

**Committee of Adjustment
PLANNING REPORT**

Application: B11/22
Related Application(s): N/A
Owner(s): Alan & Jane Downey
Meeting Date: Friday, March 24th, 2023
Prepared by: Owen Curnew, Planning Technician

PROPERTY INFORMATION:

Municipal Address	5485 County Road 15
Legal Description	PT W 1/2 LT 5 CON 1 ESSA TWP AS IN RO78641 EXCEPT RO1224137, ES16846 ; S/T ES15948 ESSA
Roll No.	432101000101901
Official Plan	Agricultural
Zoning By-law	Agricultural (A)

RECOMMENDATION:

Planning Staff recommends APPROVAL of Application B11/22 based on Planning Policy and all considerations, with the following conditions:

1. That a reference plan of the severed parcel(s) be prepared by an Ontario Land Surveyor and copies provided to the Secretary-Treasurer. The plan should be approved by Township Staff prior to depositing in the Land Registry Office.
2. That the applicant provides to the Secretary-Treasurer of the Committee of Adjustment copies of transfer documentation associated with the lands.
3. That all municipal taxes be paid up-to-date.
4. That the Applicant shall transfer to the Corporation of the County of Simcoe ("County"), at no cost, a fee simple, unencumbered interest in the following:
 - a. A road allowance widening along the entire frontage of the subject land to be transferred, from 5485 County Road 15 to 7235 5th Sideroad, adjacent to County Road 15, to provide a 15.25 metre right-of-way from the centre line of County Road 15.

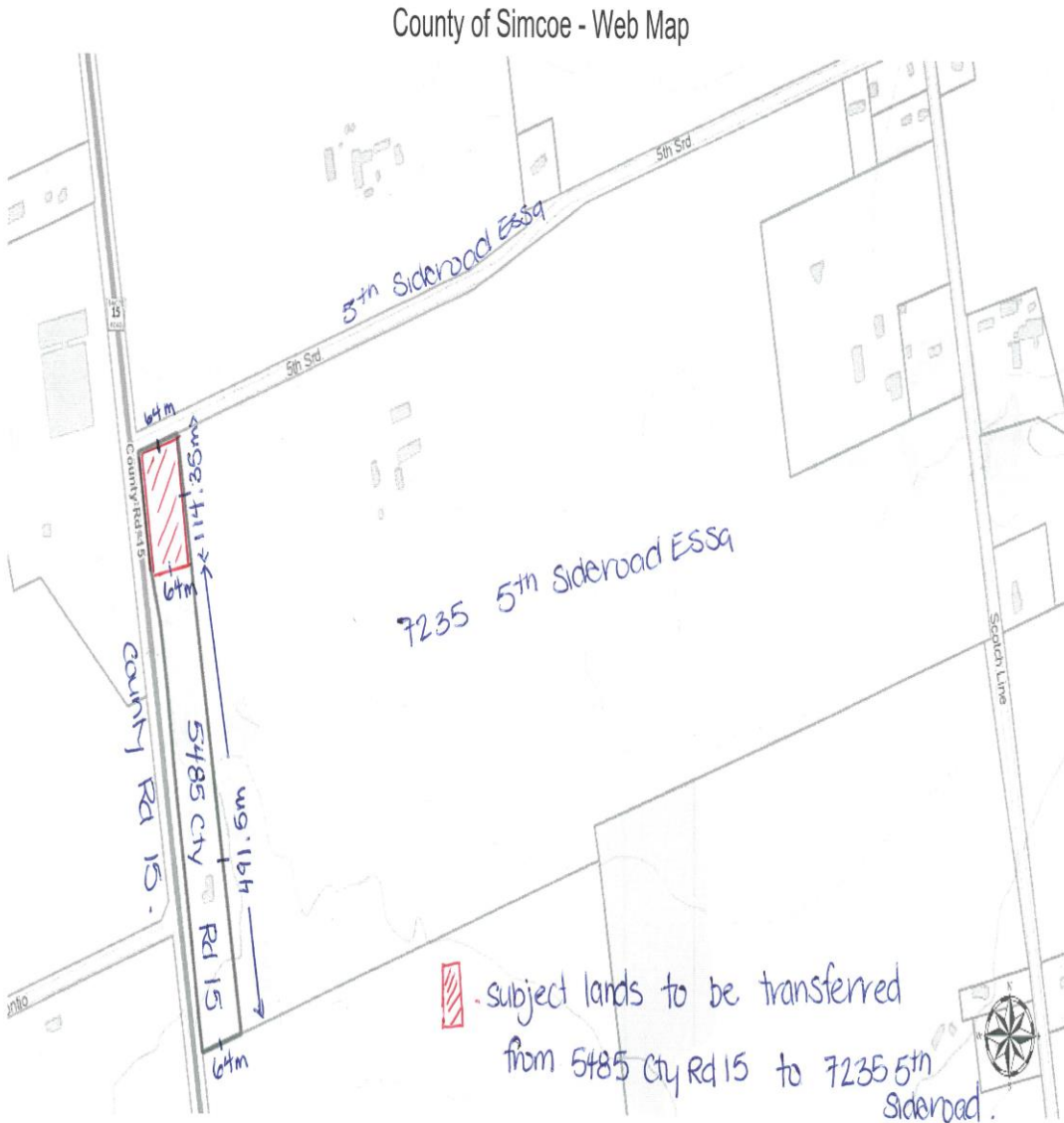
- b. A daylight (sight) triangle measuring 15.0 metres east-west x 15.0 metres north-south, located at the north-west portion of the subject land to be transferred, from 5485 County Road 15 to 7235 5th Sideroad, adjacent to County Road 15 and 5th Sideroad, for safety reasons.
- c. The applicant shall submit to the satisfaction of the County's Transportation and Engineering Department a preliminary reference plan (1 copy and 1 electronic copy) which sets out the road widening and daylight (sight) triangle to be transferred to the County. Upon approval, the County will instruct the surveyor to deposit the reference plan in the Land Registry Office for Simcoe County and request the surveyor provide the County with 1 copy and 1 electronic copy of the deposited reference plan.
- d. All costs associated with the land transfer, including costs relating to surveying, legal fees, and disbursements, agreements, HST, etc. shall be fully borne by the applicant. All legal documentation is to be negotiated, prepared and registered by the Legal Services Department of the County and to be executed where required by the Applicant. The Applicant shall submit to the Legal Services Department of the County a deposit in the amount of \$1200.00 prior to the services being rendered. Invoices will be submitted on a cost recovery basis and applied against the deposit. Additional deposits may be required, and any excess over the total invoices will be refunded.

The County of Simcoe is requesting the road widening and daylight (sight) triangle pursuant to section 53(12) of the Planning Act and such land will form part of the highway to the extent of the designated widening in accordance with section 31(6) of the Municipal Act, 2001. The road widening and daylight triangle adjacent to County Road 56 is required pursuant to the County's standards for the construction and is consistent with proper safety standards.

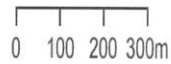
If applicable, fencing and any other structures, which will end up within the County's road allowance widening, shall be removed, or relocated, at the Owner's expense.

Prior to stamping of the deed by the Township of Essa the Applicant shall obtain written clearance from the County for the above-noted condition.

PROPOSAL:



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1 : 9,278



Apr 7, 2022

REASON FOR THE APPLICATION:

Application B11/22 has been submitted for Consent to extend lot lines and amalgamate 2 properties. The subject lands are described as PT W 1/2 LT 5 CON 1 ESSA TWP AS IN RO78641 EXCEPT RO1224137, ES16846 ; S/T ES15948 ESSA and municipally known as 5485 County Road 15.

The subject property is zoned 'Agricultural (A) Zone' according to the Township's Zoning By-Law 2003-50. The subject lands are designated 'Agricultural' in the Township of Essa's Official Plan.

The proposed lot adjustment would not create a new lot but transfer a portion of the subject lands to the property immediately adjacent to the east known municipally as 7235 5th Sideroad, which is also owned by the applicant. The subject property has an existing frontage of 605.85m and a depth of 64m. The proposed lot to be transferred to 7235 5th Sideroad has frontage of 114.35m and a depth of 64m. The remnant parcel would have a frontage of 491.5m and a depth of 64m.

SITE INSPECTION DATE

March 9th, 2023.

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 designated "Agricultural" by the County Official Plan, therefore are classified as Prime Agricultural Area in the context of the PPS.

Section 2.3 of the PPS contains policies that apply to Agricultural Areas.

Section 2.3.4.2 states: *Lot adjustments in prime agricultural areas may be permitted for legal or technical reasons.*

No new lot is being created; the boundary lines of an existing lot are being adjusted.

The proposed boundary adjustment is consistent with the policies of the Provincial Policy Statement.

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

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) ("Growth Plan") was prepared by the Province to guide the building 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 4.2.6 outlines policies for Agricultural System.

Section 4.6.2.5 The retention of existing lots of record for *agricultural uses* is encouraged, and the use of these lots for non-agricultural uses is discouraged.

As this is an existing lot that is used for agricultural purposes, and no new lot will be created, the proposed consent can be said to generally conform to the policies of the Growth Plan.

3. County of Simcoe Official Plan

The County of Simcoe Official Plan, 2016 (“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 property is designated as “Agricultural” in accordance with Schedule 5.1.

General development policies for subdividing land across the County are contained in Section 3.3 of the County OP. Specifically, Section 3.3.4 of the County OP requires lots to have appropriate road access. No new lot will be created, the existing lot will utilize existing access and frontage on a year-round municipally maintained road.

Section 3.3.5 *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.*

Section 3.6.7 Agricultural designation lot creation is discouraged and may only be permitted for:

- a) *Agricultural uses*, provided new lots for *agricultural uses* should not be less than 40 hectares or the original survey lot size, whichever is lesser, or 16 hectares in *specialty crop areas*.
- b) *Agriculture-related uses* (PPS 2014), provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage* and *water services*. Residential uses shall be prohibited on such lots, and they shall be zoned accordingly;
- c) a *residence surplus to a farming operation* as a result of farm consolidation, provided that:
 - i. the new lot will be limited to a minimum size needed to accommodate the residential use and appropriate *sewage* and *water services*, and should be an approximate size of 1 hectare; and
 - ii. new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. To ensure that no new residential dwellings are permitted on the remnant parcel, municipalities may use approaches such as zoning to prohibit the *development* of a dwelling unit(s),

and/or the municipality may enter into agreements imposed as a condition to the approval of lot creation and the agreements may be registered against the land to which it applies; or
d) *infrastructure*, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.

Due to the fact that this is an existing agricultural lot, the proposed severed lot will be used for agricultural purposes and no new lot will be created, the proposed lot line adjustment is in keeping with the stated objectives of the Agricultural designation in the County OP.

As such, the proposed lot line adjustment conforms to the County of Simcoe Official Plan.

4. Township of Essa Official Plan

The Township of Essa Official Plan, 2001 designates the subject property as “Agricultural ” in accordance with its’ Schedule A.

Section 6 of the Township of Essa Official Plan contains policies concerning development in agricultural areas.

Section 6.2 Permitted Uses: *The permitted uses within the agricultural designation include **agriculture and farm related uses. Agriculture and farm related uses shall include the raising of animals and birds, and the growing of agricultural crops, mushrooms and nursery stock, and farm related commercial and farm related industrial uses that are small in scale, directly related to the farm operation and required in close proximity to the farm operation.** Building and structures normally incidental to an agricultural operation such as farm residences, barns, sheds, etc. are also permitted. **In certain circumstances, a single detached dwelling may be permitted on a farm as an accessory residential use to a farm operation.** The retail sale of produce grown on the farm supplemented by locally grown produce, bed and breakfast establishments, garden suite, home occupations, home industries, and utility corridors and associated facilities are permitted uses. In filling in accordance with the policies of Section 26.3.1.k is also permitted.*

Section 26.3 of the Official Plan contains consent criteria applicable to all land use designations.

Section 26.3. *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.*

The proposed severed lot will be used for agricultural purposes, consistent with the permitted uses listed above in Section 6.2 of the Township of Essa Official Plan. The proposed boundary adjustment would not result in the creation of a new lot.

Generally, the proposed lot line adjustment conforms to the policy direction and intent of the Township of Essa Official Plan.

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

The property is zoned Agricultural (A) Zone in the Township of Essa's Zoning By-law 2003-50. The subject property is an existing agricultural lot used for agricultural related uses.

The applicant proposes a lot line adjustment. As no new lot would be created, the proposed lot line adjustment generally complies with Township of Essa's Zoning By-law 2003-50.

COMMENTS:

Nottawasaga Valley Conservation Authority (NVCA)

Both subject properties are contained in the regulatory area of the NVCA. The NVCA was circulated and requested to provide comments on the proposed lot line adjustment.

County of Simcoe (comments are presented verbatim)

Planning Comments

Please note that the subject lands are designated "**Agricultural**" on Schedule 5.1 Land Use Designations to the County of Simcoe Official Plan and are mapped "**Prime agricultural areas**" in the [Agricultural System agricultural land base map](#) by OMAFRA. Further, the subject lands are partially regulated by the *Nottawasaga Valley Conservation Authority* (NVCA). NVCA comments may provide direction on the proposed development in relation to environmental constraints on the subject lands.

As per County of Simcoe Official Plan Policy 3.3.5, 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.

Based on our review and considering that **No new lot will be created and the lands will continue to be used as their current use**, and that the objectives of the County's *Agricultural* designation will not be compromised; the County Planning Department would have no objection to the proposed boundary adjustment.

Transportation & Engineering Comments

Thank you for circulating the above-noted application to the County of Simcoe for review. The existing right-of-way on County Road 15 adjacent to the subject property is approximately 28.5 metres wide. In accordance with Table 5.4 of the Simcoe County Official Plan, the required basic

right-of-way width for County Road 15 is 30.5 metres.

County staff has reviewed this requirement and feel that the full right-of-way width is necessary for safety, future road maintenance, road improvements and stormwater flow from County Road 15. In order to meet this right-of-way requirement, the County will require a road widening of approximately 2.25 metres along County Road 15.

The Simcoe County Official Plan also states the requirement for daylight (sight) triangles. The County standard for daylight (sight) triangles is 15 metres X 15 metres. These dimensions are applied to the limit of the right-of-way.

The County of Simcoe has no objection to the approval of the application, provided the following conditions are included:

1. The Applicant shall transfer to the Corporation of the County of Simcoe ("County"), at no cost, a fee simple, unencumbered interest in the following:
 - A road allowance widening along the entire frontage of the subject land to be transferred, from 5485 County Road 15 to 7235 5th Sideroad, adjacent to County Road 15, to provide a 15.25 metre right-of-way from the centre line of County Road 15.
 - A daylight (sight) triangle measuring 15.0 metres east-west x 15.0 metres north-south, located at the north-west portion of the subject land to be transferred, from 5485 County Road 15 to 7235 5th Sideroad, adjacent to County Road 15 and 5th Sideroad, for safety reasons.

The applicant shall submit to the satisfaction of the County's Transportation and Engineering Department a preliminary reference plan (1 copy and 1 electronic copy) which sets out the road widening and daylight (sight) triangle to be transferred to the County. Upon approval, the County will instruct the surveyor to deposit the reference plan in the Land Registry Office for Simcoe County and request the surveyor provide the County with 1 copy and 1 electronic copy of the deposited reference plan.

All costs associated with the land transfer, including costs relating to surveying, legal fees, and disbursements, agreements, HST, etc. shall be fully borne by the applicant. All legal documentation is to be negotiated, prepared and registered by the Legal Services Department of the County and to be executed where required by the Applicant. The Applicant shall submit to the Legal Services Department of the County a deposit in the amount of \$1200.00 prior to the services being rendered. Invoices will be submitted on a cost recovery basis and applied against the

deposit. Additional deposits may be required, and any excess over the total invoices will be refunded.

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2. If applicable, fencing and any other structures, which will end up within the County's road allowance widening, shall be removed or relocated, at the Owner's expense.
3. Prior to stamping of the deed by the Township of Essa the Applicant shall obtain written clearance from the County for the above-noted condition.

Please forward a copy of the decision. Please contact Zoran Nedelkovski in *Transportation & Engineering* with any questions related to T&E comments, by phone, 705-726-9300 extension 1222, or by email Zoran.Nedelkovski@simcoe.ca.

CONCLUSION:

Staff are recommending approval of this application since it generally complies with all appropriate provincial and municipal requirements. Approval is subject the standard conditions of approval:

LIST OF STANDARD SEVERANCE CONDITIONS (Not Inclusive)

Below is a list of the *Standard Conditions of Approval* which may be imposed by the Committee. Please note the list of conditions is not deemed inclusive, as other conditions from agencies, municipal departments, or the Committee itself may be imposed.

1. That the Nottawasaga Valley Conservation Authority approve of the application in writing, where required.
2. That the applicant satisfy the concerns of the Manager of Public Works, County Engineer, and/or the Ministry of Transportation, or other commenting agency ie. C.A.R.E., Railway Line, etc.
3. That the applicant obtain an entrance permit from the Manager of Public Works, County Engineer, and/or the Ministry of Transportation.
4. That a parcel of land be conveyed to the Municipality for road widening purposes, plus any necessary daylight triangle, free and clear of all encumbrances and at no cost to the Municipality, where required.
5. A reference plan of the severed parcel(s) be prepared by an Ontario Land Surveyor and be provided to the Secretary-Treasurer.
6. That the applicant provide to the Secretary-Treasurer of the Committee of Adjustment deeds, to be signed prior to registration of any lands.
7. That all municipal taxes be paid up-to-date.

Respectfully submitted,

Owen Curnew
Planning Technician
Essa Township