental – Significant Areas” in accordance with Schedule “A”.

Section 26.3 1) of the Official Plan contains consent criteria applicable to all land use designations: “Consents may be granted for technical reasons such as boundary adjustments, easements, rights-of-way, or other similar purposes that do not result in the creation of a new lot provided the objectives of the Plan are upheld.”

Additionally, the intent of the Environmental designation in the Township is to preserve fragile environmental areas which are of local, regional and provincial significance. This proposal does not intend to change the designation and does not seek nor enable more intense development

within the lands designated Environmental, and is therefore in conformity with the intent of the Official Plan. The Rural designation in the Township is intended to protect the viability of existing agricultural operations and retain the natural landscape and rural character of the Township by preventing uncontrolled and scattered development. This proposal does not intend to change the designation and does not propose development which would interfere with or hinder existing or future agricultural operations, and is therefore in conformity with the intent of the Official Plan.

The proposed Consent would not result in the creation of a new lot. Therefore, the proposed lot line adjustment application is generally consistent with the intent and purpose of the Official Plan.

5. Township of Essa Zoning By-law (2003-50)

The Township of Essa Zoning By-law (2003-50) zones both of the subject properties partially Environmental Protection (EP) Zone and partially Rural (RL) Zone.

The proposed Consent would not result in any compliance issues for either lot, as the existing lots would maintain compliance with relevant provisions and permitted uses for their respective zones. Therefore, the proposed Consent is generally consistent with the intent and purpose of Zoning By-law 2003-50.

DEPARTMENT AND AGENCY COMMENTS:

County of Simcoe Comments

- The properties fall within the D-4 Assessment Area for a closed County owned waste management site. The majority of the property is included as a Provincial Area of Natural or Scientific Interest (ANSI).

3.3.15 (Natural Heritage) of the SCOP states that development and site alteration shall not be permitted:

- ii. in the following unless it has been demonstrated that there will be no *negative impacts* on the natural features or their ecological functions: *significant areas of natural and scientific interests (ANSIs)*.

Due to the ANSIs being located on the majority of both properties, the Township should consider the need for an Environmental Impact Statement (EIS) to support any development or site alterations.

Given the properties are towards the outer boundary of the D-4 assessment area and that the landfill property is a smaller closed landfill Site, the County would be willing to waive the D-4 assessment requirements.

- The County will require registration of S.119 Restrictive Covenants on title as a condition of approval, and a letter acknowledgement of the presence of the waste Site and potential nuisance impacts. The S.119 Restrictive Covenants provide notice on title that, among other

things, the County must be informed and provide consent for any further issuance of building permits or a rezoning application.

- Policy 3.3.5 of the SCOP permits consents in any designation for the purpose of legal or technical reasons (including severances for the purposes of easements and minor boundary adjustments which do not result in the creation of a new lot), as defined by the PPS, and consolidation of land holdings may be permitted but shall not be for the purpose of creating new lots.
- In addition, Section 3.3.2 of the SCOP indicates that subdivision of land by consent is permitted only for the land uses permitted in the designation or that maintain the intent of the Plan's objective and policies.

NVCA Comments

Preliminary comments from the NVCA were received as part of a pre-consultation process, the details of which are provided below. No new comments were received in relation to this application for consent.

- This property falls partially within an area affected by Ontario Regulation 41/24 (Prohibited Activities, Exemptions and Permits Regulation) where a permit is required from the NVCA under the Conservation Authorities Act prior to development.
- The area is affected by the regulation due to the presence of an unevaluated wetland and its associated 30m buffer.
- The proposed property (4992 25th Sideroad), as delineated within the quoted site plan, would fall outside of any area affected by Ontario Regulation 41/24 as such a permit would not be required from the NVCA under the Conservation Authorities Act for future development within the delineated boundary.

Essa Public Works Department Comments

The Public Works Department has provided written confirmation that the existing driveway along 4992 25th sideroad, which would provide access to the new property, is adequate. After a comprehensive review of the submitted plans, detailed discussions, and a site inspection, Public Works has confirmed that the proposed driveway will be grandfathered in as it is the original entrance to the property, subject to the following conditions:

1. Relocation of Hydro Pole: The hydro pole located to the east of the proposed entrance must be relocated to accommodate the new design.
2. Addressing and Lot Line Adjustment: The property addressing will need to be updated following the approval of the lot line adjustment. The current property owner may need to amend their address as part of this process.

The Public Works Department has requested that the applicant ensure that all aspects of the project adhere to Townships Engineering Design Standards. They also request that the Department

receive a detailed timeline for the project's completion and ongoing updates regarding any developments or additional requirements.

Township Solicitor – HGR Graham Partners LLP

Awaiting Comments.

No other department or agency comments were received for this application.

PUBLIC COMMENTS:

Concerns have been expressed by neighbours over legal rights to accessing the lands known as Block 9 and 10. Update: in an email received on September 26th, 2024, the neighbours at 4 Algonquin Heights Court expressed that they had no outstanding concerns regarding the application for a lot line adjustment on 5002 and 4992 25th Sideroad.

CONCLUSION:

Staff are recommending **DERERRAL** of this application as the proposal is generally in keeping with all relevant planning policies and staff considers the approval of said applications to be good planning.

Respectfully submitted,



Oliver Ward
Planning Department
Township of Essa

Attachment 1 – County Comments:



County of Simcoe
Planning Department
1110 Highway 26,
Midhurst, Ontario L9X 1N6

Main Line (705) 726-9300
Toll Free (866) 893-9300
Fax (705) 727-4276
simcoe.ca



September 19, 2024

VIA EMAIL

Owen Curnew
Development Planner
Township of Essa
5786 Simcoe County Road 21
Utopia, ON
L0M 1T0

RE: Circulation: Consent Application – B6-24
Subject Lands: 5002 & 4992 25th Sideroad
County File: E-B-2402 (E-PRE-2402)

Thank you for circulating the County of Simcoe for comments with respect to the above noted application. The County understands that the applicant is seeking a consent for a minor boundary adjustment between the properties known as 4992 & 5002 25th Sideroad. 4992 25th Sideroad has a lot area of 10.983 hectares, and 5002 25th Sideroad has a lot area of 10.324 hectares. The applicant is proposing to transfer a large portion of land from 4992 25th Sideroad to 5002 25th Sideroad, resulting in a lot area of approximately 1.0 hectares, and 20.0 hectares, respectively.

The subject lands are designated Rural and Greenlands on Schedule 5.1 – Land Use Designations in the County of Simcoe Official Plan (SCOP). A portion of the property includes an unevaluated wetland. The properties also fall within the D-4 Assessment Area for a closed County owned waste management site. The majority of the property is included as a Provincial Area of Natural or Scientific Interest (ANSI). A portion of the property is regulated by the Nottawasaga Valley Conservation Authority (NVCA), therefore the NVCA should be consulted regarding their regulated lands.

The objective of the Rural designation is to recognize, preserve and protect rural character and promote long-term diversify and viability of rural economic activities.

The Greenlands designation is the natural heritage system of the County and includes policies that are meant to protect natural heritage features and their ecological function as well as maintain connectivity and linkages between features.

3.3.15 of the SCOP states that development and site alteration shall not be permitted:

ii) in the following unless it has been demonstrated that there will be no *negative impacts* on the natural features or their *ecological functions: significant areas of natural and scientific interests (ANSIs)*.

Due to the ANSIs being located on the majority of both properties, the Township should consider the need for an Environmental Impact Statement (EIS) to support any development or site alterations.

Given the properties are towards the outer boundary of the D-4 assessment area and that the landfill property is a smaller closed landfill Site, the County would be willing to waive the D-4 assessment requirements, and therefore, the County will not require the completion of a D4 Study or a D4 Agreement. The County will, however, require registration of S.119 Restrictive Covenants on title and a letter acknowledgement of the presence of the waste Site and potential nuisance impacts. It is noted that registration of these S.119 Restrictive Covenants would also be required if the County required the D-4 assessment. The S.119 Restrictive Covenants provide notice on title that, among other things, the County must be informed and provide consent for any further issuance of building permits or a rezoning application. In the event that the consent application goes forward, and is approved, the registration of the S.119 Restrictive Covenants on title and acknowledgement letter would be required **as a condition of approval.**

Policy 3.3.5 of the SCOP permits consents in any designation for the purpose of *legal or technical reasons*, as defined by the PPS, and consolidation of land holdings may be permitted but shall not be for the purpose of creating new lots. *Legal or technical reasons* is defined by the PPS as "severances for purposes such as easements, correction of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot."

In addition, Section 3.3.2 of the SCOP indicates that subdivision of land by consent is permitted only for the land uses permitted in the designation or that maintain the intent of the Plan's objective and policies.

It is the County's understanding that a new lot would not be created, but the adjustment in lot sizes would be considerable. 5002 25th sideroad would increase by approximately 9.98 ha to approximately 20.0 ha, and 4992 25th sideroad would decrease from 10.98 ha to 1 ha.

The Township and Committee must be satisfied that that the consent is for a legal or technical matter. The application is proposed as a minor boundary adjustment; therefore, it must be adequately justified as to how the adjustment is deemed to be minor. The Township should also be satisfied that the application is consistent with provincial and local natural heritage system policies.

Please circulate future updates or notices with respect to this proposal to the attention of the County of Simcoe Planning Department via planning.notices@simcoe.ca.

If you have any questions or require further information regarding the D-4 Assessment requirements, please contact the Solid Waste Department at solidwaste@simcoe.ca.

If you have any questions or require further information, please do not hesitate to contact the undersigned.

Sincerely,

The Corporation of the County of Simcoe



Elizabeth Davis
Planner II
P: 705-726-9300 ext. 1137
E: Elizabeth.davis@simcoe.ca

cc: Dan Amadio, Manager of Planning – County of Simcoe
Solid Waste – County of Simcoe

Attachment 2 – NVCA Comments:



Nottawasaga Valley
Conservation Authority

September 26, 2024

SENT BY EMAIL

Township of Essa
5786 Simcoe County Rd 21
L0M 1T0

Attn: Owen Curnew
Development Planner
Ocurnew@essatownship.on.ca

Dear Owen,

**RE: Comments for Township Consent Application - B6-24
4992 and 5002 25th Sideroad, Township of Essa
NVCA ID #35914**

Nottawasaga Valley Conservation Authority [NVCA] staff has reviewed the above-noted minor variance application seeking consent for a minor boundary adjustment between the properties 4992 & 5002 25th Sideroad. The applicant is proposing to transfer a large portion of land from 4992 25th Sideroad to 5002 25th Sideroad, resulting in lot areas of approximately 1.0 hectares for lands described as 4992 25th Sideroad, and 20.0 hectares for lands described as 5002 25th Sideroad

NVCA staff have received and reviewed the following documents submitted with this application:

- Site Plan: Indicating the location and proposed lot size of the proposed works – Prepared by the applicant, undated. (Retained)

Staff has reviewed this application as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020) and as a regulatory authority under Ontario Regulation 41/24. The application has also been reviewed through our role as a public body under the Planning Act as per our CA Board approved policies. Finally, NVCA has provided comments as per our Municipal Partnership and Service Agreement with the Township of Essa.

Ontario Regulation 41/24

1. The subject lands are mapped as being partially within an area affected by Ontario Regulation 41/24 (Prohibited Activities, Exemptions and Permits Regulation) where a permit is required from the NVCA under the *Conservation Authorities Act* prior to development. These lands are partially regulated for the presence of unevaluated wetlands and their associated 30-meter buffer in the northern portion of the subject lands. As a result of the subject consent application, all regulated lands will now be located within the new boundary of 5002 25th Sideroad.



(Figure 1. Displaying the Regulated Hazard Limits of the Wetlands to the North of the properties.)

Ecology – Advisory Comments

2. Please note, with regard to potential future development on 5002 25th sideroad, NVCA Planning and Regulation Guidelines stipulate a 30m setback to wetlands from development activities.

Conclusion

As the proposed boundary adjustment will not result in any development or site alteration within the hazards lands regulated by the NVCA under Ontario Regulation 41/24, NVCA staff have no natural hazard concerns or permitting requirements with the proposed application.

Please circulate the NVCA with a copy of the Decision at planning@nvca.on.ca referencing NVCA ID #35914.

Should you require any further information, please feel free to contact the undersigned by email at jdodds@nvca.on.ca or by phone at 705-424-1479 x270.

Sincerely,

A handwritten signature in black ink, appearing to read 'Justin Dodds', written over a white background.

Justin Dodds
Planner