



K. SMART ASSOCIATES LIMITED
CONSULTING ENGINEERS AND PLANNERS

85 McINTYRE DRIVE
KITCHENER, ONTARIO N2R 1H6
RR 2 ENGLEHART, ONTARIO POJ 1H0
283 LARCH STREET, SUDBURY, ONTARIO P3B 1M2

TELEPHONE (519) 748-1199
FAX (519) 748-6100
Email: ksmart@ksmart.on.ca
TELEPHONE (705) 544-2750
TELEPHONE (705) 674-1082
FAX (705) 674-2332

May 9, 2011

K. Smart Associates Limited Job No. 11-061

PLANNING REPORT NO. PR-14/11
FOR THE CORPORATION OF THE
TOWNSHIP OF NORTH DUMFRIES

Type of Application: Minor Variance Application No.: **A-03/11**

Public Meeting Date: May 12, 2011

Property Owner: Christopher and Lynne Ashby

Property Description: Part Lot 36, Concession 12
Township of North Dumfries
Regional Municipality of Waterloo
Municipal Address: 1277 Cameron Road

Purpose of Application: To request relief from Section 6.29.1 of the Township's Zoning By-law, which states that new non-farm development shall not take place within a required Minimum Distance Separation I (MDS I) setback from an existing livestock facility.

Effect of Application: To allow the construction of a residential building, and any accessory buildings that may be applied for at 1277 Cameron Road, by reducing the MDS I setback created by livestock facilities located on 1272 Cameron Road.

RECOMMENDATIONS:

That the Committee AUTHORIZE the Application being made subject to the following conditions:

1. The Owner paying the Township's out-of-pocket legal, planning, engineering and administrative costs and expenses associated with this Application and incurred thus far, and that the Township refund the remainder of the fee paid at the time of submission.
2. The Owner pay the Township any outstanding taxes in full for the Property.

INTRODUCTION:

The applicant wishes to construct a residential dwelling, and any accessory buildings, within an MDS setback created a livestock facility on the neighbouring property. The Township's Zoning By-law (the "By-law") normally does not allow for residential development to take place within an MDS I setback. In this case, the entire existing lot is affected by the MDS setback. Therefore, a minor variance can be considered in accordance with the policies and guidelines contained within the "MDS Implementation Guidelines" (Ontario Ministry of Agriculture, Food and Rural Affairs Publication 707).

Appendix A is a sketch to show the location of the proposed construction. Appendix B is an aerial photo (2006) to illustrate the site and adjacent lands.

Subsections 45(1), (1.1), (2) and (3) of the Planning Act, R.S.O. 1990, c. P. 13 (the "Planning Act") set out the powers of the Committee of Adjustment (the "Committee") for the Township of North Dumfries (the "Township"). In particular, Subsection 45(1) of the Planning Act sets out four planning tests of any application for minor variance received for consideration by the Committee. This report addresses those tests and provides my professional planning opinion in regards to each.

TEST OF GENERAL INTENT & PURPOSE OF OFFICIAL PLAN:

Policy 8.2.2 defines all of the Maps attached to the OP as schedules to be read "in conjunction" with the policies as follows:

- Map No. 4 in the OP designates the Property as "No-prime Agricultural Areas and Other"

This designation intends to provide for non-farm related residential and farm-related development.

Therefore, it is my opinion that given appropriate conditions associated with any decision that the proposed development satisfies the test of being in keeping with the purpose and intent of the OP.

TEST OF GENERAL INTENT & PURPOSE OF ZB:

The subject Property is within Zone 1 (Z1). The Application would provide for the construction of a residential dwelling, and any accessory buildings. Other than Section 6.29.1, which this Application looks to address, there is nothing else in the By-law that restricts the development of a residential dwelling.

The decrease in the MDS setback would be from the required 181m (593.8 ft) to 93m (305 ft).

Therefore, it is my opinion the Application is in keeping with the intent and purpose of the By-law.

TEST OF MINOR AS TO PURPOSE & EFFECT:

The application requests a decrease in the MDS I setback required for new residential development.

Due to the location residential nature of the building details, the size and location are viewed as appropriate and should not impact area land owners. The subject property is an existing lot of record with zoning that permits the construction of a single detached residence. The proposed variance would allow the establishment of a use which is permitted by the zoning.

Therefore, the Application is minor in my opinion.

TEST OF APPROPRIATE USE OF LAND, BUILDING OR STRUCTURE:

Observations have been made based on Waterloo Region's land database and air photography. The construction of the accessory building will not interfere with the current uses and will not encroach into the side yard or rear yard setback further than what is permitted in the By-law.

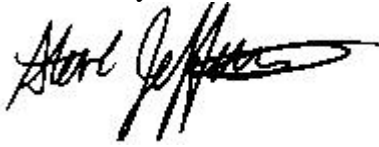
Also, the proposed development will not hinder the neighbouring farm property from expanding their current operation, within the existing building. A hypothetical MDS calculation has been completed to show that, if the number of livestock were to expand to the maximum capacity of the existing barn, the setback would not further encroach into the subject property at 1277 Cameron Road.

Therefore, it is my opinion that the development proposed by this Application satisfies the test regarding the appropriate use of land, building or structure.

CONCLUSIONS:

It is my professional planning opinion that the Application is minor, an appropriate use, is in keeping with the general intent and purpose of the OP, and is in keeping with the general intent and purpose of the Zoning By-law. As the application of the four tests under the Planning Act requires that all of the tests be satisfied and not just one, my conclusion is the application does pass those tests.

Submitted by:



Steve Jefferson, MCIP, RPP
Consulting Township Chief Planner
K. SMART ASSOCIATES LIMITED

Prepared by:



Devon Posthumus
Junior Planner
K. SMART ASSOCIATES LIMITED

Attachments: Appendix A: Plan of survey
 Appendix B: Aerial photo of property