



Agenda
Committee of Adjustment
Municipality of West Grey
402813 Grey Rd 4, RR 2 Durham, ON N0G 1R0

April 2, 2024, 2:00 p.m.

West Grey municipal office, council chambers and virtual

This meeting shall be held in the Municipality of West Grey council chambers. Members of the public may attend in person or electronically via Zoom.

To join through your computer (or smartphone with the Zoom app) go

to: <https://us02web.zoom.us/j/89156262480>

To phone in and listen live dial +1 647 558 0588 (long-distance charges may apply)

When prompted, enter the meeting ID: 891 5626 2480

Accessibility of documents: Documents are available in alternate formats upon request. If you require an accessible format or communication support contact the Clerk's Department by email at clerk@westgrey.com or 519-369-2200 to discuss how we can meet your needs.

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DIVISION 1, 2 AND 3 EGR, TWP OF GLENELG**

7.1 Report from planning staff

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7.2 Verbal comments

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7.2.2 Applicant/Agent and Members of the public

7.3 Decision

7.4 Next steps

8. Next meeting

9. Adjournment



Minutes

Committee of Adjustment

Municipality of West Grey

March 5, 2024, 2 p.m.

West Grey municipal office, council chambers and virtual

Members present: Chair Tom Hutchinson
 Vice-Chair Doug Townsend
 Member Kevin Eccles
 Member Scott Foerster
 Member Doug Hutchinson
 Member Joyce Nuhn
 Member Geoffrey Shea

Staff present: Jamie Eckenswiller, Director of Legislative Services/Clerk
 Kerri Mighton, Interim CAO/Director of Finance/Treasurer
 Karl Schipprack, Director of Infrastructure and Development/CBO
 David Smith, Manager of Planning and Development
 Tammy Wheeldon, Secretary-Treasurer
 Ashley Noble, Communications Coordinator

1. Call to order

Chair Hutchinson called the meeting to order at 2:00 p.m.

Staff reviewed instructions for members of the public to participate via Zoom or telephone, and how to contact staff for assistance if disconnected. It was noted that this meeting will be livestreamed to the West Grey YouTube channel.

2. Purpose of meeting

The Secretary-Treasurer advised that the purpose of the meeting is to allow the presentation of one minor variance and two consent to sever applications; and to allow interested members of the public the opportunity to ask questions or offer comments regarding the applications.

A public registry for the applications is available by email at communications@westgrey.com and if any member of the public would like to be notified in writing of the decision on one of the applications, they are to provide their name and mailing address by email or via the meeting chat function for the corresponding registry. This will entitle one to be advised of a possible Ontario Land Tribunal hearing in the event the decision on the application is appealed.

3. Disclosure of pecuniary interest and general nature thereof

There were no declarations of interest.

4. Approval of minutes

4.1 Minutes of February 6, 2024, Committee of Adjustment Hearing

COA-240305-001

Moved by: Vice-Chair Doug Townsend

Seconded by: Member Kevin Eccles

"THAT the Committee of Adjustment hereby approves the minutes of February 6, 2024, as presented."

Carried

5. Application No. B01.2024 and A01.2024 - Moore - 421272 Concession 6 NDR

5.1 Report from planning staff

The manager of planning provided an overview of the application, property details and provided a summary of the staff report which included a description of the policy framework, an overview of the facts of the application, comments from agencies and residents and a summary of the recommendation.

5.2 Verbal comments

5.2.1 Committee members

Committee inquired as to the definition of rural and required acreage respecting Crown land.

The Manager of Planning and Development explained original Crown land size and noted what may be permitted based on zoning.

Committee sought clarification on how a severance may affect livestock operations.

Mr. Smith explained minimum distance separation (MDS) summary reports, and how MDS may be affected with severances.

Committee inquired about the existing barn and horse track on the property and asked if it was still used.

Mr. Smith advised that it is used only as a walking track and the barn is currently not being used.

Committee inquired about the existing barn and if new owners would be permitted to have livestock.

Mr. Smith highlighted nutrient management and legislation requirements and advised that new owners would be permitted to have livestock.

5.2.2 Applicant/Agent and Members of the public

Staff reviewed instructions for members of the public to participate via Zoom.

Angela and Daryl Braithwaite reiterated that they had submitted a letter outlining their concerns about lot sizes being reduced and the loss of agricultural farmland.

Ms. Wheeldon read out three letters from members of the public. The first letter was from Angela and Daryl Braithwaite in opposition to the application noting that the original parcels of agricultural land should be kept intact to protect the land. The second letter was from Jason and Theresa Wright who were in opposition to the consent because they believe that the 20-hectare parcels of agricultural land need to stay intact to protect them. The third letter was from Douglas and Susan Schaus who were in opposition to the application as they are concerned that the application could cause problems for existing agricultural operations.

Residents Jason and Teresa Emke spoke in opposition to the application, noting their concerns about the zoning terminology used for the application and asked for clarification.

The Manager of Planning and Development clarified the differences in the zoning terminology.

Ron Davidson, agent for the applicant, highlighted the guidelines of how a severance must conform with County of Grey's Official Plan (OP) and the Provincial Policy Statement. Mr. Davidson explained that

the County's OP has two categories of land, being prime agricultural (agricultural) and rural, and noted the difference between the two designations. Mr. Davidson explained original Crown parcels and their sizes as well as minimum distance separation, adding that the existing barn has been taken into consideration and will not affect existing properties and that new property owners must follow regulations if using the barn for livestock. Mr. Davidson highlighted the proposed lot line and why it was selected.

Vija Sebastian, resident, noted concerns with the severance and the separation of farmland.

Sharon Moore, applicant, spoke to committee about her application and the reasons why the severance should be granted.

Jason and Teresa Emke, residents, spoke to committee about the proposed lot line and asked that committee adhere to the existing bylaw respecting lot size.

Angela Braithwaite inquired as to when the last time the soil was tested for quality and how the quality of the soil was justified.

Mr. Smith explained how the provincial and federal governments produced soil maps for Ontario. This was accomplished through soil surveyors, aerial photos and test pits in various locations throughout counties. Soil maps were created and can be found now through the Canada Land Inventory (CLI). The soil was tested when the county map was created a number of years ago.

Respecting lot lines, Mr. Davidson advised that someone driving by would not be able to visually identify a property size by them.

Ms. Moore informed committee that she installed a fence a few years ago on the property.

5.3 Decision

Moved by: Member Kevin Eccles

Seconded by: Member Doug Hutchinson

"THAT in consideration of staff report 'B01.2024 and A01.2024', the committee of adjustment:

- 1. hereby grants provisional approval to consent Application B01.2024 for the creation of a new lot as shown on Schedule 'A' attached to this decision and subject to the following conditions:**

- a. **THAT the owner provide a property tax certificate or correspondence from municipal financial services, indicating that all property taxes have been paid up to date with respect to the property that is subject to this decision;**
 - b. **THAT this decision applies only to the Severed Lot as indicated on Schedule 'A' attached to and forming part of this Decision. The Severed Lot shall substantially conform with Schedule 'A';**
 - c. **THAT a Reference Plan (survey that is registered) be completed and a digital copy and a hard copy be filed with the municipal Planning Department, or an exemption from the Reference Plan be received from the Registrar;**
 - d. **THAT, pursuant to Section 53(42) of the Planning Act, the 'Certificate of Consent' be affixed to the deed within two years 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));**
 - e. **THAT the owner provide a draft transfer prepared by a solicitor describing the legal description of the new lot;**
 - f. **THAT the owner pay a \$500 parkland dedication fee for the severed land in accordance with Section 51(1) of the Planning Act to the Municipality of West Grey;**
 - g. **THAT the Secretary-Treasurer of the Municipality of West Grey Committee of Adjustment provide written confirmation that a minor variance is in force and effect recognizing a reduced lot size; and**
2. **approves minor variance application A01-2024, to zoning bylaw 37-2006, as amended, for 421272 Concession 6 NDR, to facilitate the severance of an undersized 'R2 Restricted Rural' lot with a Minimum Lot Area of no less than 17 hectares, subject to the following conditions:**
 - a. **THAT the owner provide a property tax certificate or, correspondence from Municipal Financial Services, indicating that all property taxes have been paid up-to-date with respect to the property that is subject to this Decision;**

- b. **THAT this Decision applies only to the Severed Lot as indicated on Schedule 'A' attached to and forming part of this Decision. Any other variances that may appear on the Schedule that are not listed in the written decision are NOT authorized; and**
- c. **THAT this Decision expires three years from the date of decision if the lot proposed in Provisional Consent B01.2024 has not been registered."**

COA-240305-002d

Moved by: Member Kevin Eccles

Seconded by: Vice-Chair Doug Townsend

"THAT item 2 of the main motion be amended to change 'not less than 17 hectares' to 'not less than 19.5 hectares'."

Defeated

COA-240305-003

Moved by: Member Kevin Eccles

Seconded by: Member Doug Hutchinson

"THAT in consideration of staff report 'B01.2024 and A01.2024', the committee of adjustment:

1. **hereby grants provisional approval to consent Application B01.2024 for the creation of a new lot as shown on Schedule 'A' attached to this decision and subject to the following conditions:**
 - a. **THAT the owner provide a property tax certificate or correspondence from municipal financial services, indicating that all property taxes have been paid up to date with respect to the property that is subject to this decision;**
 - b. **THAT this decision applies only to the Severed Lot as indicated on Schedule 'A' attached to and forming part of this Decision. The Severed Lot shall substantially conform with Schedule 'A';**
 - c. **THAT a Reference Plan (survey that is registered) be completed and a digital copy and a hard copy be filed with the municipal Planning Department, or an exemption from the Reference Plan be received from the Registrar;**

- d. **THAT, pursuant to Section 53(42) of the Planning Act, the 'Certificate of Consent' be affixed to the deed within two years 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));**
 - e. **THAT the owner provide a draft transfer prepared by a solicitor describing the legal description of the new lot;**
 - f. **THAT the owner pay a \$500 parkland dedication fee for the severed land in accordance with Section 51(1) of the Planning Act to the Municipality of West Grey;**
 - g. **THAT the Secretary-Treasurer of the Municipality of West Grey Committee of Adjustment provide written confirmation that a minor variance is in force and effect recognizing a reduced lot size; and**
2. **approves minor variance application A01-2024, to zoning bylaw 37-2006, as amended, for 421272 Concession 6 NDR, to facilitate the severance of an undersized 'R2 Restricted Rural' lot with a Minimum Lot Area of no less than 17 hectares, subject to the following conditions:**
- a. **THAT the owner provide a property tax certificate or, correspondence from Municipal Financial Services, indicating that all property taxes have been paid up-to-date with respect to the property that is subject to this Decision;**
 - b. **THAT this Decision applies only to the Severed Lot as indicated on Schedule 'A' attached to and forming part of this Decision. Any other variances that may appear on the Schedule that are not listed in the written decision are NOT authorized; and**
 - c. **THAT this Decision expires three years from the date of decision if the lot proposed in Provisional Consent B01.2024 has not been registered."**

Carried

5.4 Next steps

Mr. Smith advised that there is an appeal period regarding consent applications, adding that after the appeal period has been completed and there are no appeals, the applicant is required to fulfill all the conditions that have been imposed within two years of the date of decision. If the conditions are completed within the two years, the severance is issued. If there is an appeal, then the appeal will be dealt with through the Ontario Land Tribunal.

Committee recessed from 3:43 p.m. to 3:51 p.m.

6. Application No. B03.2024 - Roberts - 404701 Grey Road 4

6.1 Report from planning staff

The manager of planning provided an overview of the application, property details and provided a summary of the staff report which included a description of the policy framework, an overview of the facts of the application, comments from agencies and residents and a summary of the recommendation.

6.2 Verbal comments

6.2.1 Committee members

Member Hutchison provided an overview of the history of the application.

There were no comments from the committee members.

6.2.2 Applicant/Agent and Members of the public

Christine Loft of Loft Planning, agent to the applicant, spoke to committee about the application and the conditions of the consent.

There were no comments from the members of the public.

6.3 Decision

COA-240305-00

Moved by: Member Kevin Eccles

Seconded by: Member Geoffrey Shea

"THAT in consideration of staff report 'B03.2024 – ROBERTS, Paul and Lorraine, the Committee of Adjustment hereby grants provisional approval to consent application B03.2024 for the creation of a new lot, and easement/right-of-way in favor of the retained lot, as shown on

Schedule 'A' attached to this decision and subject to the following conditions:

- 1. THAT the owner provide a property tax certificate or correspondence from Township Financial Services, indicating that all property taxes have been paid up to date with respect to the property that is subject to this decision;**
- 2. THAT this decision applies only to the severed lot as indicated on Schedule 'A' attached to and forming part of this Decision. The severed lot shall substantially conform with Schedule 'A';**
- 3. THAT a Reference Plan (survey that is registered) be completed and a digital copy and a hard copy be filed with the municipal planning department, or an exemption from the Reference Plan be received from the Registrar;**
- 4. THAT, pursuant to Section 53(42) of the Planning Act, the 'Certificate of Consent' be affixed to the deed within two years 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));**
- 5. THAT the owner provide a draft transfer prepared by a solicitor describing the legal description of the new lot;**
- 6. THAT an easement in favour of the dominant land (retained portion) for driveway access being approximately 6 metres wide by 64 metres long as illustrated on Schedule 'A' is granted;**
- 7. THAT the owner enter into an agreement with the County of Grey, if deemed necessary by the county, to satisfy all the requirements, financial or otherwise of the County, which may include, but shall not be limited to, driveway access to, provision of roads, installation of services, facilities, drainage and the timing and payment of a development charge;**
- 8. THAT the owner pay a \$500 parkland dedication fee for the severed land in accordance with Section 51(1) of the Planning Act to the Municipality of West Grey;**
- 9. THAT the owner provide a draft transfer prepared by a solicitor describing the dominant and servient lands for the proposed easement;**

10. **THAT the owner provide information/documentation, to the sole satisfaction of the municipal building department, that the septic tile bed/distribution pipes are/will be wholly (100%) located within the lot boundaries of the retained lot;**
11. **THAT the owner provide information/documentation, to the sole satisfaction of the municipal building department, that the accessory building on the severed lot has been removed;**
12. **THAT the clerk of the municipality provide written confirmation that a zoning bylaw amendment is in force and effect recognizing either a reduced lot size and lot frontage or rezoning the lands to another appropriate zone."**

Carried

6.4 Next steps

Mr. Smith advised that there is an appeal period regarding consent applications, adding that after the appeal period has been completed and there are no appeals, the applicant is required to fulfill all the conditions that have been imposed within two years of the date of decision. If the conditions are completed within the two years, the severance is issued. If there is an appeal, then the appeal will be dealt with through the Ontario Land Tribunal.

7. Next meeting

The next meeting is scheduled for April 2, 2024, at 2:00 p.m.

8. Adjournment

There business on the agenda havening been completed, Chair Hutchinson adjourned the meeting at 4:06 p.m.

Chair Tom Hutchinson

Secretary-Treasurer



Staff Report

Report To: Committee of Adjustment
Report From: David Smith, RPP, MCIP Manager of Planning and Development
Meeting Date: April 2, 2024
Subject: A02.2024 - Ballard

Recommendations:

THAT in consideration of staff report 'A02.2024 – Ballard', the Committee of Adjustment approves minor variance application A02-2024, to zoning bylaw 37-2006, as amended, for 443679 Concession 8, to facilitate a new two storey addition to an existing legal non-conforming dwelling subject to the following conditions:

1. That the owner provides a property tax certificate or, correspondence from the municipal finance department, indicating that all property taxes have been paid up-to-date with respect to the property that is subject to this decision;
2. That this decision applies only to the proposed addition to the detached dwelling as indicated on schedule 'A' attached to and forming part of this decision. Any other variances that may appear on the schedules that are not listed in the written decision are not authorized;
3. That the owner prepares and submit to the satisfaction of the municipality an erosion and sediment control plan (ESC) prior to the issuance of a building permit for the two-storey addition. The ESC shall be completed/installed at the time of issuance of a building permit for the two storey addition;
4. That the 'Existing Deck on Gorge Side' be removed as indicated on schedule 'A' attached to and forming part of this decision; and
5. That this decision expires three years from the date of the decision if a building permit has not been issued.

Highlights:

- Application proposes to add an addition to a legal non-conforming dwelling.
- Existing dwelling is in the NE Natural Environment zone.

- Application has been reviewed against the policies of Section 45.2(a(i)) of the Planning Act.
- Saugeen Valley Conservation Authority has reviewed the development and have no concerns.

Previous Report/Authority:

None.

Analysis:

The purpose and effect of the application is to allow for an approximate 3.6 m x 1.3 m addition onto an existing legal non-conforming dwelling.

Comments – agencies:

West Grey Public Works: No concerns.

West Grey Building: No concerns

County of Grey: No concerns.

Saugeen Valley Conservation Authority: SVCA approved an application July 28, 2023, for the construction of a 50 square foot addition to the dwelling with related grading, filling and excavation within lands adjacent to the Rocky Saugeen River valley. No further concerns.

Comments – public:

None received as of the date of writing this report.

Legal Non-Conforming:

The owner seeks to expand a legal non-conforming dwelling by enclosing an existing open porch/verandah. The expansion will occur within the footprint of the existing dwelling.

Municipal Property Assessment Corporation data indicates that the existing dwelling is from 1975. There is sufficient evidence that the dwelling existed prior to the day the former Township of Glenelg passed a comprehensive zoning bylaw.

Section 45(2)(a)(i) allows the Committee of Adjustment to permit the enlargement or extension of a building or structure containing a legal non-conforming use if the use within the building or structure that existed on the day the zoning bylaw was passed continued until the date of the application to the committee. However, no permission

may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the zoning bylaw was passed.

The requirements for approval of a variance to a legal non-conforming use, pursuant to s. 45(2)(a)(i) of the Act, are less onerous than the four tests under s. 45.1 of the Act. The Local Planning Appeal Tribunal in *Fraser v. Rideau Lakes (township)* 2020 Carswell Ont. 17264 provided the following evaluation tests for reviewing applications under s. 45(2)(a)(i) of the Planning Act:

1. Whether the application is desirable for appropriate development of the subject property.
2. Whether the application will result in undue adverse impacts on the surrounding properties and neighbourhood.

There is no basis for distinguishing at law between non-conforming land, buildings or structures (where the use is no longer permitted) and non-complying land, buildings or structures (where the performance standards are no longer met). Both are equally protected under subsection 34(9) of the Planning Act and the common law.

When applying the tests, only the proposed expansion may be evaluated for undue adverse impacts.

The intent and purpose of the Official Plan is not a proper consideration when evaluating an application under s. 45(2) since there is no basis in the language of the Planning Act for such consideration.

In order to refuse the application, the undue adverse impacts of the proposed expansion must be demonstrated by objective evidence and must be sufficient to override the property owner's right to reasonable flexibility, evolution and expansion.

Provincial Policy Statement, 2020 (PPS):

Regardless of the two tests under s. 45(2)(a)(i), s. 3(5)(a) of the Planning Act requires any decision of the Committee of Adjustment be consistent with the PPS.

The existing dwelling is located within hazard lands as defined in the PPS.

Section 3.1.1 of the PPS states that development shall generally be directed to areas outside of hazardous lands adjacent to river, stream and small inland lake systems.

The PPS policy does state that development shall *generally* be directed outside of hazardous lands. In this case the development has been reviewed in relation to the hazard by the conservation authority and a permit has been issued.

The manager, planning and development, is of the opinion that the application is consistent with the relevant policies of the PPS.

Minor Variance Tests:

The application will not have any undue adverse impacts on the neighbourhood that can be demonstrated by objective evidence.

Is the development within the existing building footprint? The expansion will take place within an area currently covered by the existing roof. While there is the need for new footings etc. The manager, planning and development, does not consider the addition to be an extension/enlargement to the building footprint itself.

Are there any potential environmental impacts? The expansion has been evaluated by the conservation authority and found to be acceptable. An erosion and sediment control plan is required as part of the approval in order to reduce/prevent the movement of soil to the river.

Are there any negative visual impacts? The property itself is well treed and there are no neighbouring properties that would be visually impacted by the addition to the existing dwelling.

Is there any threat to life? A visual slope inspection/erosion hazard assessment to determine slope stability setbacks was provided to the conservation authority and found to be acceptable.

The proposed development can reasonably be characterized as a modest intensification of an existing use, which the Supreme Court in *Saint Romuald* has recognized “will rarely be open to objection.”

The manager, planning and development, is of the opinion that the application meets the two tests for an expansion to a legal non-conforming use.

Financial Implications:

Potential appeal to the Ontario Land Tribunal.

Communication Plan:

As per the requirements of the Planning Act.

Attachments:

1. Schedule A
2. Aerial
3. Grey County OP – Schedule A

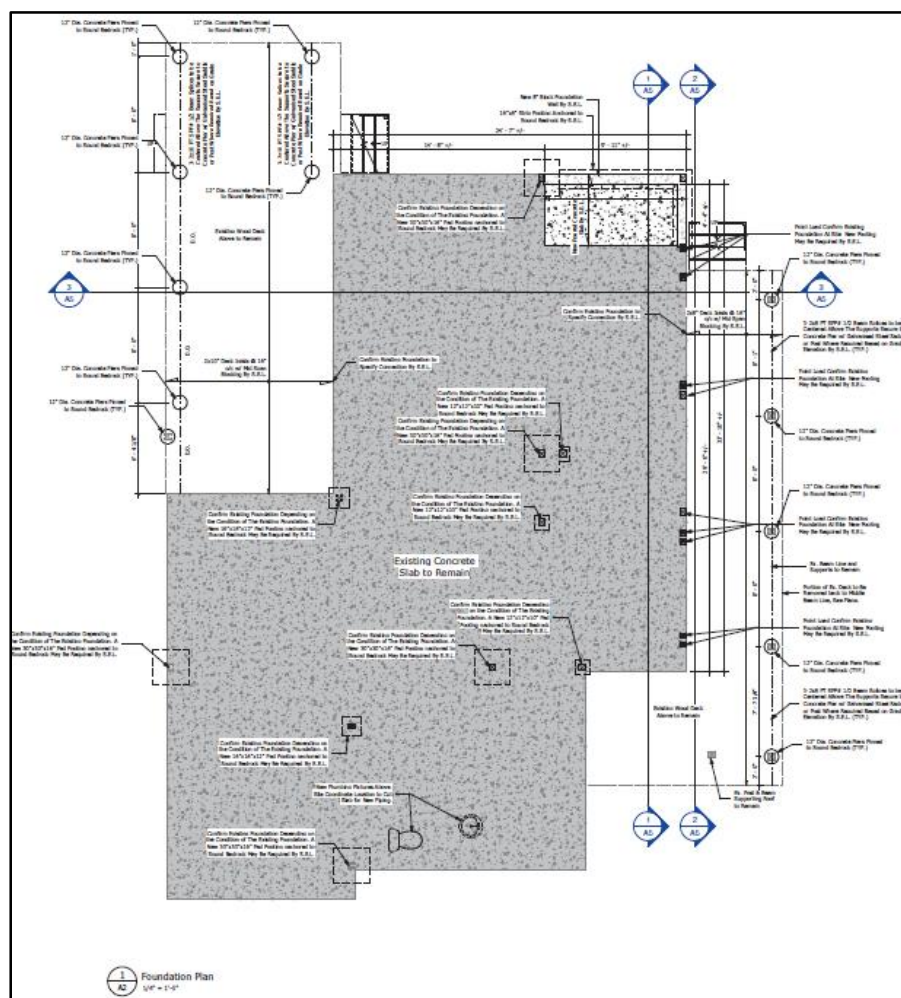
Recommended by:

Davud Smith, RPP, MCIP Manager of Planning and Development

Submission reviewed by:

Kerri Mighton, Interim Chief Administrative Officer

For more information on this report, please contact David Smith, Manager of Planning and Development at planning@westgrey.com or 519369-2200.



Aerial



Grey County OP- Schedule A





Staff Report

Report To: Committee of Adjustment

Report From: David Smith, RPP, MCIP Manager of Planning and Development

Meeting Date: April 2, 2024

Subject: A03.2024 - Gollan

Recommendations:

THAT in consideration of staff report 'A03.2024 – Gollan', the Committee of Adjustment approves minor variance application A03-2024, to zoning bylaw 37-2006, as amended, for 133391 Allan Park Road, to facilitate the construction of an accessory building/structure with a maximum floor area of 325.22 m², subject to the following conditions:

1. That the owner provides a property tax certificate or, correspondence from the municipal finance department, indicating that all property taxes have been paid up-to-date with respect to the property that is subject to this decision;
2. That the minimum interior side yard for the accessory building/structure shall be 4 m;
3. That the minimum front yard for the accessory building/structure shall be no less than 120 m;
4. That the minimum rear yard for the accessory building/structure shall be no less than 140 m;
5. That the height for the accessory building/structure shall be approximately 7.62 m;
6. That this decision applies only to the proposed shed as indicated on schedule 'A' attached to and forming part of this decision. Any other variances that may appear on the schedule that are not listed in the written decision are not authorized; and
7. That this decision expires three years from the date of decision if a building permit has not been issued.

Highlights:

- Proposed 325.22 m² (3500 sq.ft.) accessory building.
- Due to size of accessory building (shed) the recommendation includes a requirement to locate the shed further from the interior property line (interior side yard) AND far enough back on the property so as not to interfere with the use and enjoyment of the abutting residential lot.
- Proposed shed would be located 'downhill' from significant woodlands and downhill from the abutting property. No erosion control plan is required.

Previous Report/Authority:

None.

Analysis:

The purpose and effect of the application is to vary the provisions of section 6.1.4(ii) to permit a maximum floor area of ±325 m² in size whereas 92.9 m² is required. The effect of which will permit the construction of an accessory structure on the subject lands.

Comments – agencies:

County of Grey: That a sediment and erosion control pan be submitted. No other comments.

Planning Response: The proposed accessory building would be down slope of the significant woodlands and other environmental features on the lot. The accessory building would be downslope of the closest property abutting to the south. An erosion and sediment control plan would not add any environmental protection during the construction period.

West Grey Public Works: No concerns.

Saugeen Valley Conservation Authority: No concerns.

Comments – public:

None received as of the date of writing this report.

Provincial Policy Statement (2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. All land use planning decisions are required to be consistent with the PPS.

The subject property is located within a settlement area (Allan Park) as defined in the PPS.

Section 1.1.3 of the PPS states that settlement areas shall be the main focus of growth and development. The proposed accessory building, as part of a residential property, conforms to this policy.

Section 2.1 contains policies regarding natural heritage features such as significant woodlands and areas of natural and scientific interest. The subject property includes both significant woodlands and an ANSI – Earth Science (Allan Park Crevasse Fillings). Development and site alteration shall not be permitted in or on adjacent lands to natural heritage features unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. The proposed accessory building (rear wall) would be located approximately 20 m from the closest edge of the significant woodlands and approximately 36 m from ANSI.

The manager, planning and development, is of the opinion that the application is consistent with the relevant policies of the PPS.

Minor Variance Tests

The powers of a committee of adjustment are set out in subsections 45(1) and 45(2) of the Planning Act which are to: grant a minor variance from the provisions of a bylaw; permit the enlargement or extension of a legal non-conforming use; or permit the use of any land, building or structure which, in the opinion of the committee, conforms with the uses in the bylaw.

There is a four-fold test for a minor variance which requires consideration of whether: the variance is minor, is desirable for the appropriate development or use of land, building or structure and whether the general intent and purpose of the bylaw and official plan are maintained. The committee must consider whether all four requirements under subsection 45(1) have been met.

1. Maintain the general intent and purpose of the Official Plan(s)

The subject lands are designated 'Secondary Settlement Area' in the Grey Official Plan. The County Official Plan permits residential dwelling units and accessory structures on existing lots of record.

The Grey Official Plan identifies a significant woodlands and an ANSI – Earth Science (Allan Park Crevasse Fillings) environmental constraint at the rear of the property. Development within the features, or on the 120 m lands adjacent to the features may require the submission of an environmental impact study.

In this case the proposed accessory structure would be located outside of the features and no closer than approximately 20 m from the closest edge of the significant woodlands and approximately 36 m from ANSI as mapped in the Grey GIS. In addition, the accessory structure would be 'downhill' such that water flow would be away from these features.

The manager, planning and development, is of the opinion that an environmental impact study is not required.

The manager, planning and development, notes that it is only by virtue of the owner applying for a minor variance that the significant woodlands and ANSI policies of the Official Plan arise. If the owner were to build to the provisions zoning bylaw there would be no consideration of the woodlands or ANSI at all.

The manager, planning and development, is of the opinion that the application maintains the intent and purposes of the Official Plan.

2. Maintain the general intent and purpose of the Zoning Bylaw

The entirety of the lot is zoned R1A Unserviced Residential Zone. There is no NE Natural Environment, or similar restrictive zoning, on the lot.

The R1A zone permits accessory uses, buildings and structures in accordance with Section 6.1 of the zoning bylaw.

Section 6.1.4(ii) Lot Coverage limits the maximum floor area for an accessory building or structure to 92.9 m² on any lot zoned R1A.

The intent of provision 6.1.4(ii) is to ensure that the accessory structures are of an appropriate size in relation to the total lot area of the property.

Accessory does not mean that the accessory building needs to be smaller than a principal use building. For example, a home building supply commercial use, the accessory building(s) used to store building materials may well be larger than the 'store' itself. For an automotive retailer, the outside storage of new cars will be larger than the sales room.

There are instances where property owners wish to have their large RVs, car collections etc., stored inside. The bylaw should look too the size of the lot in relation to the proposed accessory building to determine an appropriate size.

In this application the accessory building will cover approximately 2.3 percent of the lot. The accessory structure will be well under the total lot coverage maximum of 10 percent for accessory buildings.

The intent and purpose of the bylaw provisions regarding maximum size of accessory building, lot coverage, etc. is to establish reasonable standards for a neighbourhood.

The standards in section 6.14(ii) Lot Coverage Accessory Building or Structure are reasonable when applied to a 'R1B' lot that is 465 m² (5000 sq.ft) in size; the minimum lot area for R1B.

The standards in section 6.14(ii) Lot Coverage Accessory Building or Structure may not be reasonable when applied to a 'R1A' lot that is 14,164 m² (152,460 sq.ft) in size. The intent and purpose of s. 44(1) of the *Planning Act* is to supply some relief from those provisions under certain circumstances when you have to apply them to a situation such as we have here when the "residential lot" is significantly larger than anticipated when the bylaw was written.

The manager, planning and development, is of the opinion that the application maintains the general intent and purposes of the zoning bylaw.

3. Be desirable for the appropriate development or use of the land, building or structure

This test refers to the appropriateness of a development given the existing conditions of a property and how the development integrates into/works with the surrounding or contiguous lands.

The accessory building itself is an appropriate use as it is in keeping with the surrounding land uses.

The building/structure will however have a greater mass (square footage) and height than permitted by the bylaw.

The proposed location (setbacks) will ameliorate these impacts:

- The house to the south would be well separated from the new accessory building;
- Increasing the side yard setback provides additional room to undertake maintenance on the structure without trespassing on the neighbouring property;
- Increasing the side yard would improve stormwater flows by providing additional space along the property line for runoff;
- The structure would be 'downhill' from both the significant woodlands and the abutting property to the south providing some assurance that stormwater would flow away from these features;
- There is no evidence that the variance would have any effect on usage of the property itself or cause and on or off-site inconveniences.

The manager, planning and development, is of the opinion that the application is desirable for the appropriate development or use of the land, building or structure.

4. Be minor in nature

This test refers to the overall development proposal, and if it is considered minor in nature. This test is not merely to be a numerical determination, and minor can be evaluated through the determination of whether the proposed development would have a 'minor' impact on the environment, the enjoyment and use of neighbouring properties or impacts on the functioning of government or other utility/essential services.

Firstly, whether it is "minor" or not cannot be regarded as a robotic exercise of the degree of numeric deviation, but must be held in light of the fit of appropriateness, the sense of proportion, a due regard to the built and planned environ, the reasons for which the requirement is instituted, the suggested mitigation conditions to address the possible concerns and last, but not the least, the impact of the deviation.

The proposed development is minor in nature for the reasons outlined throughout the report and because it is not anticipated to have an impact on:

- the environment, as the accessory building would be located in the rear yard and will be located approximately 20 m from the leading edge of the Significant Woodlands and 36 m from ANSI;
- the enjoyment and use of neighbouring properties, due to the proposed increase in the minimum side yard setback in excess of the minimum(s) required;
- or impacts on the functioning of government or other utility/essential services, as the development will be privately serviced and well away from the municipal road allowance.

The manager, planning and development, is of the opinion that the application is minor in nature.

Financial Implications:

None.

Communication Plan:

As per requirement of the Planning Act.

Attachments:

1. Schedule A
2. Grey OP Appendix B
3. Aerial

Recommended by:

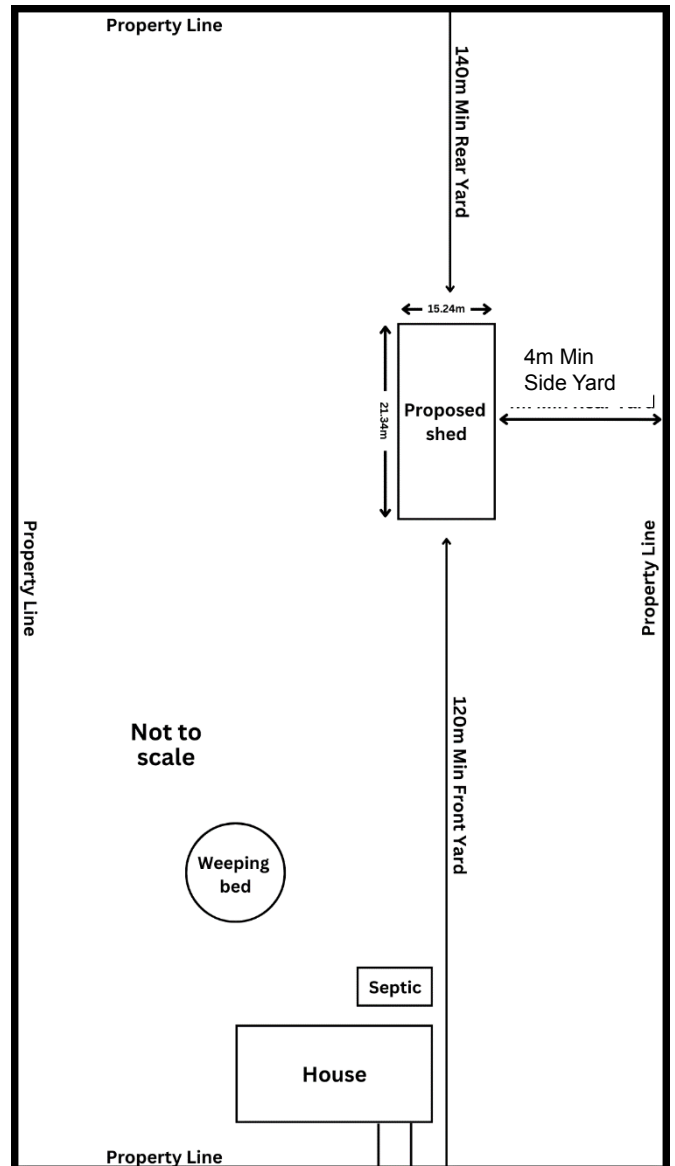
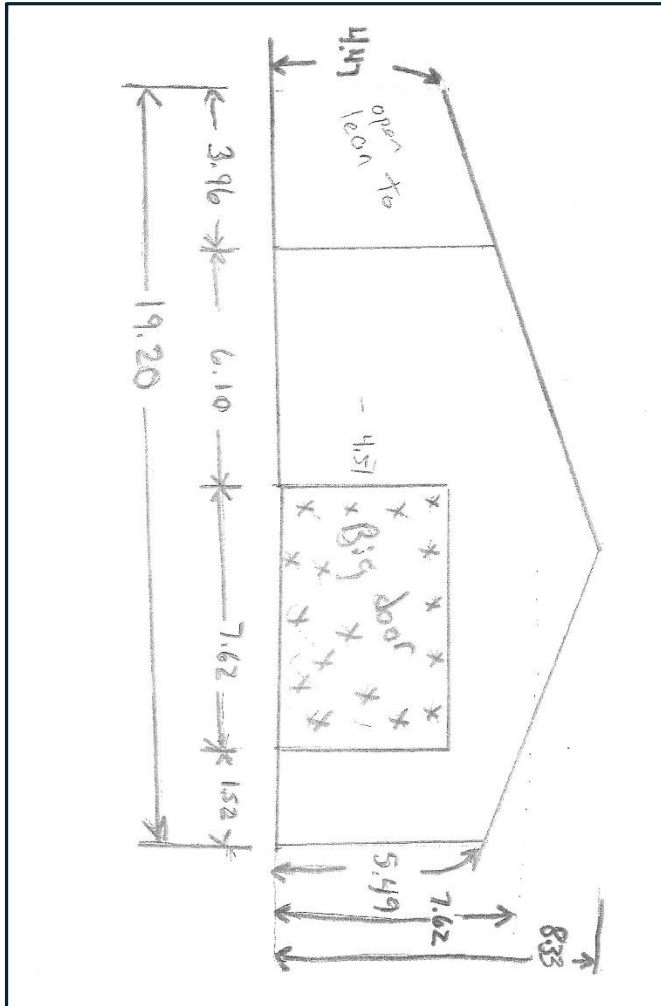
David Smith, RPP, MCIP, Manager of Planning and Development

Submission reviewed by:

Kerri Mighton, Interim Chief Administrative Officer

For more information on this report, please contact David Smith, Manager of Planning and Development at planning@westgrey.com or 519-369-2200.

Schedule A



Grey County OP Appendix B



Aerial





Staff Report

Report To: Committee of Adjustment
Report From: David Smith, RPP, MCIP Manager of Planning and Development
Meeting Date: April 2, 2024
Subject: B02.2024 - Smilebron Farms

Recommendations:

THAT in consideration of staff report 'B02.2024 – Smilebron Farms', the committee of adjustment hereby grants provisional approval to consent Application B02.2024 for the creation of a new agricultural lot as shown on schedule 'A' attached to this decision and subject to the following conditions:

1. That the owner provides a property tax certificate or correspondence from the municipal finance department, indicating that all property taxes have been paid up to date with respect to the property that is subject to this decision;
2. That this decision applies only to the severed lot as indicated on schedule 'A' attached to and forming part of this decision. The severed lot shall substantially conform with schedule 'A';
3. That a reference plan (survey that is registered) be completed and a digital copy and a hard copy be filed with the municipal planning department, or an exemption from the reference plan be received from the registrar;
4. That pursuant to Section 53(42) of the Planning Act, the 'Certificate of Consent' be affixed to the deed within two years 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));
5. That the owner provides a draft transfer prepared by a solicitor describing the legal description of the new lot; and

6. That the owner satisfy any and all requirements of the Ontario Ministry of Transportation in regards to entrances, highway widening, or any other requirement of the Ontario Ministry of Transportation. The owner shall provide a written confirmation from the Ontario Ministry of Transportation that any requirements of the Ontario Ministry of Transportation have been met.

Highlights:

- The subject lands are municipally addressed as 314059 Highway 6 & 394080 Concession 2.
- The purpose and effect of B02.2024 is to sever a 56 ha. (138 acres) agricultural parcel and retain a 123 ha. (304 acres) agricultural parcel.
- The property is designated as 'Agricultural', 'Rural', and 'Hazard' in the Grey Official Plan. The following Constraints have also been identified: Aggregate Resource Area (Schedule B); Natural Heritage System Core (Schedule C); Significant Woodlands (Appendix B).
- The property is subject to Saugeen Valley Conservation Authority (SVCA) Regulated Areas in part.
- The severed parcel would have frontage on Highway 6 and the retained parcel would have frontage on Concession 2.
- There would be a house and farm buildings on the retained and a house and farm buildings on the severed.

Previous Report/Authority:

None.

Analysis:

Comments – agencies:

The application was submitted to the standard commenting agencies. Comments have been received from the following:

West Grey Public Works: No concerns.

West Grey Building: No concerns.

County of Grey: No concerns.

Saugeen Valley Conservation Authority: SVCA staff find the application to be acceptable.

Ministry of Transportation (MTO): No comments received as of date of this Report. A condition requiring the owner to satisfy any MTO conditions that may be forthcoming has been included in the Decision.

Comments – public:

No comments from the public have been received as of the date of writing this report.

Background and discussion

The merits of this application have been assessed against the requirements of the Planning Act, Provincial Policy Statement 2020 (PPS), County of Grey Official Plan and the municipality's comprehensive zoning bylaw no. 37-2006.

Planning Act

The Planning Act must be considered when reviewing development applications. In consideration of the proposed consent, sections 2 (Provincial Interest), 3 (Provincial Plans) and 53 (Consents) of the Planning Act apply.

Consideration of matters of "Provincial Interest" is required under section 2 of the Planning Act. A wide range of provincial interests are identified such as the preservation of agricultural and natural resources and the appropriateness of development and built form in communities. The proposed parcels are within an area zoned for agricultural, resource recreational and residential uses, are of a configuration that is in keeping with other farm operations and residential properties in the area. The severance of the lands into two lots is appropriate.

Section 3 (5) (a) of the Planning Act requires that planning decisions be consistent with policy statements and conform to provincial plans that are issued under the Act. The Provincial Policy Statement 2020 (PPS) applies to the applications and is addressed in the following section.

Finally, section 53 permits the approval of consents if a plan of subdivision is not necessary for the proper and orderly development of the municipality.

The manager, planning and development, is of the opinion that the proposed consent meets the requirements of the Planning Act.

Provincial Policy Statement 2020 (PPS)

The PPS requires that all planning considerations be consistent with the policies of the PPS.

The subject lands are comprised predominantly of rural and hazard lands to the west with rural and hazard lands to the east and a section of prime agricultural land in the southeast corner.

Most of the property is in the rural area. There is approximately 25 ha (62 ac) of prime agricultural land on the retained representing 20 percent of the retained lot.

In applying the PPS, it is to be “read in its entirety and the relevant policies are to be applied to each situation. When more than one policy is relevant, a decision-maker should consider all the relevant policies to understand how they work together.”

Policy 1.1.5.2 Rural Lands in Municipalities states that:

On rural lands in municipalities permitted uses are:

d) *agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices*, in accordance with provincial standards;

The severed and retained lots will be used for agricultural uses and will have a dwelling on each lot.

Policy 1.1.5.8 requires that new land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with minimum distance separation formulae. Guideline 8 of the minimum distance separation document states, “*an MDS / setback is not required for a severed or retained lot for an agricultural use when that lot already has an existing dwelling on it.*”

Section 2.1 Natural Heritage identifies the need for the wise use and management of resources. As previously noted, significant woodlands are identified on the subject lands, however there is sufficient land area outside of the woodlands for farming purposes and for new buildings and structures.

Policy 2.3.1 of the PPS states that prime agricultural areas should be protected for long-term use for agriculture. Policy 2.3.4.1 specifically addresses lot creation in prime agricultural areas. Lot creation is discouraged and may only be permitted for the following reasons:

- a) agricultural uses;
- b) agriculture-related uses;
- c) a residence surplus to a farming operation; and
- d) infrastructure.

The application meets the stricter prime agricultural policies of the PPS.

Policy 2.5 of the PPS addresses mineral aggregate resources and states that these resources shall be protected for long-term use. The subject lands contain a swath of identified aggregate across the severed and retained lands. Due to the proposed size of the severed and retained lots it is not anticipated that the consent would unduly impact on the future potential to extract aggregate in this area.

Policy 3.1 Natural Hazards addresses hazards that may arise due to development on lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards. There is no development proposed within the hazard area and there is sufficient land area outside of the hazard for farming and other purposes.

The manager, planning and development, is of the opinion that the application is consistent with the PPS.

County of Grey Official Plan (Grey OP)

The subject lands are designated as 'Agricultural', 'Rural', and 'Hazard' on schedule A of the Grey OP.

Schedule B of the county OP plan identifies aggregate resource area on the lands and appendix b identifies significant woodlands on the subject lands.

Section 5.2.2(2) requires that newly created farm lots should generally be 40 ha. (100 acres) in size, in order to reduce the breakup of farmland. The proposed severed and retained farm lots are significantly larger than the minimum required.

Rural lot creation policies are addressed under policy 5.4.3(1) of the county OP. Section 5.2.3(5) consent policies (agricultural land use type) states that *"where both the severed and retained lots are 40 hectares in size and are both intended to be used for agricultural uses, the rural lot density shall not limit such split land use type lot creation."*

Section 7.2(3) prohibits the establishment of new buildings or structures within the hazard designation. There is no development proposed within the hazard designation as part of this application. There are sufficient lands outside of the hazard should additional buildings/structures be proposed in the future.

Section 5.6.2(8) aggregate resource area states: *Non-farm sized lot creation of lots less than 20 hectares in size will not be permitted in Aggregate Resource Areas.* Both the severed and retained lots would be over the minimum of 20 hectares in size.

Section 7.4(1) states that no development or site alteration may occur within significant woodlands, or within 120 metres of the feature, unless it has been demonstrated through an environmental impact study that no negative impacts will occur. The severed and retained lot have sufficient lands outside of the 120 metre adjacent lands from the significant woodlands constraint such that an environmental impact study is not required.

Section 7.1(3) core areas and linkages development states that where development is proposed within core areas or within 120 metres of a core area than an EIS may be required. Section 7.1.(8) further states that *"Farm sized lot creation may be considered in core areas or linkages."*

The severed and retained lot would be farm-sized and have sufficient lands outside of the 120 metre adjacent lands from the core area constraint such that an environmental impact study is not required.

The manager, planning and development, is satisfied that the consent conforms to the policies of the Grey County Official Plan.

Municipality of West Grey Comprehensive Zoning By-law 37-2006

The West Grey zoning bylaw zones the lands as zoned A1 (agricultural), A1-46 (agriculture exception) A2 (rural), and NE (natural environment).

The A1-46 (agriculture exception) zones permits, in addition to the permitted uses of section 8 agriculture zone, the drying, cleaning and marketing of farm grain.

The applicable A1 and A2 zone regulations are as follows:

A1 (Agricultural)	Requirement	Proposed Retained Lot
Minimum Lot Area	40 ha	123 ha
Minimum Lot Frontage	122 m	Approx. 736 m
Minimum Front Yard		
• For residential and accessory buildings	20 m	+240 m
	20 m	+240 m
• For livestock buildings, structures and manure storage		
	20 m	+240 m
• For buildings accessory to dwellings		
	20 m	+240 m
• Other accessory structures		
Minimum Interior Side Yard		
• For residential and accessory buildings	6 m	+240 m
		+240 m
• For livestock buildings, structures and manure storage	18.3 m	
		+240 m
• Other accessory structures		
	15.2 m	+240 m
Minimum Exterior Side Yard*	18.3 m**	Not Applicable
Minimum Rear Yard		

• For residential buildings	7.5 m	+1200 m
• For accessory buildings to residential	6 m	+1200 m
• For livestock buildings, structures and manure storage	18.3	+1200 m
• Other accessory structures	18.3 m	+1200 m
Residential Dwellings		
• Less than 2 storey Floor Area Minimum	83.6 m ²	466 m ² +
• Two or more storey Floor Area Minimum	102.2 m ²	
• Building Height	2.5 storeys	
Lot Coverage	15%	Less than 1%

A2 (Rural)	Requirement	Proposed Severed Lot
Minimum Lot Area	20 ha	56 ha
Minimum Lot Frontage	122 m	606 m
Minimum Front Yard		
• For residential & accessory buildings	20 m	+44 m
• For livestock buildings, structures and manure storage	20 m	+48 m
• For buildings accessory to dwellings	20 m	+31 m
• Other accessory structures	20 m	+31 m
Minimum Interior Side Yard		
• For residential and accessory buildings	6 m	+100 m
		+100 m
• For livestock buildings, structures and manure storage	18.3 m	+100 m

• Other accessory structures	15.2 m	+100 m
Minimum Exterior Side Yard	18.3 m	Not Applicable
Minimum Rear Yard		
• For residential buildings	7.5 m	+800 m
• For accessory buildings to residential	6 m	+800 m
• For livestock buildings, structures and manure storage	18.3	+800 m
• Other accessory structures	18.3 m	+800 m
Residential Dwellings		
• Less than 2 storey Floor Area Minimum	83.6 m ²	
• Two or more storey Floor Area Minimum	102.2 m ²	188 m ² +
• Building Height	2.5 storeys	
Lot Coverage	15%	Less than 1%

The lands proposed to be severed and retained contain residential and agricultural buildings. Based on a review of air photos the new lots and the existing buildings, structures, will meet the provisions of the zoning bylaw with regard to lot area, lot frontage, side yard setbacks, lot coverage etc.

The manager, planning and development, is of the opinion that the application conforms to the provisions of the West Grey zoning bylaw.

Financial Implications

Potential appeal to the Ontario Land Tribunal.

Communication Plan:

As per requirements of the Planning Act.

Attachments:

1. Schedule A
2. Grey OP Schedule A
3. Aerial

Recommended by:

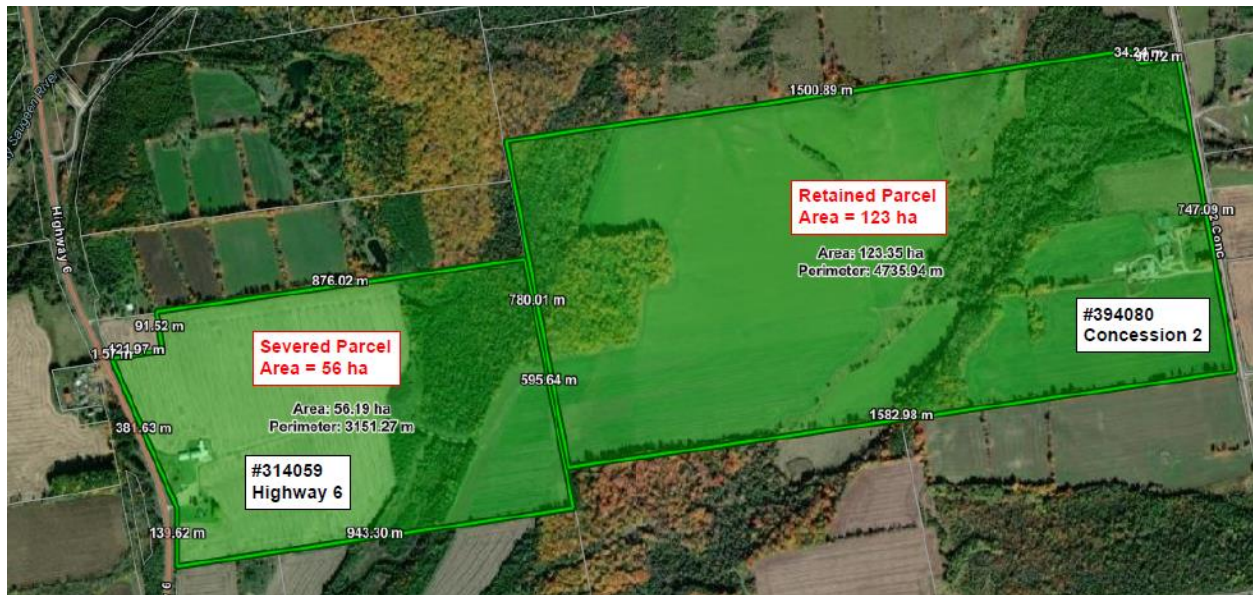
David Smith, RPP, MCIP, Manager of Planning and Development

Submission reviewed by:

Kerri Mighton, Interim Chief Administrative Officer

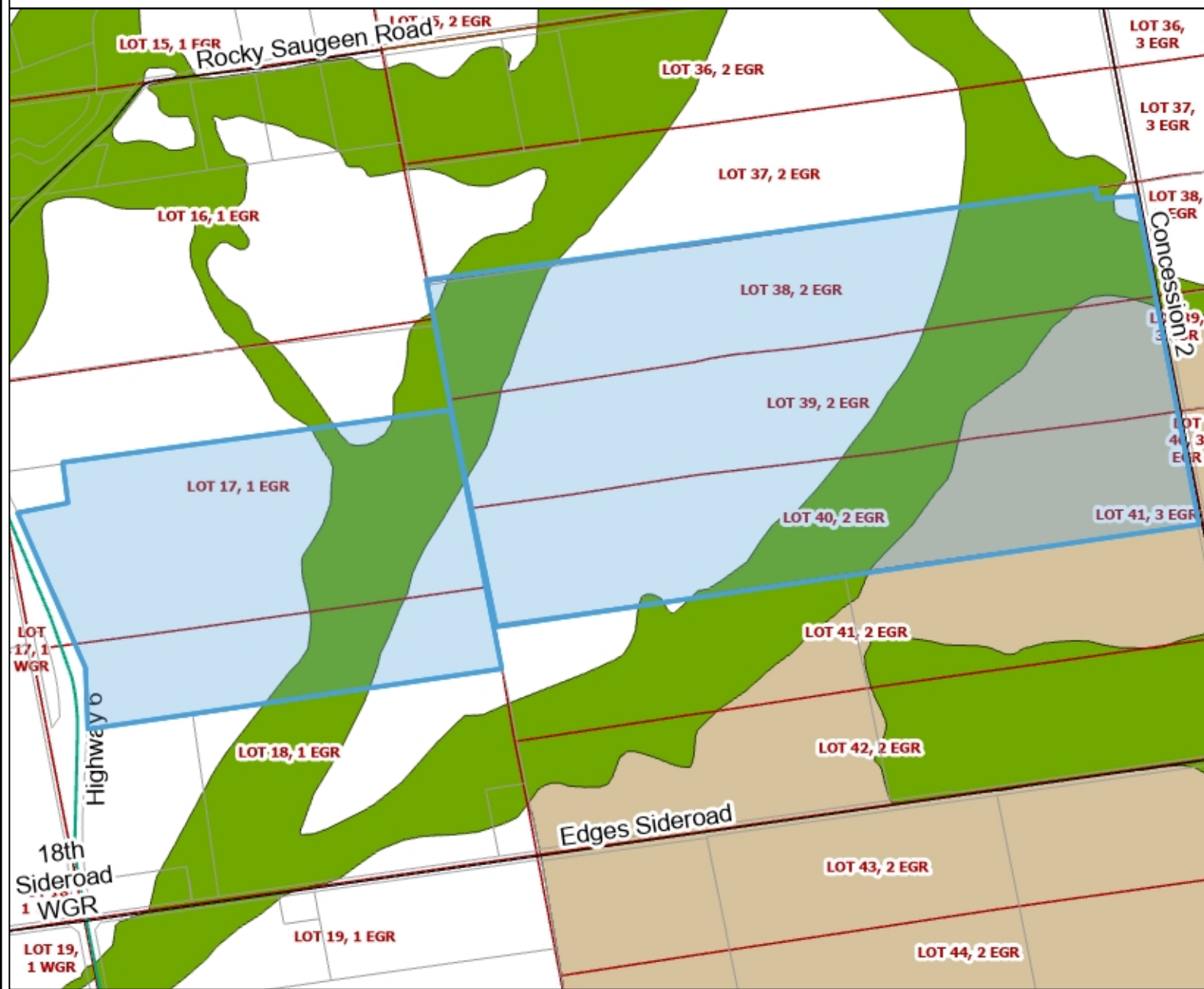
For more information on this report, please contact David Smith, Manager of Planning and Development at planning@westgrey.com or 519-369-2200.

Schedule A





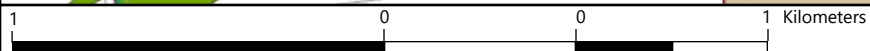
Grey OP - Schedule A



Legend

- Grey County Boundary
- Large Scale Roads**
 - Provincial Highway
 - County Road
 - Township Road
 - Seasonal Road
- Parcels - Current
- Parcels - Base
- Lots and Concessions
- Land use**
 - Primary Settlement Area
 - Secondary Settlement Area
 - Agricultural
 - Escarpment Recreation Area
 - Hazard Lands
 - Escarpment Natural Area
 - Inland Lakes and Shoreline Settlement Area
 - Niagara Escarpment Plan Area
 - Rural
 - Space Extensive Industrial and Commercial
 - Industrial Business Park Settlement Area
 - Sunset Strip Settlement Area
 - Special Agriculture
 - Provincially Significant Wetlands
 - Recreational Resort Settlement Area
- Citations**

Notes



WGS_1984_Web_Mercator_Auxiliary_Sphere
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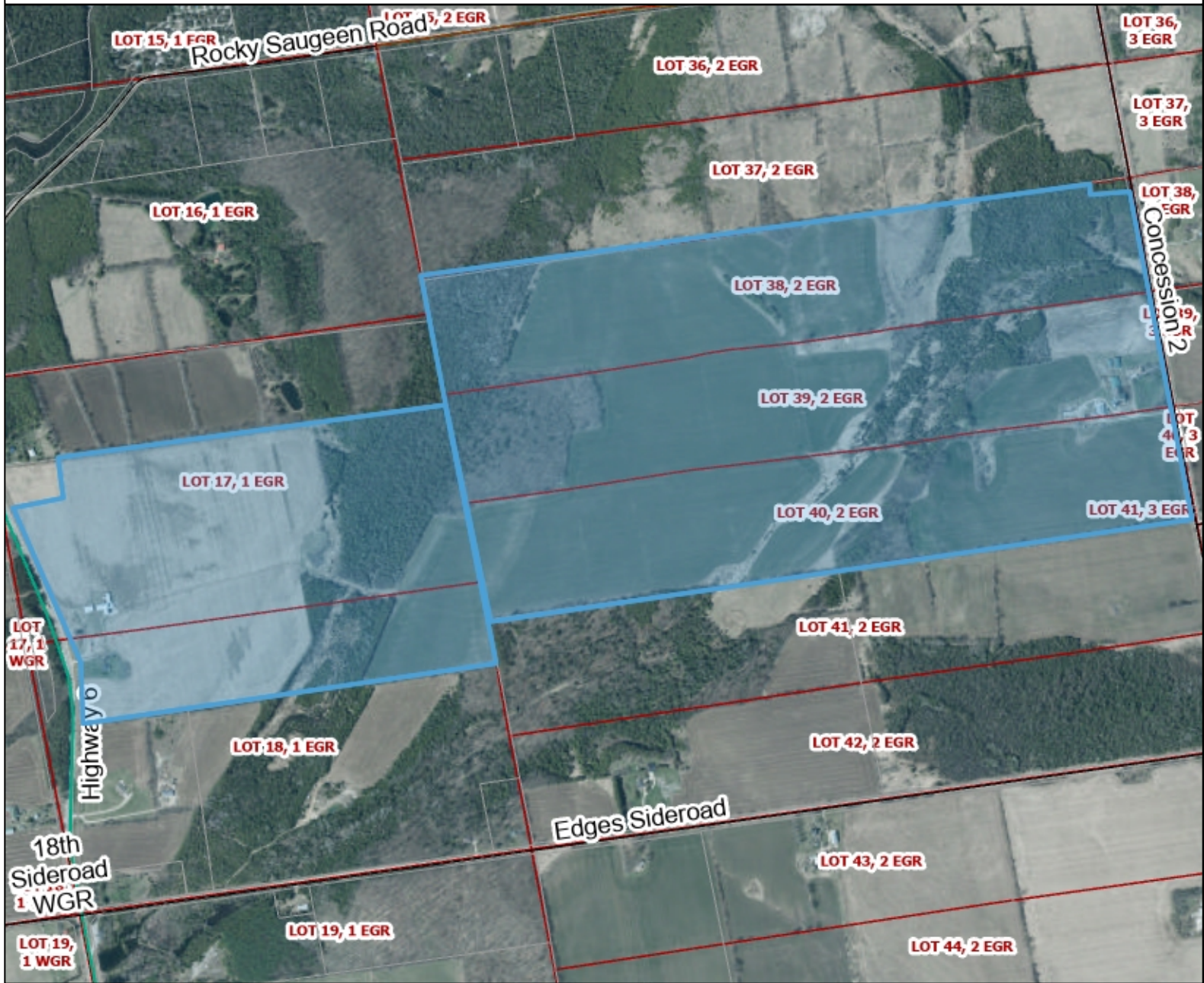
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Aerial

Legend

- Grey County Boundary
- Large Scale Roads
 - Provincial Highway
 - County Road
 - Township Road
 - Seasonal Road
- Parcels - Current
- Parcels - Base
- Lots and Concessions



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Notes