

TOWNSHIP OF WELLINGTON NORTH

PUBLIC MEETING - MINUTES

Monday, November 10, 2014

The Public Meeting was held Monday, November 10, 2014 at 7:00 p.m. at the Township of Wellington North Council Chambers, Kenilworth to consider a Zoning Amendment application.

Present:

Mayor: Raymond Tout
Councillors: Sherry Burke
Mark Goetz
Andy Lennox
Dan Yake

Also Present:

C.A.O./Clerk: Michael Givens
Deputy Clerk: Catherine More
Executive Assistant: Cathy Conrad
Chief Building Official: Darren Jones
Manager of Planning and Environment: Mark Van Patter
Treasurer: Paul Dowber

Mayor Tout called the meeting to order. (7:04 p.m.)

Declaration of Pecuniary Interest:

None declared.

Owner/Applicant: Mildred Francis

Location of the Subject Land

The property subject to the proposed amendment is described as Lot 3, Concession WOSR, Geographic Township of Arthur, with a municipal address of 913 Bentley Street. The property is approximately 25 acres, and is part of a larger 89.78 acre holding.

The Purpose and Effect of the Application is to recognize an existing barn situated in the Agricultural (A-1) zone. New livestock facilities are not permitted in the A-1 zone, which serves as a buffer around urban centres such as Mount Forest. Potential impacts on neighbouring properties, and mitigation if necessary, will also be considered.

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Please note – Section 34 (12) of the Planning Act.

(12) Information. – At a meeting under subsection (12), the council shall ensure that information is made available to the public regarding the power of the Municipal Board under subsection (14.1) to dismiss an appeal if an appellant has not provided the council with oral submissions at a public meeting or written submissions before a By-law is passed.

1. Notice for this public meeting was sent to property owners within 120 m and required agencies and posted on the property on September 5, 2014.
2. Presentations by:

Mark Van Patter, Manager of Planning and Environment, dated November 4, 2014 reviewed his comments dated November 4, 2014.

A building permit for the Francis barn was issued in error in 2011. The Agricultural Exception (A-1) zone that it is located in does not permit new livestock facilities. The Francis barn more than meets the required setback distances to all existing dwellings in the area. However, the barn does not fully meet the Minimum Distance Separation (MDS 2) to the Mount Forest urban area; it is 90% of the distance to the Commercial and Residential land use designations in the Official Plan. A draft plan of subdivision has been applied for by Avila for the urban area. Given the setback distance and prevailing winds, it is my opinion that there is little likelihood of nuisance odors affecting the urban area. Given the large inventory of residential land in Mount Forest, there is little likelihood that the urban area will need to expand southward for some time. MDS Guidelines provide for minor variances from livestock facilities. Mr. Van Patter characterized this barn to be of moderate size.

The property subject to the proposed amendment is described as Lot 3, Concession WOSR, Geographic Township of Arthur, with a municipal address of 913 Bentley Street. The property is approximately 25 acres, and is part of a larger 89.78 acre holding (lands west of the former rail line).

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The purpose and effect of the application is to recognize an existing barn situated in the Agricultural (A-1) zone. New livestock facilities are not permitted in the A-1 zone, which serves as a buffer around urban centres such as Mount Forest. Potential impacts on neighbouring properties, and mitigation if necessary, will also be considered.

It appears that a 2011 building permit for the Francis barn was issued by the Township that did not comply with the zoning by-law. A livestock barn was subsequently constructed.

Section 2.3.3.3 of the Provincial Policy Statement requires Minimum Distance Separation (MDS) requirements to be met.

Under the Wellington County Official Plan the subject area is designated PRIME AGRICULTURE. Section 10.3.4 of the Official Plan implements the PPS and requires that MDS to be met. This is reiterated in Section 4.7.1 (b), Urban Area Protection.

Under the Wellington North Zoning By-law the subject area is zoned Agricultural Exception (A-1). This zone does not permit new livestock buildings.

The A-1 zone which is a buffer around urban centres does not permit new livestock facilities. As noted, the Francis barn was constructed contrary to the zoning. A site specific rezoning would be required to recognize and permit the existing barn.

MDS 2 calculations are undertaken for new livestock facilities. The barn constructed on the Francis property is 5,000 sq. ft. in size and is located in the central, southern area of the property. The barn is 154 ft. from the south boundary and 755 feet from the north boundary of the property. The barn houses 50 beef cows and 100 sheep. Chief Building Official, Darren Jones has calculated the MDS 2 distances.

| Land Use | Required Barn Setback | Actual Barn Setback | Required Manure Setback | Actual Manure Setback |
|-------------------------|------------------------------|----------------------------|--------------------------------|------------------------------|
| Type A Land Use | 160 m. | 299 m. | 160 m. | 287 m. |
| Type B Land Use | 319 m. | 266 m. | 319 m. | 266 m. |
| Nearest Lot Line | 16 m. | 47 m. | 16 m. | 38 m. |

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Type A - MDS 2 Implications

Type A land uses are characterized by uses that have a lower density of human occupation, such as single residential dwellings and agriculturally related uses.

Please refer to the air photo diagram on the next page. A separation of 160 metres is required from Type A lands uses (e.g. residential dwelling, Agricultural Commercial zoned lot). The closest neighbouring dwelling is Phares Martin, across Highway 6, at 299 metres.

The arc also crosses over the southeast corner of the Schellenberger property, which is approximately 12 acres in size. Current policy would not permit severance of the Schellenberger property. Even if policy were to allow for it in the future, the MDS would not have any significant impacts on a severance, as the MDS arc only affects a small corner of the property.

At the southeast corner of the Francis property, a vacant 2 acre lot is present zoned Agricultural Commercial and owned by Ross Scott Fuels. This would be a Type A land use given the zoning. While the MDS arc does cross over a sizeable portion of the property, the MDS 1 will not be applied when and if the parcel is developed, as per Section 6.17.1 of the Township's zoning by-law which states:

“Notwithstanding, the above provisions shall not apply to lots existing as of the date of the passing of this By-law, which are less than 4 hectares (9.9 acres) in area.”

Section 4 of the MDS Implementation Guidelines (OMAFRA) states that in the case of existing lots, “MDS 2 applies to the lot lines”. The calculations undertaken by Mr. Jones indicates that the Francis barn had to maintain a minimum distance of 16 metres to the agricultural commercial lot line. The actual distances are greater.

Mr. Van Patter put in a regulation in the draft zoning amendment, stating that the Francis barn shall not limit the location of buildings or structures on the Ross Scott Fuels property and the Schellenberger property. In my opinion, there are no MDS implications in terms of Type A land uses.

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Type B - MDS 2 Implications

Type B land uses are characterized by uses that have a higher density of human occupation, such as urban areas, rural estate subdivisions, etc.

It is Mr. Van Patter's understanding that the building official erred in 2011 when the Francis building permit was issued, by not considering the presence of a Type B use – Mt. Forest urban area. Therefore, appropriate relief should be considered in the current rezoning.

Mr. Jones in his 2014 calculation finds that a separation of 319 metres is required from Type B land uses (e.g. urban boundary). He also finds the actual barn setback is 266 m., which is the measurement from the barn to the northern boundary of the Francis property.

Avila Investments Ltd. recently redesignated land across Bentley Street to "Residential" and "Highway Commercial". They have also applied to the County for draft plan of subdivision (23T-13002).

Since the Residential and Highway Commercial areas in the Official Plan are on the north side of Bentley Street, it makes some sense to me to add 20 m. (width of Bentley Street road allowance), to the 266 m. distance to the Francis barn. Thus, we end up with an actual separation distance of 286 m., between the barn and urban uses. A setback of 286 m. is 90% of the required 319 m.

The Type B arc goes 33 metres into the Avila property. The eastern portion of the arc is on land proposed for Commercial development and the western portion for Residential development.

Section 46 of the MDS Guidelines (OMAFRA) states that: "*Minor variances to MDS 2 distances can be considered based on site specific circumstances. Circumstances that meet the intent, if not the precise distances of MDS 2, or mitigate environmental impacts, may warrant further consideration.*"

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In Mr. Van Patter's opinion, it is reasonable to provide relief from the MDS 2 deficiency for the following reasons:

- MDS 1 does not apply in urban centres from a zoning perspective. So, Avila will not be constrained by the barn in terms of getting building permits.
- Prevailing winds are to the southeast, away from the urban centre
- Mt. Forest has an oversupply of residential lands for the planning period, and expansion of Mt. Forest south of Bentley Street is very unlikely for some time
- The barn is able to meet a setback distance that is 90% of what is required
- We are dealing with an existing barn, where a permitting error was made
- Recognizing the Francis barn through rezoning will remedy the problem of zoning non-compliance for the owner, and the Township which inadvertently has issued the building permit

Mr. Van Patter has put a regulation in the draft zoning amendment, stating that the Francis barn shall not limit the location of buildings or structures on the Avila development.

3. Review of Correspondence received by the Township:
 - John Morrissey, Corridor Manager, MTO
 - No objection.
 - Valerie Lamont, Environmental Planning Technician (Acting), Saugeen Conservation
 - Amendment acceptable
 - Elsa Mann, 947 Bentley Street, Mount Forest
 - No issues with structure being allowed
4. The by-law will be considered at the regular council meeting following the public meeting. Persons wishing notice of the passing of the By-law must submit a written request.

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5. Mayor opens floor for any questions/comments.

The applicant was not present.

6. Comments/questions from Council.

None.

7. Adjournment 7:16 p.m.

Moved by: Councillor Burke

Seconded by: Councillor Goetz

THAT the Public Meeting of November 10, 2014 be adjourned at 7:16 p.m.

Carried

C.A.O./CLERK

MAYOR