



## Committee of adjustment report

<b>Meeting date:</b>	June 14, 2021
<b>Title:</b>	A15.2021 – NIXEY-SLOBOSKY, Janice and SLOBOSKY, Brian
<b>Prepared by:</b>	Lorelie Spencer, Manager of Planning and Development
<b>Reviewed by:</b>	Laura Johnston

### Recommendation

That Committee of Adjustment receives the report from Planner Spencer, A15.2021 – NIXEY-SLOBOSKY, Janice and SLOBOSKY, Brian and the recommendation for approval of the minor variance and further that a non-service agreement is approved by Council in order for the landowner to assume complete liability for the use of an unopened and unmaintained road allowance.

### Executive summary

The lands are legally described as part lot 102, concession 3 SWTSR within the geographic township of glenelg. The subject lands are landlocked with access from Hamilton Lane through a registered right-of-way.

The purpose of the application is to vary the provisions of subsection 6.10 to permit development on a property with no frontage or access on an open and maintained municipal road. The effect of which would permit the construction of a new single detached dwelling unit on an existing lot of record.

### Background and discussion

The subject lands are located southwest of Grey Road 12 and West Back Line. The site presently contains mature vegetation. An existing single detached dwelling unit exists directly east of the subject lands which also utilizes the access in question. Lands to the west of the property are vacant and also contain mature vegetation. The site is an existing vacant lot of record which is approximately 18979.8 m<sup>2</sup> (0.302 ha) in size.

The applicant is requesting relief in the form of a minor variance to permit the construction of a single detached dwelling unit on the subject lands despite the absence of road frontage and direct access to an open and maintained municipal road. A registered right-of-way is not considered direct access under the municipality's comprehensive zoning by-law.

Section 45 of the Planning Act gives the Committee of Adjustment the authority to grant relief from a provision(s) of the Comprehensive Zoning By-law provided such relief passes four tests:



June 14, 2021 (2)

1. Does the Minor Variance maintain the intent and purpose of the Official Plan?

The subject lands are designated rural under the county official plan. Policy 5.4 outlines the policies related to the rural land use type. Policy 5.4.1 speaks to the permitted uses within the rural designation. Single detached dwelling units are considered a permitted use within the official plan.

The property was created in 1970 and is considered to be within a Plan of Subdivision. Planning staff note that current planning policy would not permit the creation of a lot without direct access to an open and maintained municipal road in addition to road frontage.

The proposed development on the subject lands is proposed on an existing lot of record. In this capacity, the proposal generally conforms to the policies of the official plan.

2. Does the Minor Variance maintain the intent and purpose of the Zoning By-law?

The intent of provision Section 6.10 is to ensure safe and appropriate access to structures for the purposes of fire and emergency vehicles, in addition to the provision of other municipal services.

In this respect, the proposal does not conform to the comprehensive zoning by-law in the absence of a non-service agreement with the municipality to assume full responsibility for access purposes by the landowner.

The non-service agreement will stipulate that the landowner assumes all liability for fire, emergency services and maintenance of the access (including snow removal). This agreement will further define that garbage and recycling services in this location will not be provided beyond the point of the open and maintained portion of the roadway.

3. Is the variance minor in nature?

The ability to determine if a variance is minor in nature is relative to the impact the variance would have on adjacent lands. Development of this site would not impact the adjacent lands however, the landowner shall be required to assume full responsibility for access purposes. Snow removal and storage must be maintained within the landowner's site boundary.

4. Does the minor variance represent an appropriate or desirable use of land and buildings?

The property is presently zoned A3 (restricted rural) which permits single detached dwelling units. However, the construction of the dwelling unit does not conform to the general provisions of the comprehensive zoning By-law under provision section 6.10.

Provision 6.10 states as follows:

*No person shall erect any building or structure, or use any lot in a zone, unless the lot upon which such building or structure is to be erected, fronts upon and has direct access to an improved public street open and maintained on a year round basis. The above provision shall not apply to restrict the erection of any building on a lot in a registered plan of subdivision where a subdivision agreement has been entered into but the street will not be assumed until the end of the maintenance period.*



June 14, 2021 (3)

The use of the lands for a single detached dwelling unit is considered an appropriate use. However, in my Professional opinion without an executed non-service agreement registered on title development of the property it is not considered an appropriate use.

Based on the above, the proposal does not meet the four tests of a minor variance and must be accompanied by a non-service agreement registered on title to the subject lands.

Planning Staff do not support the development of the lands, in absence of this agreement.

## Legal and legislated requirements

In the absence of an Agreement and assumption of liability by the landowner for access, the Municipality will be liable for any incidents along this portion of the unmaintained road.

## Financial and resource implications

None.

## Staffing implications

None.

## Consultation

- County of Grey Planning and Development Department
- Saugeen Valley Conservation Authority
- Enbridge Gas

## Alignment to strategic vision plan

Pillar: Clear Communication

Goal: Vibrant Community

Strategy: Promote and Market

## Attachments

- 1.) Completed application form
- 2.) Application sketch
- 3.) Aerial and official plan mapping
- 4.) Aerial and zoning mapping
- 5.) Enbridge Gas – review comments

## Next steps

That Committee recommend Council (through by-law) enter into a non-service agreement with the landowner for the assumption of complete liability for the use of the unmaintained portion of the road or deny the application. If approved, the non-service agreement shall be registered on title to the property at the landowner's expense to ensure notice is provided to future landowners.



June 14, 2021 (4)

Respectfully submitted:



Lorelie Spencer, Ba.U.R.PI. MCIP, RPP  
Manager of Planning and Development