COMMITTEE OF ADJUSTMENT



City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221, 3935 Fax (905) 546-4202

E-mail: cofa@hamilton.ca

NOTICE OF PUBLIC HEARING

Application for Consent/Land Severance

APPLICATION NUMBER: GL/B-20:61

SUBJECT PROPERTY: 5020 Tyneside Rd., (Glanbrook)

You are receiving this notice because you are either:

- Assessed owner of a property located within 60 metres of the subject property
- Applicant/agent on file, or
- Person likely to be interested in this application

APPLICANT(S): Sullivan Planning Services Inc. on behalf of the

owner Thomsen-Jung Farms Ltd.

PURPOSE OF APPLICATION: To permit the conveyance of a parcel of land

containing an existing dwelling and to retain a parcel of agricultural land containing two agriculutral

buildings.

Severed lands:

 $65m^{\pm}$ x $280m^{\pm}$ and an area of $1.96ha^{\pm}$

Retained lands:

646m[±] x 1,000m[±] and an area of 63.29ha[±]

This application will be heard in conjunction with

Minor Variance Application GL/A-20:199

The Committee of Adjustment will hear this application on:

DATE: Thursday, January 21st, 2020

TIME: 1:45 p.m.

PLACE: Via video link or call in (see attached sheet

for details) To be streamed at

www.hamilton.ca/committeeofadjustment

for viewing purposes only

PUBLIC INPUT

Written: If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, including deadlines for submitting to be seen by the Committee.

Orally: If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

MORE INFORMATION

For more information on this matter, including access to drawings illustrating this request:

- Visit <u>www.hamilton.ca/committeeofadjustment</u>
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 4144
- Email Committee of Adjustment staff at cofa@hamilton.ca

DATED: January 5th, 2021

Jamila Sheffield, Secretary-Treasurer Committee of Adjustment

Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.

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COMMITTEE OF ADJUSTMENT



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Telephone (905) 546-2424, ext. 4221, 3935 Fax (905) 546-4202

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NOTICE OF PUBLIC HEARING Minor Variance

You are receiving this notice because you are either:

- Assessed owner of a property located within 60 metres of the subject property
- Applicant/agent on file, or
- · Person likely to be interested in this application

APPLICATION NO.: GL/A-20:199

APPLICANTS: Mike Sullivan on behalf of the owner Thomsen-Jung Farms Ltd.

SUBJECT PROPERTY: Municipal address 5020 Tyneside Rd., Glanbrook

ZONING BY-LAW: Zoning By-law 05-200, as Amended

ZONING: "A1", "P7" & "P8" (Agricultural and Conservation/Hazard Land -

Rural) district

PROPOSAL: To permit the conveyance of land containing an existing single

detached dwelling in accordance with GL/B:20-61 notwithstanding

that:

- 1. A lot width of 0.0m shall be provided (on the lands to be severed) instead of the minimum required lot width of 30.0m.
- 2. No lot frontage shall be provided (on the lands to be severed) whereas the by-law requires a lot to abut a street for a minimum of 4.5m.
- 3. The use of a Single Detached Dwelling shall be permitted on the lands to be severed.

NOTES:

- i. These variances are necessary to facilitate consent application GL/B-20:61.
- ii. The current 'P7' zone of the lands being severed permits the use of 'existing' Single Detached Dwellings. As a result of the proposed severance, the existing status of this dwelling is effectively lost as it is located on a newly created lot. Variance #3 is necessary in order to permit the continued use of the Single Detached Dwelling.
- iii. A single detached dwelling requires a minimum of one (1) parking space to be provided on site. Such parking shall be provided in accordance with Section 5 of Hamilton Zoning By-law 05-200. Insufficient information has been provided in order to determine zoning compliance. As such, further variances may be required.
- iv. The existing farm buildings on the lands to be retained shall be setback a minimum 15.0m from the proposed new lot line. Insufficient information has been provided in order to determine zoning compliance. Further variances may be required if compliance with this provision cannot be achieved.

This application will be heard by the Committee as shown below:

DATE: Thursday, January 21st, 2020

TIME: 1:45 p.m.

PLACE: Via video link or call in (see attached sheet for details)

To be streamed at www.hamilton.ca/committeeofadjustment

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MORE INFORMATION

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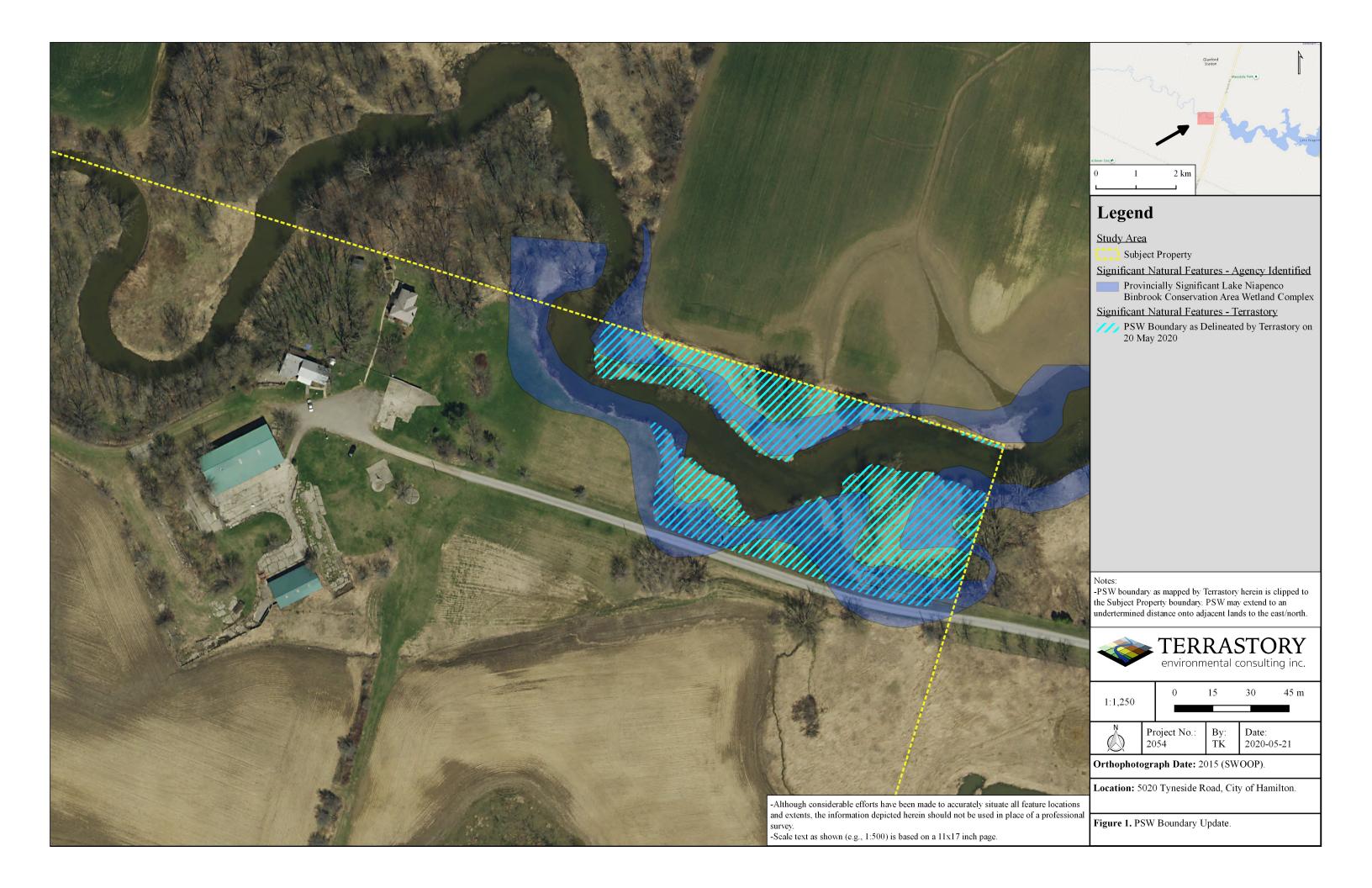
- Visit www.hamilton.ca/committeeofadjustment
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at cofa@hamilton.ca

DATED: January 21st, 2020.

Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

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environmental consulting inc.



Photo 1. Welland River and adjacent riverine marshes within the PSW (20 May 2020).



Photo 2. Existing driveway looking north. Driveway acts as the PSW boundary (20 May 2020).



Photo 3. Area of manicured lawn mapped as part of the existing PSW. Updated PSW boundary mapping by Terrastory removes this area from the wetland (20 May 2020).



Photo 4. Wetland boundary is tight to the bankfull crest of the Welland River adjacent to the manicured lawn (20 May 2020).

mike@sullivanplanning.ca

From: Tristan Knight <tristan@terrastoryenviro.com>

Sent: May 21, 2020 9:28 AM

To: Mike Sullivan; info@tjfarms.ca

Subject: PSW Boundary Update - 5020 Tyneside Road, Hamilton **Attachments:** 2054 - Updated PSW Boundary and Site Photographs.pdf

Good Morning Mike, Andreas,

As you know, Terrastory's Senior Ecologist/President (Tristan Knight) undertook a site visit to 5020 Tyneside Road in Glanbrook on 20 May 2020 to assess the boundary of the Provincially Significant Lake Niapenco Binbrook Conservation Area Wetland Complex (hereinafter "PSW") in the northeast corner of the Subject Property. Tristan is a certified wetland evaluator and former instructor of the Ontario Wetland Evaluation System (OWES) certification course. Per OWES, wetlands in the province of Ontario are delineated in accordance with the "50% wetland vegetation rule" (i.e., where 50% of the relative coverage of vegetation is represented by "wetland plants") and presence of hydric soils.

The results of the wetland delineation exercise revealed inconsistencies between the PSW boundary as currently mapped and true wetland conditions. In particular, the existing PSW boundary extends across an existing driveway (which predates the year 1995) and also includes an area of manicured lawn dominated by Dandelion (*Taraxacum officinale*), various Clovers (*Trifolium* spp.), and pasture grasses. Publicly available information suggests that this wetland unit forming part of the PSW was originally mapped in 1998. It is unknown if the feature was mapped based on aerial photographs or a site visit at that time.

An updated PSW boundary in the northeast corner of the Subject Property, which reflects the professional opinion of Terrastory staff, is shown on the attached figure. Representative photographs showcasing site conditions are also provided.

It is further noted that wooded areas surrounding the existing residence/barn are dominated by Black Walnut (*Juglans nigra*) and other upland vegetation, and therefore do not represent wetland. Other wetlands occur on the Subject Property outside the area of interest.

Please let me know if you have any questions or comments pertaining to the above.

Cheers,

T.

Tristan Knight M.E.S., M.Sc.
Senior Ecologist | President
Terrastory Environmental Consulting Inc.
(c) 905-745-5398
www.terrastoryenv.com



Richard A. Coad Brad J. Hause

Gordon M. Klein Ryan E. Verhoog Russell Mitchell C. Adel Fortin

Robert G. White, Q.C.

John D. Kapusta W. Bernard Calder

(Retired)

WHITE COAD LLP

IAWYFRS

October 6, 2020

To Whom It May Concern

Dear Sir or Madam:

Re: Thomsen-Jung Farms Ltd. (the "Corporation")

5020 Tyneside Road, Mount Hope

Our File No. 7010K20

We are solicitors for the Corporation being the registered owner in fee simple of the above noted property by Transfer registered on December 16, 2019 as Instrument No. WE1402479.

Please reply to Woodstock office.

Our client has requested that we provide more information with respect to the permanent Right-of-Way ("ROW") that permits the subject property to access Tyneside Road.

Please be advised that this is an express grant easement that runs with the land and binds all subsequent land owners, both the benefitting property (the "Dominant Tenement") as well as the property that is subject to the ROW (the "Servient Tenement"). This is not a license and as such there is no time limit or expiry. This ROW was created in Instrument GL570B which was registered on the 4th day of September 1865 and continues to bind both the Dominant and Servient Tenement.

The ROW grants the Dominant Tenement a permanent and indefinite access for both vehicles and pedestrians over a 15.18 wide strip of land over the Servient Tenement to permit uninterrupted and continuous access to Tyneside Road. The proposed severance will not extinguish or impair the ROW and the ROW grants the Dominant Tenement the same rights to access Tyneside Road as would having actual lot frontage on Tyneside Road would.

I trust the foregoing is satisfactory.

Yours very truly,

WHITE COAD LLP

Gordon M. Klein

408 Dundas Street Woodstock, Ontario N4S 1B9 Tel: (519)421-1500

Fax: (519)539-6926

6 Stover Street N. P.O. Box 700 Norwich, Ontario NOJ 1P0 Tel: (519)863-2710 Fax: (519)863-2469

237 Main Street Delhi, Ontario N4B 2M4 Tel: (519)582-1552 Fax: (519)582-1941

206-45 Stanley Street Ayr, Ontario NOB 1E0 Tel: (519)632-9144 Fax: (519)632-9545

Email: main@whitecoad.com

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Schedule

Form 5 -- Land Registration Reform Act, 1984

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dditional Property Identifier(s) and/or Other Information

In the Township of Glanbrook in the Regional Municipality of Hamilton-Wentworth formerly in the Township of Glanford, County of Wentworth, and being composed of:

FIRSTLY: The north half of the west half and the west half of the east half of Lot Number Twelve in the Eighth Concession of the said Township of Glanford, containing by admeasurement ninety-six acres more or less, together with a right-of-way from the lands hereby conveyed through and over the east half of the east half of the said lot to the public travelled road between Lots Twelve and Thirteen as heretofore used and enjoyed and more particularly mentioned and referred to the in the Deed thereof from Catherine Burnett to Agnes Patterson and John Patterson bearing date the Second day of September, 1865 and a certain agreement between Agnes Patterson, John Patterson, William Hawthorne and the Landed Banking and Loan Company bearing date the 23rd day of October, 1879 and registered on the 18th day of November, 1879 in book for the Township of Glanford as Number 1283, as shown on Plan attached to Deposit No. 126373.

SECONDLY: The north one hundred acres of even width throughout of Lot Number Eleven in the Eighth Concession of the Said Township of Glanford.

SUBJECT to Expropriation Plan registered in the Registry Office for the Registry Division of the County of Wentworth on the 13th day of May, 1968 as No. 90620 A.B.

Most recently described in Instrument No. 126374. A.B.

Save and Except for Part of Lot 12 Concession 8, Township of Glanbrook, and designated as Part 1 on Reference 62R-9624.

Affidavit of Residence, and of Value of the Consideration. Form 1 - Land Transfer Tax Act

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Affidavit of Residence and of Value of the Consideration

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November 4, 2020

Ms. Jamila Sheffield, Secretary-Treasurer, Committee of Adjustment City of Hamilton

Re: Application FC-20-055 (Thomsen-Jung Farms Ltd)

5020 Tyneside Rd, Glanbrook

City of Hamilton

My client and I attended the Committee of Adjustment hearing, held on October 22, 2020. At this meeting, Committee members raised several questions which required this letter in response. We ask you to circulate this letter and attachments to all members of the Committee for their review and consideration on this matter.

THE APPLICATION

This application seeks to sever a dwelling that, as a result of a recent farm consolidation is now considered surplus to the owners needs. A bona fide farmer, the Provincial Policy Statement (2020, PPS) permits this.

Since we first approached the City in June 2020, with a request for Formal Consultation, this application has become far too complicated. Several issues have been raised by City staff and external agencies that have added unnecessary complexity to this application. Certain supporting materials were submitted to the City with the application. Based on the Committee's questions, we must conclude they didn't have the benefit of this material for this meeting.

- 1. Floodplain (APPENDIX 1):
 - a. Letter of Opinion from Terrastory Environmental Consulting
- 2. Legal Access to Tyneside (APPENDIX 2):
 - a. Letter from Lawyer confirming a Deeded Right of Way provides access
 - b. Copy of the Deed confirming the Right-of-Way status
- 3. Revised Lot Configuration (APPENDIX 3)

THE ISSUES

Several technical issues were identified by City staff and the Committee that require clarification. The following is an explanation of this supplemental information.

2.1 FLOODPLAIN | SIGNIFICANT NATURAL HERITAGE FEATURES

We acknowledge that portions of this proposed lot are likely in a floodplain. We note that significant effort was made in designing the severed lot to avoid the floodplain and in particular any significant natural heritage features, such as a Provincially Significant Wetland (PSW).



email: Jamila.sheffield@hamilton.ca

5020 Tyneside Drive, Glanbrook: Application FC 20-055

Thomsen-Jung Farms Ltd. c/o Andreas Thomsen-Jung

Terrastory Environmental Consulting Inc. (Terrastory), a professional ecology firm, was retained to identify how and where the lot could be designed to avoid significant features. Their findings are presented in Appendix 1 and demonstrate that the lot is designed to achieve this goal, and therefore is consistent with the PPS (2020) and the City of Hamilton Official Plan.

Terrastory has demonstrated that the proposed lot is designed to avoid significant issues and therefore is consistent with the PPS. We also note that City natural heritage staff did not identify any concerns in their comments.

The Niagara Peninsula Conservation Authority (NPCA) raised concerns related to their Watershed Policies. We are of the opinion that the NPCA watershed policies are not applicable for this application as no physical development is proposed. Their watershed policies define development as "site alteration", but do not include creation of a new lot. No site alteration or construction is proposed with this application.

It is our opinion that the proposed severed lot avoids any significant natural heritage features and is therefore consistent with the PPS (2020), which represents good planning.

2.2 Legal Access to Tyneside Drive

City staff were unable to support this application, largely due to the lack of frontage on a municipal road. We note that this dwelling has existed for over 100 years and has used the existing access laneway for decades, without issue.

The Planning Brief submitted with this application demonstrated that alternative means of access, namely to Minor Road directly, resulted in a larger severed lot, impacted agriculture and unnecessarily complicated this application.

The Committee requested proof that the Right-of-Way currently used for access is both legal and on title. We offer a letter from the property owner's lawyer confirming this, as well as a copy of the actual property deed.

The property owner has approached the owners of the lands over which the deeded Right-of-way pass, offering to buy their lands. They are not interested in selling their property, as they may have plans for it at some point. Gaining direct access to Tyneside is therefore not possible.

We trust this supplemental information satisfies the Committee's request.

2.3 REVISED LOT CONFIGURATION

Significant discussion centred on the size of the severed lot and its related impacts. The severed lot was proposed at over 3.0 hectares, which is significantly larger than normal. This is the result of several factors, including maintaining all buildings on the severed lot, avoiding the loss of further agricultural lands, avoiding significant natural heritage features, and respecting existing and respecting historical uses and points of access.

To address Committee of Adjustment comments, the property owner offers the following:

- 1. Accessory farm buildings (2 barns) will be demolished
- 2. The proposed severance has been re-configured to a rectangle



5020 Tyneside Drive, Glanbrook: Application FC 20-055

Thomsen-Jung Farms Ltd. c/o Andreas Thomsen-Jung

The attached Figure, being in Appendix 3, demonstrates the revised configuration of the severance. This will result in the removal of 2 existing farm buildings, and this land being retained with the farm operations, rather than with the proposed severed lot.

This approach will reduce the severed lands, while increasing the lands available for farming.

3 CLOSING

We trust this letter and attached Appendices provides the Committee with the additional clarity required. In addition, by modifying the application by reducing the size of the severed lot, we wish to demonstrate some willingness to negotiate this matter.

You are welcome to call me at 289-687-3730 or by email at mike@sullivanplanning.ca with any questions or concerns.

Sincerely,

SULLIVAN PLANNING SERVICES INC.

Michael Sullivan, MCIP, RPP, EP

Principal Planner | President

Attach

cc. Andreas Thomsen-Jung – President, TJF Farms Ltd (Property owner)

