

PUBLIC HEARING**MUNICIPALITY OF HURON EAST****Tuesday, February 5th, 2019 – 7:08 P.M.**

Huron East Municipal Council met in the Council Chambers of the Municipal Office, Seaforth on Tuesday, February 5th, 2019 at 7:08 p.m. All members of Council were in attendance.

Also present for the public hearing were:

- Huron County Planning and Development Department Senior Planner Denise Van Amersfoort
- Heidi Schlumpf and Remo Schlumpf, applicants of minor variance application A02/2018
- Glenyce Kelly and Michael Kelly, applicants of minor variance application A03/2018
- Kourtney Ribey, Marjorie Cartwright and Paul Hildebrand

CALL TO ORDER & MAYORS REMARKS

Mayor Bernie MacLellan called the meeting to order at 7:08 p.m.

CONFIRMATION OF THE AGENDA

Moved by John Lowe and seconded by Alvin McLellan:
That the Agenda for the Public Hearing of the Committee of Adjustment dated February 5th, 2019 be adopted as circulated. Carried.

Adopt Agenda

DISCLOSURE OF PECUNIARY INTEREST – None declared.**MINOR VARIANCE APPLICATION A03/2018**

The Clerk explained the purpose of the meeting was to consider a minor variance application by Michael Kelly and Glenyce Kelly on Part Lots 30 and 31, Plan 386, Seaforth Ward.

The Clerk advised that a notice of the Committee of Adjustment public hearing had been circulated to all government agencies and adjoining property owners as provided by the legislation and one reply was received from the Huron County Planning and Development Department.

Huron County Planning and Development Department

Huron County Senior Planner Denise Van Amersfoort reviewed her report to Council dated January 30th, 2019 concerning the minor variance application on Part Lots 30 and 31, Plan 386, Seaforth Ward with the following points being highlighted.

Ms. Van Amersfoort advised that the purpose of the application is to permit a reduced front yard setback for the encroaching deck from 4.1 metres to 2.3 metres. The existing residence has a legal non-complying front yard setback of 4.1 metres from Main Street. The requested variance would permit a reduction of 1.8 metres in the current non-complying front yard setback.

Ms. Van Amersfoort noted that the subject lands are designated Residential in the Huron East Official Plan and zoned Residential Medium Density (R2) in the Huron East Zoning By-Law. The subject property is .37 acres in size and the residence was constructed in 1890 and is surrounded by low density residential development. Council were advised the reduction is considered minor and appropriate as this section of Main Street has an established pattern of encroaching buildings that were constructed prior to the modern road standards, resulting in structures with similar non-complying setbacks along Main Street North south of Franklin Street. The Orange Hall, located at 46 Main Street as an example, has a setback of 0 metres to the front lot line.

The Planning Department advised the variance requested is minor and appropriate and maintains the intent of both the Official Plan and Zoning By-Law and recommended approval of the variance with the following condition:

- 1) That the applicant sign an acknowledgement that they are aware that any building additions or extensions in proximity of a County right-of-way may be susceptible to damage from maintenance operations such as snow removal, winter maintenance, sweeping or any other operations that may be carried out on the County Road.

Moved by Raymond Chartrand and seconded by Larry McGrath:
That Council of the Municipality of Huron East, acting as Committee of Adjustment, concurs with the Huron County Planning Department report on the effect of agency comments and approve the minor variance application A03-2018 by Michael Kelly on 64 Main Street North, Part Lot 30-31, Plan 386, Seaforth Ward to permit the following variance from By-Law 52-2006:

- 1) Section 18.4 – Reduce the existing legal non-complying front yard setback from 4.1 metres to 2.2 metres, subject to a signed acknowledgement from the applicant that any building addition may be subject to damage by County of Huron Road maintenance activities.

Carried.

MINOR VARIANCE APPLICATION A02-2018

The Clerk explained the purpose of the meeting was to consider a minor variance application by Remo Schlumpf on South Part Lot 20, Concession 6 and Lot 20, Concession 7, Grey Ward that was deferred at the January 22nd, 2019 public hearing. He advised that Huron County Senior Planner Denise Van Amersfoort had provided comments concerning the proposed minor variance in a report to Council dated January 31st, 2019.

Huron County Planning and Development Department

Huron County Senior Planner Denise Van Amersfoort reviewed her report to Council concerning the minor variance application on South Part Lot 20, Concession 6 and Lot 20, Concession 7, Grey Ward with the following points being highlighted.

Ms. Van Amersfoort noted that the original application was based on 65 dairy cows and had requested the following reduced Minimum Distance Separation (MDS) setbacks from the Mount Pleasant Cemetery.

- Reduce the Minimum Distance Separation distance for the proposed dairy barn from 395 metres to 385 metres;
- Reduce the Minimum Distance Separation distance for the proposed manure storage from 555 metres to 430 metres.

Ms. Van Amersfoort indicated that at the January 22nd, 2019 public hearing, the applicant stated that the total number of milking cows was proposed to be 60. She advised that the original calculations were based on 65 cows and that the reduction in the number of cows reduces the required MDS setbacks and by extension, the extent of the variance required and she noted that for 60 cows, the required MDS distance to the cemetery from the barn is 387 metres. She advised that the applicant agreed to shift the location of the barn by 2 metres and the barn would now comply with the by-law and as a result the applicant only required a single variance, that being a reduction in the MDS for the proposed manure storage from 548 metres to 430 metres.

Council were advised the reason the applicant has difficulty complying with the MDS setback is because of the location of a municipal drain (McKee Drain) and changes in topography on the subject parcel. The applicant would also like to co-locate the proposed barn and manure storage with the new residence for biosecurity and convenience reasons.

Ms. Van Amersfoort noted in her report that a number of letters of objection had been received prior to the previous meeting. She advised the Committee that several of the letters were from interment right holders or relatives of individuals buried in the cemetery, but few had provided contact information. She advised the Committee that she had been able to contact several individuals and she had provided information to them with respect to the proposed location of the structures. She noted that a community meeting with several of the individuals had been organized for January 30th, 2019 but had been cancelled because of inclement weather.

Ms. Van Amersfoort also advised that she and CAO Brad Knight held a conference call with Nancy Dickson and Dave LeGault on January 31st, 2019 to further discuss concerns they had raised at the public hearing. She noted that Ms. Dickson and Mr. LeGault have stated that their primary concerns are the impacts of odour, both on the cemetery and their personal property (located at 44311 Cardiff Road), and the ability to maintain the quiet enjoyment of both properties. She further noted Mr. Dickson and Mr. LeGault suggested that the Municipality should require an odour impact study and that should the variance be approved, include a condition that the Schlumpfs be required to utilize an anaerobic digester in the manure tank to mitigate odour.

Ms. Van Amersfoort noted that in her report she made reference to the guidelines in the Ontario Ministry of Agriculture, Food & Rural Affairs Publication 853 (Minimum Distance Separation (MDS)). She made specific reference to MDS Guideline #38 which states in part that "... certain cemeteries may be treated as Type A land uses at the discretion of the municipality. For example, those cemeteries which are closed, or receive low levels of visitation, or where no place of worship is present". She suggested that the guideline considers that the impacts of odour are considered to be less for certain types of cemeteries such as the Mount Pleasant Cemetery as there is no place of worship and the level of visitation to a cemetery of this size is relatively low.

Ms. Van Amersfoort also noted that the Dickson/LeGault residence is located approximately 1.5 kilometres from the proposed manure tank and residence was 950 metres outside of the extent the MDS setback for the cemetery when a double distance is used. She further indicated that given the separation distance between their residence and the proposed facility the distance is more than adequate to mitigate impacts of odour.

Ms. Van Amersfoort advised the requested variance is considered to be minor and appropriate and maintains the intent of both the Official Plan and Zoning By-Law. The Huron County Planning Department recommended the minor variance application be approved.

Moved by Dianne Diehl and seconded by Alvin McLellan:

That Council of the Municipality of Huron East, acting as Committee of Adjustment, has held a public meeting pursuant to Section 45 of the Planning Act, 1990 with respect to minor variance application A02/2018;

AND WHEREAS agency comments were received from the Huron County Planning Department recommending approval of the application;

AND WHEREAS public comments were received on the issue of the impact of the reduced setback to the Mount Pleasant Cemetery and other surrounding properties; the comments were noted but are addressed adequately in the Planner's Report dated January 31st, 2019;

NOW THEREFORE, the Committee of Adjustment approves the minor variance application A02/2018 by Remo Schlumpf on 85251 Mt. Pleasant Line, Concession 6, South Part Lot 20 and Concession 7, Lot 20, Grey Ward to permit the following variance from By-Law 52-2006:


1. Section 4.5 – reduce the Minimum Distance Separation setback for the proposed manure storage to the Mount Pleasant Cemetery from 548 metres to 430 metres.

Carried.

Moved by Gloria Wilbee and seconded by Raymond Chartrand:

That the Public Hearing for the Committee of Adjustment be closed at 7:27 p.m. Carried.

Bernie MacLellan, Mayor



Brad Knight, CAO/Clerk