

County of Brant – Planning and Development Report

To: To the Chair and Members of the Planning and Development Committee

From: Shannon Labelle, Planner

Date: May 3, 2022

Subject: RPT-22-99

Zoning By-Law Amendment Application ZBA7/22/SL

343 Blue Lake Road, Geographic Township of South Dumfries

Purpose: Recommendation Report for Approval

That Application **ZBA7/22/SL** from Trevor Hawkins, Agent, on behalf of Kris Martin, Owner of lands legally known as Concession 3 Part Lot 13 Part Lot 14 Registered Plan 2R6826 Parts 1 To 3 subject to easement, municipally known as 343 Blue Lake Road, Geographic Township of South Dumfries, County of Brant, proposing to rezone the subject lands from Agriculture (A) to Agriculture with Site Specific Provision 184 (A-184) to prohibit a dwelling and to recognize a deficient lot frontage of 135 metres (442 feet) in order to facilitate a surplus farm dwelling severance, **BE APPROVED.**

The following site specific provisions are being recommended for approval:

- 1. To prohibit a dwelling as a condition of approval of a surplus farm dwelling severance.
- 2. To permit a reduced frontage of approximately 135 metres (442 feet), whereas a minimum frontage of 150 metres (492.1 feet) is required.

THAT the reason(s) for approval are as follows:

- The application is in conformity with the policies of the Growth Plan for the Greater Golden Horseshoe and consistent with the policies of *Provincial Policy Statement*.
- The application is in conformity with the general intent of the policies of the Official Plan and Zoning By-Law.

Key Strategic Priority

Sustainable and managed growth.

Financial Considerations

None.

Executive Summary / Proposal

The purpose of this report is to provide Council and the Public with information from the applicants and staff regarding the details of an application to amend the County of Brant Zoning By-Law 61-16.

The applicant is undertaking a rezoning application as a condition of approval of severance application B75-21-SL. The applicant sought a surplus farm dwelling severance as the lands municipally known as 343 Blue Lake Road contained a dwelling deemed surplus to their existing farming operation. The retained lands are to be consolidated with the existing farming operation located at 660 Governors Road East. This severance application was presented to and approved by the Committee of Adjustment in February 2022.

The proposed rezoning application is proceeding straight to a recommendation report rather than having an information meeting. This application also includes relief from the Zoning By-Law due to the reduced frontage of approximately 135 metres (442 feet). This relief needed to be recognized through a site specific provision.

The planning analysis focuses on literature review of applicable policy (i.e. *Planning Act, Provincial Policy Statement* (2020), Growth Plan for the Greater Golden Horseshoe (2020), Brant County Official Plan (2012) and Zoning By-Law 61-16, consultation with departments and discussions with both the agent/public. As outlined in this report, I am of the opinion the proposal represents good planning and am recommending approval of the application.

Location

The subject lands are located on the north side of Blue Lake Road, and the south side of Scenic Drive having frontage along the north side of Blue Lake Road, as well as frontage along the south side of Scenic Drive and are located within the Geographic Township of South Dumfries. The lands municipally known as 343 Blue Lake Road is irregular in shape, having an area of approximately 57.21 hectares (141.4 acres). To the north of the subject lands are single detached dwellings, and a vacant parcel zoned as Agriculture and Natural Heritage, to the east of the subject lands are single detached dwellings, agricultural lands, and a parcel zoned as Heavy Industrial that is vacant, to the south of the subject lands there are single detached dwellings, agricultural lands and associated uses. Based on aerial imagery, and a site visit to the property by County Staff on April 13th, 2022, there did not appear to be any livestock barns on the subject lands, or within 500 metres of the proposed severance. The subject lands are currently occupied by a single detached dwelling, 3 sheds and an accessory structure.

The retained lands are expected to have an area of approximately 56.8 hectares (140.4 acres) and a frontage of approximately 135 metres (442 feet). The retained lands will be farmed as part of a larger farming operation.

The severed lands are expected to have an area of approximately 0.46 hectares (1.13 acres) and a frontage of approximately 51 metres (167.3 feet). The severed lands, being the surplus farm dwelling, will not be occupied by the current owner.

The subject lands are privately serviced.

Report

Planning Act R.S.O (1990)

Section 34(10) of the *Planning Act* provides policy direction to be considered when reviewing Zoning By-Law Amendment applications.

Provincial Policy Statement (2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of Provincial interest regarding land use planning and development and sets the policy foundation for

regulating land use and development of land. All decisions affecting planning matters shall be 'consistent with' policy statements issued under the Planning Act.

Section 2.3.4.1 of the PPS describes how the creation of lots in prime agricultural areas is discouraged and may only be permitted for:

- (a) *agricultural uses*, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations
- (b) agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services
- (c) a *residence surplus to a farming operation* as a result of farm consolidation, provided that
 - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage and water services; and,*
 - 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective

The lands to be severed through approved severance application B75-21-SL are expected to have an area of approximately 0.46 hectares (1.13 acres) and is able to accommodate private servicing. The retained lands are to be rezoned to prohibit a residential use, as well as recognize the deficient frontage of the farm parcel. The retained lands will continue to be farmed as part of a larger farming operation.

Section 2.3.4.3 of the PPS describes show the creation of new residential lots in prime agricultural areas is not permitted except in accordance with policy 2.3.4.1(c).

No new residential lot is being created as the retained lands through the rezoning will prohibit a residential use. The severed lot is occupied by an existing dwelling.

Section 6.0 includes the definition for "residence surplus to a farming operation"

 means an existing habitable farm residence that is rendered surplus as a result of farm consolidation (the acquisition of additional farm parcels to be operated as one farm operation).

The surplus farm dwelling severance application B75-21-SL which was approved by the Committee of Adjustment in February 2022 satisfied this policy as the retained lands acquired by Kris Martin and are to be farmed as part of a larger farming operation located at 660 Governors Road East.

It is my opinion that the proposal is consistent with the policies in the Provincial Policy Statement (2020) for the following reasons:

- The dwelling is considered surplus by the applicant through farm amalgamation.
- The proposed severance meets the definition for residence surplus to a farming operation as the applicants will continue to farm as one larger farming operation.
- The lot established for the surplus farm dwelling is limited to the minimum size needed to accommodate appropriate sewage and water services.
- The remnant farm parcel will be rezoned to prohibit a residential dwelling on the retained lands and to recognize the deficient frontage of the farm parcel.

Growth Plan for the Greater Golden Horseshoe (2020)

The Growth Plan is a framework that provides policy direction to implement strong and prosperous communities and how to manage growth in Ontario to 2041. The Planning Act requires that all decisions that affect a planning matter shall 'conform with' Provincial plans, including but not limited to the Growth Plan.

Section 2.2.1.2 (b) of the Growth Plan describes how growth will be limited on lands that are not serviced by existing or planned municipal water and wastewater system.

A new residential building lot is not being created by the proposed severance. The dwelling is existing and is being severed as surplus to the farming operation as a result of farm amalgamation. The severed and retained lands will continue to be privately serviced.

Section 2.2.9.1 of the Growth Plan describes how Municipalities are encouraged to plan for a variety of cultural and economic opportunities within rural settlement areas to serve the needs of rural residents and area businesses.

The applicant was able to proceed with a surplus farm dwelling severance application as the farmlands were surplus to the applicant as a result of farm operation amalgamation. The retained lands will continue to be farmed as part of a larger farming operation which will in turn contribute to the economic vitality of the County of Brant.

Section 4.2.6.4 of the Growth Plan describes how the geographic continuity of the agricultural land base and the functional and economic connections to the agri-food network will be maintained and enhanced.

To facilitate the surplus farm dwelling severance, only the minimum amount of land was severed to accommodate the existing dwelling and private servicing needs. No actively farmed land was removed to facilitate the severance. The retained lands are expected to have an area of approximately 56.8 hectares (140.4 acres) and will be farmed as part of a larger farming operation.

Section 4.2.6.5 of the Growth Plan speaks to the retention of existing lots of record for agricultural uses is encouraged, and the use of these lots for non-agricultural uses is discouraged.

The retained lands will continue to be farmed as part of a larger farming operation and no new residential building lots will be created as they are being proposed to be rezoned to prohibit a dwelling, and through the rezoning to recognize the deficient frontage of the farm parcel.

It is my opinion that the proposal is in conformity with the policies in the Growth Plan for the Greater Golden Horseshoe (2020) for the following reasons:

- No new residential development is proposed for either the severed or retained lands. The retained lands are to be rezoned with a site specific provision prohibiting a dwelling and to recognize the deficient frontage of the farm parcel.
- The existing single detached house is surplus to the applicant's needs through the amalgamation of additional farmland into their farm operation.
- The subject lands will continue to be farmed as part of a large farming operation located at 660 Governors Road East.

Source Water Protection

Source protection plans contain a series of locally developed policies that, as they are implemented, protect existing and future sources of municipal drinking water. Municipalities, source protection authorities, local health boards, the Province and other, are responsible for implementing source protection plan policies.

The subject lands are not located within a Source Water Protection area.

County of Brant Official Plan (2012)

The County of Brant Official Plan sets out the goals, objectives and policies to guide development within the municipality. The Planning Act requires that all decisions that affect a planning matter shall 'conform to' the local Municipal Policies, including but not limited to the County of Brant Official Plan.

The subject lands are designated as Agriculture and Natural Heritage in the County of Brant Official Plan (OP). Portion subject to the surplus farm dwelling severance are designated Agriculture.

Section 1.11.2.6.2(a) of the County of Brant Official Plan recognizes the agricultural industry as an important component of the County's economic base and as a contributor to the County's rural character.

To facilitate the surplus dwelling severance, no actively farmed land has been removed. The retained lands will continue to be farmed as part of a larger farming operation.

Section 1.11.2.6.2(b) of the County of Brant Official Plan speaks to protecting the County's prime agricultural area for long term agricultural purposes.

The severed lands will continue to be designated as Agriculture, and the retained lands will continue to be designated as Agriculture and Natural Heritage. The retained lands will continue to be farmed as part of a larger farming operation. Further, the retained lands are proposed to be rezoned to prohibit a residential use and to recognize the deficient frontage. No new residential building lots are being created.

Section 1.11.2.6.2(c) of the County of Brant Official Plan speaks to protecting the right to farm based on normal farm practices.

The retained lands are being farmed as part of a larger farming operation and no actively farmed lands were removed to facilitate the surplus farm dwelling severance.

Section 1.11.2.6.2(e) of the County of Brant Official Plan restricts the creation of new residential lots and other non-farm development in the County's Agricultural areas.

No new residential buildings lots have been created. The existing dwelling was severed through a surplus farm dwelling severance.

Section 1.11.2.6.2(i) of the County of Brant Official Plan requires the development of urban and nonfarm-related land uses to the County's Primary and Secondary Urban Settlement Areas and Hamlets and Villages, or areas specifically intended for the proposed land use, in order to protect the long-term operation and economic role of agriculture.

The retained lands will continue to be farmed as part of a larger farming operation, with no non-farm related land uses proposed.

Section 1.11.2.6(j) of the County of Brant Official Plan ensures the protection of agricultural operations through the incorporation of Minimum Distance Separation Formulae in order to prevent adverse effects from odour.

The Minimum Distance Separation Formulae (MDS) is able to be met. No livestock operations were identified within 500 metres of the proposed lot.

Section 1.11.2.6.2(k) of the County of Brant Official Plan speaks to permitting farming operations that will help the County as a whole adjust to changing economic and technological conditions.

To facilitate the severance the minimum amount of land was severed. All actively farmed land will continue to be farmed as part of a larger farming operation.

Section 3.3.1(a) of the County of Brant Official Plan describes how the primary form and predominant use of land in the Agriculture designation shall include all types of farming and normal farm practices, including the growing of crops, the raising of livestock and other animals for food, fur, or fibre; associated on-farm buildings and structures, including accommodation for associated full-time farm labour as required based on the size and nature of the operation; agricultural research operations; uses connected with the conservation of water, soil, wildlife and other natural resources; and resource extraction and resource-based uses.

The retained lands will continue to be farmed as part of a larger farming operation.

3.3.1(c) of the County of Brant Official Plan describes how in general, one residential dwelling unit shall be permitted per lot on lands designated as Agriculture.

There is an existing dwelling on the severed lot, and the retained lands are proposed to be rezoned to prohibit a residential use.

3.3.2.1(a) of the County of Brant Official Plan speaks to Minimum Distance Separation (MDS) Formulae be used to establish appropriate standards for separating proposed uses from existing livestock facilities (MDS I) and for applying appropriate standards for the separation of new or expanding livestock facilities from existing adjacent uses (MDS II). The County Zoning Bylaw shall establish separation distances between livestock operations (to be defined within the By-Law) and non-agricultural land uses in accordance with the Minimum Distance Separation Formulae.

The subject lands do not have any livestock facilities. If any livestock facilities were to be constructed, they would be required to satisfy MDS.

Section 6.8.2.1(a) of the County of Brant Official Plan speaks to consents for the diversion of land in the Agriculture designation being discouraged. No consent shall be allowed within the Agriculture designation which may have the effect of creating lots that are not primarily related to agriculture, or agriculture-related commercial/industrial, or as specified by this Plan.

As a condition of severance, the applicant is proposing to rezone the retained lands to prohibit a dwelling, as well as to recognize the deficient frontage.

Section 6.8.2.1(b) of the County of Brant Official Plan speaks to consent applications being denied for the following reasons:

- i. the lot does not front on a public road;
- ii. the lot is situated in an area where the County of Brant (or its designated agent) believes is unsuitable for sanitary services;
- iii. the lot is entirely contained within the Natural Heritage System designation or Provincially significant woodlands; or

iv. the lot is entirely contained within an area identified as a primary aggregate resource area.

The subject lands have frontage along the north side of Blue Lake Road and the south side of Scenic Drive. The proposed severed lot has frontage along the north side of Blue Lake Road. The severed and retained lot will continue to be privately serviced. The lands are designated as Agriculture and Natural Heritage. Portion subject to the surplus farm dwelling severance are designated Agriculture.

Section 6.8.2.1(c)(iv) of the County of Brant Official Plan speaks to when previous or current farm consolidations have rendered a residence surplus to a farming operation, or where an established farm has more than one habitable dwelling which is considered surplus to the needs of the farm operation, a consent may be considered to sever the surplus farm dwelling from the farm unit, provided that, in addition to the general consent policies of this Plan, all of the following conditions are met

- 1. The lot severed for non-farm use is large enough to accommodate the use and on-site servicing (i.e. subsurface sewage disposal and well) while ensuring that as little acreage as possible is taken out of productive agricultural land and shall generally be less than 0.6 hectares in size
- 2. the Minimum Distance Separation Formulae can be met with the formulae applied as if the property was zoned or designated as a residential lot
- 3. the lot severed, for the non-farm use, shall neither create nor add additional dwelling units; and
- 4. the remnant parcel of farmland created by the severance is rezoned to prohibit the future construction of a new dwelling.

The severed lot is large enough to accommodate private servicing, and no actively farmed lands were removed to facilitate the surplus farm dwelling severance. The proposed lot has an area of approximately 0.46 hectares (1.13 acres). The Minimum Distance Separation (MDS) Formulae is able to be met. No new residential building lots are being created and the retained lands are to be rezoned to prohibit a residential use and to recognize the deficient frontage.

It is my opinion that the proposal conforms to the policies in the County of Brant Official Plan (2012) for the following reasons:

- Through the severance, no new residential building lots are being created
- The lot severed for non-farm use is large enough to accommodate the use and on-site private servicing (i.e. subsurface sewage disposal and well) while ensuring that as little acreage possible is taken out of productive agricultural land.
- The retained lands are expected to be farmed as part of a larger farming operation.
- The severed and retained parcels have frontage along Blue Lake Road.
- The Minimum Distance Separation Formulae has been satisfied.
- The retained lands will be rezoned to prohibit a residential use, as well as to recognize the deficient frontage.

County of Brant Zoning By-Law 61-16

The subject lands are zoned Agricultural (A) and Natural Heritage (NH) within the County of Brant Zoning By-Law 61-16. The Lands to be severed are not within the Natural Heritage (NH) zone. The portion of the retained lands that are zoned Natural Heritage (NH) are not being rezoned. They will remain as Natural Heritage (NH).

Section 14, Table 14.1.1 speaks to the permitted uses on lands zoned as Natural Heritage (NH). Permitted uses include:

- Agricultural Use
- Boat Dock
- Boat House
- Boat Ramp
- · Conservation and Flood or Erosion Control Projects
- Forestry
- Public Park or Private Park
- Small-scale structures for passive recreational uses
- Stormwater Management Facility
- Wildlife Management

The lands that were severed through a surplus farm dwelling severance are not zoned as Natural Heritage (NH). The retained lands have portions that are zoned as Natural Heritage (NH), and will continue to be farmed, which is a permitted use.

Section 6.1, Table 6.1.1 speaks to the permitted uses on lands zoned as Agriculture. Permitted uses include but are not limited to the following:

- · Agricultural Use
- · Agriculture-Related Use in accordance with Section 4.23
- Dwelling, Single Detached
- Farm Production Outlet in accordance with Section 4.10
- Forestry Uses
- · Greenhouse in accordance with Section 4.12
- On-Farm Diversified Use in accordance with Section 6.4
- Shipping Container in accordance with Section 4.35

The lands that were severed through a surplus farm dwelling are zoned Agriculture (A) and contain an existing single detached dwelling which is a permitted use.

Section 4.29 of the County of Brant Zoning By-Law speaks to requiring a frontage of 20m for surplus farm dwellings on lands zoned as Agriculture.

This policy has been satisfied as the surplus farm dwelling is expected to have a frontage of approximately 51 metres (167.3 feet).

Section 6.2, Table 6.2.1 of the County of Brant Zoning By-Law speaks to the development requirements for lands zoned as Agriculture. See chart below for analysis of development standards.

Development Standard	Required – Dwelling	Requested – Surplus Dwelling	Requested – Retained Farmlands
Lot Area, Minimum (ha)	40ha 0.6ha or less – Surplus Farm Dwelling	0.46ha	56.8ha
Lot Frontage, Minimum (m)	150m	51m	135m

	20m – Surplus Farm Dwelling		
Street Setback, Minimum (m)	10m	38m	N/A
Interior Side Yard Setback, Minimum (m)	4m	14.9m	
Rear Yard Setback, Minimum (m)	10m	33.0m	
Lot Coverage, Maximum	30%	N/A	

It is my opinion that the proposal maintains the intent of the County of Brant Zoning By-Law 16-61 for the following reasons:

- Through the severance, no new residential building lots are being created.
- The retained lands are expected to be farmed as part of a larger farming operation.
- The severed and retained parcels have frontage along Blue Lake Road.
- The retained lands will be rezoned to prohibit a residential dwelling on the retained lands, as well as to recognize the deficient frontage of the farm parcel.
- The severed lot satisfies the development standards of the Agriculture (A) zone.

Interdepartmental Considerations

Environmental Planning:

• No comment.

Fire:

• No concerns. Rural firefighting fee to be collected for the new lot.

Grand River Conservation Authority

- GRCA has reviewed this application as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020) and as a regulatory authority under Ontario Regulation 150/06. GRCA has also provided comments as per our Memorandum of Agreement with the County of Brant and as a public body under the Planning Act as per our CA Board approved policies.
- Information currently available at this office indicates that the subject property contains floodplain, wetlands and the regulated allowances of these features. A copy of our resource mapping is attached.
- Due to the presence of the above-noted features, portions of the subject property are regulated by the GRCA under Ontario Regulation 150/06 Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation. Any future development or other alteration within the regulated area will require prior written approval from GRCA in the form of a permit pursuant to Ontario Regulation 150/06.

• The proposed zoning by-law amendment is required to satisfy a condition of approval associated with B75-21-SL. The retained lands will be rezoned to prohibit residential uses and recognize a reduced frontage. No additional development is proposed at this time and GRCA staff do not anticipate any negative impacts to the adjacent natural hazard or natural heritage features as a result of this application.

• We wish to acknowledge receipt of the applicable plan review fee of \$445.00 associated with B75-21-SL. As such, a plan review fee for this application is not required. Should you have any questions, please contact me at 519-621-2763 ext. 2228 or aherreman@grandriver.ca.

Tax Department

No Comment

Mississaugas of the Credit First Nation (MCFN)

• No archaeological assessment required.

Development Engineering

• No comments.

The following departments/agencies did not provide any comments with regard to this application:

- Building Division
- Hydro 1
- Energy plus
- Canada Post
- Union Gas
- Infrastructure Ontario
- Six Nations
- Grand River Conservation Authority
- Source Water Protection
- Parks and Facilities
- Operations

Public Considerations

Staff are to visit the site for inspection on April 13th, 2022 and post the public notice sign in accordance with the *Planning Act.*

23 notices are to be mailed on April 13th, 2022.

At the time of writing this report, the following public comments were received:

Two comments from 360 Blue Lake Road asking to be kept informed of any development regarding the subject lands.

Conclusions and Recommendations

As a condition of severance application B75-21-SL the applicant is seeking to rezone the subject lands from Agriculture (A) to Agriculture with Site Specific Provision 184 (A-184) to prohibit a dwelling and to recognize a deficient frontage of approximately 135 metres (442 feet) in order to facilitate a surplus farm dwelling severance.

The surplus farm dwelling severance application B75-21-SL was heard by the Committee of Adjustment in February 2022 and was conditionally approved. Conditions of approval included rezoning the retained parcel to prohibit a dwelling and to recognize the deficient frontage through Site Specific Provision A-184.

The subject lands are designated Agriculture and Natural Heritage within the County of Brant Official Plan. The intent of the Agricultural designation is ensure that prime agricultural land and the agricultural activities and lifestyle of the County of Brant are protected and have the opportunity to flourish. The purpose of the County's land use policies for the Agriculture designation is to encourage and promote agricultural land for agricultural activities. Provincial policy requires that agricultural land be protected for agricultural uses unless appropriate justification is provided for alternative uses. The intent of the Natural Heritage designation is to identify lands that are of environmental significance, or are hazardous sites, but not to limit the ability of existing agricultural uses to continue. It is my opinion the proposed rezoning is in conformity with the Official Plan as the retained lands will continue to be farmed as part of a larger farming operation and new residential building lots are being created.

The severed lands are zoned as Agriculture (A) and the retained lands are zoned as Agriculture (A) and Natural Heritage (NH). The County of Brant Zoning By-Law 61-16 requires a minimum lot area of 40 hectares (approx. 100 acres), and a minimum frontage of 150 metres for the creation of new lots within the Agriculture (A) zone. For surplus farm dwelling severances, the Zoning By-Law requires a minimum frontage of 20 metres. The subject lands meet the Zoning By-Law requirements for lot area, but were deficient in frontage, and through the rezoning the retained lands will be rezoned to prohibit a residential use and to recognize the deficient frontage. It is my opinion the proposed rezoning is in conformity with the County of Brant Zoning By-Law 61-16 as all development standards are being satisfied.

I am supportive of the rezoning application as it is consistent with the *Provincial Policy Statement*, in conformity with the Growth Plan for the Greater Golden Horseshoe, conforms to the County of Brant Official Plan and meets the intent of the County of Brant Zoning By-Law 61-16, and therefore recommend approval of the application

Attachments

- 1. Zoning Figure
- 2. Official Plan Figure
- 3. Aerial Figure
- 4. Site Plan
- 5. Draft By-Law

Copy to

- 1. Pam Duesling, General Manager of Development Services
- 2. Mat Vaughan, Director of Planning
- 3. Alysha Dyjach, Clerk/ Director of Council Services
- 4. Alyssa Seitz, Planning Administrative Assistant
- 5. Applicant/Agent

File # ZBA7/22/SL

In adopting this report, is a bylaw or agreement required?

By-Law required	(Yes)
Agreement(s) or other documents to be signed by Mayor and /or Clerk	(No)
Is the necessary By-Law or agreement being sent concurrently to Council?	(Yes)





