



INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	January 14, 2020
SUBJECT/REPORT NO:	Appeal to the Local Planning Appeal Tribunal (LPAT) for Lack of Decision on Zoning By-law Amendment Application ZAA-18-053 for Lands Located at 2282 Westbrook Road (PED20002) (Glanbrook) (Ward 11)
WARD(S) AFFECTED:	Ward 11
PREPARED BY:	Elyse Meneray (905) 546-2626 Ext. 6360
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

Council Direction:

A motion to direct staff to advise the Planning Committee on matters relating to appeals regarding lack of decision by Council, pursuant to the *Planning Act* was passed by City Council on May 18, 2010. This Information Report has been prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the LPAT.

Bill 139 Building Better Communities and Conserving Watersheds Act, 2017

Prior to September 3, 2019, a Zoning By-law Amendment application could be appealed to the Local Planning Appeal Tribunal (LPAT) after 150 days if Council had not made a decision on the application, in accordance with subsection 34(11) of the *Planning Act*.

Bill 108 More Homes, More Choice Act, 2019

Bill 108 *More Homes, More Choice Act, 2019*, received Royal Assent on June 6, 2019 and was proclaimed on September 3, 2019. Bill 108 reduced the appeal period for a Zoning By-law Amendment application. In accordance with subsection 34(11) of the *Planning Act*, a Zoning By-law Amendment application could now be appealed to the

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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Local Planning Appeal Tribunal (LPAT) for applications made after September 3, 2019, after 90 days if Council had not made a decision on the application. As this application was made prior to September 3, 2019, it is subject to the Bill 139 appeal period.

The following information is provided for Planning Committee's information with regards to Zoning By-law Amendment application ZAA-18-053, which has been appealed to the LPAT for lack of decision.

Information:

The subject lands municipally known as 2282 Westbrook Road, Former Township of Glanbrook are located south of the intersection of Guyatt Road and Westbrook Road in Glanbrook (see location map attached as Appendix "A" to Report PED20002). The applicants are John and Eva Vuckovic.

The subject lands are surrounded to the north, east, south and west by farmland, accessory farm uses and single detached dwellings.

The subject lands make up an irregular shaped lot with a frontage of 851.18 metres on Westbrook Road, having a depth of approximately 830 metres (irregular), and an area of 59.107 hectares. The subject lands currently contain farmland, accessory decommissioned farm buildings, a decommissioned horse paddock and a single detached dwelling. The intent of the proposal is to sever the existing single detached dwelling through a non-abutting farm consolidation severance and rezone the retained farmland to prohibit the development of a single detached dwelling and residential care facility.

Application:

Zoning By-law Amendment Application:

The purpose of the Zoning By-law Amendment application (ZAA-18-053) is to rezone the agricultural portion of the subject lands to a site specific Agriculture (A1) Zone to prohibit the development of a single detached dwelling and residential care facility on the retained farmland through a non-abutting farm consolidation severance (see Concept Plan in Appendix "B" to Report PED20002).

The application was originally submitted on October 23, 2018 and deemed to be complete on November 14, 2018.

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Rural Hamilton Official Plan

The subject lands are designated as “Agriculture” on Schedule “D” – Rural Land Use Designations. Policy F.1.14.2.8 c) v) of the Rural Hamilton Official Plan permits the severance of a surplus farm dwelling under the condition that the land owner apply and receive final approval of a Zoning By-law Amendment to rezone the farm parcel to prohibit the construction of a dwelling unit.

Zoning By-law 05-200

The subject lands contain four separate zones. The majority of the property is zoned Agriculture (A1) Zone with the Conservation / Hazard Land – Rural (P7) and Conservation / Hazard Land – Rural (P8) Zones located at the western portion of the property and the Conservation / Hazard Land – Rural (P6) Zone at the south of the property. The proposal will modify the Agriculture (A1) Zone; there are no modifications to the Conservation / Hazard Land – Rural (P6), Conservation / Hazard Land – Rural (P7) and Conservation / Hazard Land – Rural (P8) Zones.

The Agriculture (A1) Zone permits, among other things: agriculture, a residential care facility, secondary uses to agriculture, single detached dwelling and veterinary service – farm animal.

The Conservation / Hazard Land – Rural (P6) Zone permits agriculture, conservation, flood and erosion control facilities, passive recreation, single detached dwelling and secondary uses to agriculture. The Zone does not permit the development of new buildings or structures on vacant lots, however there are permissions for expansions to existing buildings and structures.

The Conservation / Hazard Land – Rural (P7) and Conservation / Hazard Land – Rural (P8) Zones permit agriculture, conservation, existing single detached dwelling, flood and erosion control facilities and passive recreation. The Zones do not permit the development of new buildings or structures.

A Zoning By-law Amendment is required to prohibit the development of a single detached dwelling and residential care facility on the retained farmland as per RHOP policy F.1.14.2.8 c) v).

Committee of Adjustment Application GL/B-18:58

The Applicant submitted a Consent to Sever application (GL/B-18:58) on May 15, 2018 to sever a 1.986 hectare parcel of land containing a single detached dwelling, two barns, a silo, storage building, container and small storage building from the 57.12

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hectare farm parcel. The Applicant requested to retain one barn and the small storage building as accessory buildings for the single detached dwelling. Staff were of the opinion that the farm buildings are unnecessary as they no longer facilitate a farm operation and are not suitable as accessory structures for the single detached dwelling. In discussions with the applicant, staff agreed to allow for one of the structures to remain as accessory storage for the single detached dwelling, however two of the three accessory structures are required to be demolished as a condition of consent approval.

Staff recommended that the application be approved, subject to conditions (see July 19, 2018 Meeting Minutes attached as Appendix “D” to Report PED20002).

July 19, 2018 Committee of Adjustment Hearing

The application was tabled at the July 19, 2018 Committee of Adjustment hearing in order for the applicant to work with staff to address Committee’s concerns and recommendations including:

- Retaining two of the farm buildings on the property, when all farm buildings are to be demolished as part of the severance application;
- Reducing the lot size (1.986 ha) of the retained parcel, as members believed the lot was too large;
- Reconfiguring the retained lot by eliminating all farm buildings and moving the rear lot line closer to the single detached dwelling; and,
- Addressing the size of the accessory structures, as both exceed 200 sq m.

March 21, 2019 Committee of Adjustment Hearing

The application was rescheduled for the March 21, 2019 Committee of Adjustment hearing. No changes were made to the proposal and the application was further tabled to allow Committee members to conduct a site inspection (see March 21, 2019 Meeting Minutes attached as Appendix “E” to Report PED20002).

April 11, 2019 Committee of Adjustment Hearing

The application was rescheduled for the April 11, 2019 Committee of Adjustment hearing. Based on comments from the site inspection and previous meetings, the applicant reduced the retained lot size to 1.822 hectares and agreed to retain one farm building accessory to the single detached dwelling. This reduction raised concerns with Source Water Protection staff on whether the lot could be sustainably serviced.

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The Applicant requested the application be further tabled to address the following:

- Source Water Protection comments with respect to lot size;
- Size of the accessory structure, as it exceeded 200 sq. m; and,
- Confirm ownership of the property, as the property was under two different names and could not be considered a consolidation until this was resolved.

The motion was granted, and the application was tabled (see April 11, 2019 Meeting Minutes attached as Appendix “F” to Report PED20002).

August 15, 2019 Committee of Adjustment Hearing

The application was rescheduled for the August 15, 2019 Committee of Adjustment hearing, where the application was denied as members of the Committee were not supportive of the retention and size of the accessory structures on site (see August 15, 2019 Meeting Minutes attached as Appendix “G” to Report PED20002). The Consent to Sever application was appealed by the owners to the Local Planning Appeal Tribunal on September 10, 2019.

Public Consultation:

In accordance with the provisions of the *Planning Act* and Council’s Public Participation Policy, a Notice of Complete Application and Preliminary Circulation was circulated to 12 property owners within 120 m of the subject property on November 21, 2018 requesting public input on the application. A Public Notice sign was also posted on the property on November 18, 2018. To date, no correspondence from the public has been received.

The appeal to the LPAT was received by the City Clerks’ office on September 26, 2019, 338 days after the receipt of the initial application.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Location Map
Appendix “B” – Concept Plan
Appendix “C” – Appeal Letter
Appendix “D” – Committee of Adjustment July 19, 2018 Meeting Minutes
Appendix “E” – Committee of Adjustment March 21, 2019 Meeting Minutes
Appendix “F” – Committee of Adjustment April 11, 2019 Meeting Minutes
Appendix “G” – Committee of Adjustment August 15, 2019 Meeting Minutes