CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

Report to: Chair and Members Economic Development and Planning Committee
Submitted by: Tim McCabe
General Manager
Planning and Economic Development Department

Date: December 12, 2007
File: ZAR-07-068

SUBJECT: Application to Amend Township of Glanbrook Zoning By-law No. 464 for Lands Located at 1121 Hendershot Road (Glanbrook) (PED08001) (Ward 11)

RECOMMENDATION:

That approval be given to **Zoning Application ZAC-07-068, by Richard Lewis, Agent for P & L Livestock Limited, Owner**, for a change in zoning from the General Agricultural “A1” Zone to a modified General Agricultural “A1-233” Zone in order to prohibit residential uses and the use of existing barns for livestock, for a portion of the lands located at 1121 Hendershot Road (Glanbrook), as shown on Appendix “A” to Report PED08001, on the following basis:

(a) That the subject lands be rezoned from the General Agricultural “A1” Zone to the General Agricultural “A1-233” Zone.

(b) That the draft By-law, attached as Appendix “B” to Report PED08001, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(c) That the amending By-law be added to Schedule “C”, of Zoning By-law No. 464.

(d) That the proposed change in zoning conforms to the Hamilton-Wentworth Official Plan and the Township of Glanbrook Official Plan.

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The purpose of the application is for a change in zoning to prohibit a residential dwelling and the use of existing barns for the housing of livestock on the subject lands. The application is being made to fulfill a condition of approval for Consent Application GL/B-07:73 (Condition 3 – Appendix “C”). The consent application has proposed to sever the existing residential dwelling from the property and retain the remaining agricultural lands, which are part of a farm consolidation. The changes to the zoning that have been required by the consent application are necessary to ensure that the retained lands comply with existing Provincial policies.

The proposed change in zoning has merit and can be supported as it is beneficial to the surrounding agricultural area; it conforms to the ‘Agricultural’ policies of the Township of Glanbrook Official Plan and the ‘Rural’ policies of the Hamilton-Wentworth Official Plan, and is consistent with the Provincial Policy Statement and the Greenbelt Plan.

BACKGROUND:

Proposal

The applicant proposes a change in zoning from the General Agricultural “A1” Zone to a modified General Agricultural “A1-233” Zone on the subject lands. The purpose of the application is to prohibit residential uses and the use of the existing barns for the housing of livestock on the lands. The prohibitions of these uses are required as a condition of approval for Consent Application GL/B-07:73 (Condition 3 – Appendix “C”).

Consent Application GL/B-07:73

Consent Application GL/B-07:73 was conditionally approved in June 2007. The effect of the consent application is to create a new lot by severing the existing residential dwelling from the subject property (see Appendix “C”). The Provincial Policy Statement and the Greenbelt Plan permit lot creations for a residence surplus to a farming operation as a result of farm consolidation, provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland. To fulfill this requirement, the consent approval required the applicant to obtain a variance, or if a variance was refused, a zoning amendment, to prohibit a dwelling on the remnant agricultural lands (Condition 3 – Appendix “C”). A variance application (GL/A-07:203) was denied by the Committee of Adjustment on August 30, 2007 (see Appendix “D” – Page 2); therefore, the applicant is required to amend the zoning on the subject property.

The Provincial Policy Statement and the Greenbelt Plan also require new lot creations to comply with the minimum distance separation formulae (MDS). With the creation of the proposed new lot, some of the existing barns on the subject lands would be located in close proximity to the severed residential dwelling. To ensure that the barns will comply with the MDS, the consent approval also required the applicant to obtain a variance, or if refused, amend the zoning on the subject property to preclude the use of
all existing barns the owner does not demolish for the housing of livestock (Condition 3 – Appendix “C”). As noted above, the variance was denied; therefore, the applicant is required to amend the zoning on the subject property.

Details of Submitted Application

Location: The subject property is located on the southeast corner of Hendershot Road and Golf Club Road, municipally known as 1121 Hendershot Road (see Appendix “A”).

Owner: P & L Livestock Limited

Applicant: Richard Lewis, Agent for the Owner

Property Description: Total Lot Area: 37.06 ha
Total Lot Frontage: 1,007 metres
Lot Depth: 562 metres
Servicing: Existing private services

EXISTING LAND USE AND ZONING

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<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>Subject Land:</td>
<td>Agriculture</td>
<td>General Agricultural “A1” Zone,</td>
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<td>Open Space-Conservation “OS3” Zone</td>
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<tr>
<td>North</td>
<td>Agriculture, Rural</td>
<td>General Agricultural “A1” Zone</td>
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<td>Residential</td>
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<td>Open Space-Conservation “OS3” Zone</td>
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<td>East</td>
<td>Agriculture</td>
<td>General Agricultural “A1” Zone</td>
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ANALYSIS/RATIONALE:

1. The proposed zoning amendment has merit and can be supported for the following reasons:
   - It is consistent with the policies of the Provincial Policy Statement and the Greenbelt Plan.
   - It conforms with the “Rural Area” policies of the Hamilton-Wentworth Official Plan and is consistent with the policies of the City’s adopted Rural Official Plan.
   - The proposal is consistent with the “Agricultural” designation of the Township of Glanbrook Official Plan.
   - The proposal is compatible with existing uses in the surrounding area.
• The proposed change in zoning satisfies a condition of approval for Consent Application GL/B-07:73, which was approved by the Committee of Adjustment on June 27, 2007 (Condition 3 - Appendix “C”).

2. The subject lands will continue to be zoned for agricultural uses. A wide range of agricultural uses are permitted on the subject lands under the existing General Agricultural “A1” Zoning regulations. The proposed zoning modification will prohibit any residential dwelling from being constructed on the retained agricultural lands. Therefore, the only structures which will be permitted by the zoning will be for agricultural uses. This is consistent with the policies of the Provincial Policy Statement and the Greenbelt Plan, which require a dwelling to be prohibited on any retained lands when a surplus dwelling is severed from a farm property as a result of a farm consolidation. It will ensure that the primary use of the lands remains agricultural, and prevent agricultural lands from losing their viability by becoming fragmented.

3. The prohibition against using the existing barns for the housing of livestock recognizes the proximity of the existing barns to the existing dwelling unit which is to be severed. If the barns were used for housing livestock, they would not meet the current minimum distance separation formulae (MDS) for separation from residential uses, as they are located too close to the existing residential dwelling. This would conflict with the policies of the Provincial Policy Statement and the Greenbelt Plan, which require that any severances for surplus dwellings, resulting from farm consolidations, comply with the MDS.

In addition to compliance with the MDS for the subject lands, the applicant was also required to ensure compliance between the severed residential dwelling and adjacent farm operations. Staff identified one farm operation in the proximity of the dwelling to be severed. The applicant has provided documentation, to the satisfaction of staff, confirming compliance with the MDS between the existing dwelling and the adjacent farm operation.

4. A small part of the southern portion of the subject property is zoned Open Space - Conservation “OS3”, as shown on Appendix “A”. No change to the portion of the subject property zoned Open Space - Conservation “OS3” is proposed by this application. This zone currently prohibits a residential dwelling, as well as agricultural buildings and structures. Therefore, the consent condition can be fulfilled by modifying the lands zoned General Agricultural “A1” only.

5. It was noted by staff that there is an error in the notice of approval of minor variance application GL/A-07:203, attached as Appendix “D”, which permitted decreased side yard requirements from the severed residential lot for the existing barns on the subject lands. The reference in the notice of approval to the “northerly side yard setback” should instead be the “southerly side yard setback”, and reference to the “easterly side yard setback” should instead be the “westerly side yard setback”. Also, the yard requirement was reduced to 3 metres for both yards, whereas the
minimum southerly side yard setback should be 10 metres. These corrections have been addressed within the amending By-law proposed through this application.

6. It is also noted that the related consent application to sever the residential property from the subject lands does not comply with the strict interpretation of Policy D 2.2.6 of the Township of Glanbrook Official Plan. Policy D 2.2.6 states that a consent may be considered if it is necessary for the consolidation of productive agricultural holdings by the acquisition of abutting lands for the purposes of increasing the size of, or establishing a viable farming operation. The subject lands do not directly abut any of the owner’s other agricultural land holdings.

However, recent decisions by the Ontario Municipal Board on similar severance applications in the Glanbrook agricultural area rejected strict interpretation of the Township of Glanbrook Official Plan. The decision of the Board stated that modern farm consolidations should not be required to directly abut the current land holdings of a farming business to allow the severance of a surplus dwelling. The Board made the following statement in those cases. “The Board finds that it would be wrong to interpret the Township OP so strictly that land consolidations, which further Provincial and Regional policies, would be discouraged.” For these reasons, the consent application was deemed to comply with all applicable policies, and staff also supports the necessary zoning modifications to enforce the Provincial policies relating to this consent.

**ALTERNATIVES FOR CONSIDERATION:**

In the event Council does not support the proposed modification in zoning, the conditional approval of Consent Application GL/B-07:73 will lapse and the applicant will not be able to sever the existing dwelling from the property. The use of the subject property would continue to be regulated by the existing General Agricultural “A1” Zone provisions contained in Zoning By-law No. 464.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

- **Financial:** None.
- **Staffing:** None.
- **Legal:** As required by the Planning Act, Council shall hold at least one Public Meeting to consider an application for a change in Zoning.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The Planning Act requires that, in exercising any authority that affects planning matters, planning authorities shall be
consistent with policy statements issued under the Act. The application is consistent with the principles and policies of the Provincial Policy Statement, particularly the following specific policies:

Policy 1.1.4.1 c) (rural areas) and Policy 2.3.3.3 (prime agricultural areas) state that new land uses in rural and prime agricultural areas, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae (MDS).

Policy 2.3.4.1 states that lot creation in prime agricultural areas is permitted for a severance of a residence surplus to a farming operation as a result of farm consolidation, provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance.

Greenbelt Plan

The subject lands are also located within the Greenbelt Plan Area. Policy 3.1.3.1 states that within prime agricultural areas, as identified in municipal Official Plans, normal farm practices and a full range of agricultural, agricultural-related and secondary uses are supported and permitted. The application is consistent with the Greenbelt Plan, particularly with regards to the following specific policies listed below:

Policy 3.1.3.4 states that new land uses and the creation of lots, as permitted by the policies of the Plan, shall comply with the MDS.

Policy 4.6.3 c) states that lot creation is permitted for the severance of a residence surplus to a farming operation as a result of a farm consolidation, provided that the planning authority ensures that a residential dwelling is not permitted on the retained lot of farmland created by the severance.

Hamilton-Wentworth Official Plan

The subject property is designated as “Rural Area” in the Hamilton-Wentworth Official Plan. Policy 3.2 recognizes that farming is the primary activity in rural areas and states that the intent of the Plan is to concentrate development in appropriate areas, limit rural development and protect agricultural lands. The proposed zoning is consistent with the Hamilton-Wentworth Official Plan.

Township of Glanbrook Official Plan

The Township of Glanbrook Official Plan designates the subject property as “Agricultural”. Section B.1.1.1 of the Plan identifies the predominant use of the lands designated “Agricultural” as agriculture, forestry, and activities connected with the conservation of soil and wildlife. The continued working of all existing farmlands and the preservation of prime agricultural land is encouraged. As such, the application to
change the Zoning from the General Agricultural “A1” Zone to a Site-Specific General Agricultural “A1-233” Zone is consistent with the “Agricultural” land use designation.

City of Hamilton Rural Official Plan (pending Ministry approval)

The City of Hamilton Rural Official Plan has been adopted by City Council and is pending approval by the Province. As such, the plan does not have legal status at this time. The subject property is located in the “Rural Area” of the Plan, on lands designated as “Prime Agriculture”. The City of Hamilton Rural Official Plan gives agricultural uses a priority in Rural Hamilton. Policy D.2.0 states that the primary intent of the Agriculture designation is to protect the prime agricultural area for agricultural use. The following specific policies, among others, would apply to the subject property.

Policy F.1.13.2.2 c) permits surplus farm dwelling severances where a farm dwelling is made surplus as a result of acquisition as part of a farm operation. Applications for severance must comply with a number of conditions and lot requirements; two of which relate to the proposed zoning modifications.

Policy F.1.13.2.2 c) vi) requires that the land retained as a result of the severance of a surplus dwelling shall be rezoned prior to the granting of final consent to prohibit the construction of any dwelling unit.

Policy F.1.13.2.2 c) vii) requires that barns and farm buildings situated on the land retained as a result of surplus dwelling severance shall comply with the Minimum Distance Separation 1 formula of the Province.

Therefore, the proposed rezoning conforms to the proposed Rural Official Plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Forestry and Horticulture Section, Public Works Department
- Taxation Division, Corporate Services Department
- Development Engineering Section, Development Planning Section, Planning and Economic Development Department
- Niagara Peninsula Conservation Authority

Traffic Engineering & Operations Section, Public Works Department

Traffic Operations has advised that any new or change in access to Hendershot Road or Golf Club Road requires the applicant/owner to apply for and receive an Access Permit from the Public Works Department. Prior to commencing any work within the road allowance, it is recommended that the applicant/owner contact all the respective Utilities. All works within the municipal road allowance must be completed by a contractor bonded by the City of Hamilton. The Agent for the Owner has been notified of these requirements.
Public Consultation

In accordance with the Public Participation Policy approved by Council, preliminary consultation shall not be required if the application is part of the implementation of a Planning Study or other application, such as a consent application, which has been approved within one year of other public involvement and participation opportunities. The subject rezoning application is part of the implementation of Consent Application GL/B-07:73, which was conditionally approved on June 27, 2007 (Appendix “C”), and is related to Minor Variance Application GL/A-07:203, which was approved, in part, on August 30, 2007 (Appendix “D”). Therefore, preliminary circulation was not required.

Several issues were discussed at the public hearings held for Consent Application GL/B-07:73 and Minor Variance Application GL/A-07:203. These included questions regarding the potential for further development of the lands, the nature of the owner’s agricultural operations, compliance with the Township of Glanbrook Official Plan and compliance with Provincial policies, specifically compliance with Minimum Distance Separation (MDS) requirements. These issues are addressed through the conditions of approval applied to application GL/B-07:73 and through this report.

Notice of the Public Meeting was given in accordance with the requirements of the Planning Act. In addition, a Public Notice Sign was erected on the property on October 24, 2007.

Two members of the public were provided with general information about the application in response to their inquiries. No further response was received.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The function of the agricultural community is preserved.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
The proposed zoning will maintain ecological function and prevent unnecessary development in the agricultural area.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Farm consolidation improves the farm economy by helping farmers to remain economically viable.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:ML
Attaches: (4)
Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-07-068
Date: Nov. 18, 2007

Appendix "A"

Scale: N.T.S.

Subject Property
1121 Hendershot Road

- Change in Zoning from the General Agricultural "A1" Zone to the Site Specific General Agricultural "A1-233" Zone
- Additional Lands of Owner

Ward 11 Key Map N.T.S.
CITY OF HAMILTON

BY-LAW NO. ______

To Amend Zoning By-law No. 464 (Glanbrook)
Respecting Lands located at 1121 Hendershot Road

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City Of Hamilton”;

AND WHEREAS the City Of Hamilton is the successor to certain area municipalities, including the former area municipality known as “The Corporation of the Township of Glanbrook” and is the successor to the former Regional Municipality, namely, The Regional Municipality of Hamilton-Wentworth;

AND WHEREAS the City Of Hamilton Act, 1999 provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 464 (Glanbrook) was enacted on the 16th day of March, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1993;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [ ] of Report [ ] of the Economic Development and Planning Committee at its meeting held on the [ ] day of [ ], 2008, recommended that Zoning By-law No. 464 (Glanbrook), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Township of Glanbrook);

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. That Schedule “C”, appended to and forming part of By-law No. 464 (Glanbrook), is amended by changing from the General Agricultural “A1” Zone to the General Agricultural “A1-233” Zone, the land, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That SECTION 44, “EXCEPTIONS TO THE PROVISIONS OF THIS BY-LAW”, of Zoning By-law No. 464, be amended by adding a new special provision, “A1-233” as follows:

“A1-233 1121 HENDERSHOT ROAD

Notwithstanding the permitted uses and regulations of SECTION 8: GENERAL AGRICULTURAL “A1” ZONE, the following provisions shall apply to the lands zoned “A1-233”:

1. The following uses shall be prohibited:

   (a) a single detached dwelling; and,

   (b) the use of the barns existing on the date of the passing of this by-law, being the ______ day of ______, 2008, for the housing of livestock.

2. The minimum southerly and westerly side yard setbacks for the existing barns shall be 10.0 metres and 3.0 metres, respectively.”

3. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this ______ day of ______, 2008.

________________________________________________________
Fred Eisenberger
Mayor

________________________________________________________
Kevin C. Christenson
City Clerk

ZAR-07-068
Schedule "A"

Map Forming Part of By-Law No. 08-______

to Amend By-law No.464

Subject Property

1121 Hendershot Road

Change in Zoning from the General Agricultural "A1" Zone to the Site Specific General Agricultural "A1-233" Zone

This is Schedule "A" to By-Law No. 08-

Passed the .............. day of ........................., 2008

Clerk

Mayor

Scale:
N.T.S.

File Name/Number:
ZAR-07-068

Date:
Nov. 16, 2007

Planner/Technician:
ML/MC

Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Appendix “C” to Report PED08001 (Page 1 of 3)

COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. GL/B-07-73
SUBMISSION NO. B-73/07

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 1121 Hendershot Road, formerly in the Township of Glenbrook, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Richard Lewis on behalf of the owner P & L Livestock Limited, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of an irregular shaped parcel of land having a frontage of 50m (164') and an area of 8,549m² (2.124ac) containing an existing house and detached garage for residential (surplus farm dwelling) purposes, and to retain an irregular shaped parcel of land having a frontage 1,007m² and an area of 37.64ha (93.4ac) containing existing barns for agricultural purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the goals of the Provincial Policy Statement, the Regional Official Plan and the Township Official Plan are met as the requested severance will facilitate the consolidation of farmland into economically viable parcels and therefore further sustainability.

2. The Committee is of the opinion that the severance application has regard to all relevant matters set out in Section 51(24) of The Planning Act.

3. The Committee is satisfied that the proposal represents good planning and is in the public interest.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions:

1. The owner shall submit a deposed Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.

2. That the owner satisfy ALL requirements financial and otherwise of the City of Hamilton, Planning and Economic Development Department (Development Planning East).

3. The applicant shall receive final approval of any variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Services Division), including a variance to preclude a dwelling as a permitted use on the retained lands and to preclude the use of all existing barns the owner does not demolish for the housing of livestock. In the event the variance precluding a dwelling as a permitted use is refused, the owner shall proceed by way of a rezoning to preclude the use.

4. That the applicant provide a road widening dedication to the City along the portion of the proposed remnant lands immediately abutting Golf Club Road in order to establish the property line 13.1m (43 feet) from the centreline of the original limits of this roadway.
5. That a 7m x 7m daylighting triangle be dedicated to the City by deed at the intersection of Golf Club Road and Hendershot Road. The applicant will be responsible for all costs related to the preparation and registration of legal documents and a Reference Plan for the daylighting triangle.

6. That any buildings straddling the proposed lot line be demolished to the satisfaction of the Planning and Economic Development Department (Building Services Division).

7. That the owner apply for and receive an access permit from the Public Works Department for the retained lands.

DATED AT HAMILTON this 27th day of June, 2007.

[Signatures]

[Signatures]

HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (July 4th, 2008) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 59(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS July 24th, 2007.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.
Appendix "D" to Report PED08001 (Page 1 of 3)

COMMITTEE OF ADJUSTMENT

DECISION OF THE COMMITTEE

APPLICATION NO. GL/A-07:203
SUBMISSION NO. A-203/07

IN THE MATTER OF The Planning Act, R.S.O., 1990, c.P. 13, as amended and of the Zoning By-Law No. 464, of the City of Hamilton (formerly Glenbrook), Sections 8 & 43.

AND IN THE MATTER OF the Premises known as Municipal number 1121 Hendershot Road, formerly in the Township of Glenbrook, now in the City of Hamilton and in an "A1 & 033" (General Agricultural & Open Space - Conservation) district;

AND IN THE MATTER OF AN APPLICATION by the agent Richard Lewis on behalf of the owner P. & L. Livestock Limited, for relief from the provisions of the Zoning By-Law No. 464, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit the creation of a new lot having an area of 37.64ha (identified as the lands to be retained within land severance application GL/B-07:73) notwithstanding that minimum northerly and easterly side yard setbacks of 3.0m shall be provided for the existing barns instead of the minimum required 15.0m.

NOTE: It has been noted that these barns will not be used for livestock purposes. If the barns are to be used for livestock purposes, MDS calculations will apply and further variances will be necessary.

Also to prohibit the use of the lands to be retained (as identified in land severance application GL/B-07:73) for residential and livestock purposes notwithstanding that these uses are permitted within the A1 Zone.

NOTE: The foregoing variance is as requested by the applicant only. It is unclear if the Committee of Adjustment has the jurisdiction to prohibit uses. A rezoning application may be the correct course of action to take in order to specifically prohibit uses on this parcel of land.

THE DECISION OF THE COMMITTEE IS:

That the application to permit the creation of a new lot having an area of 37.64ha (identified as the lands to be retained within land severance application GL/B-07:73) notwithstanding that minimum northerly and easterly side yard setbacks of 3.0m shall be provided for the existing barns instead of the minimum required 15.0m be GRANTED for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the relief granted is of a minor nature.

2. The relief granted is desirable for the appropriate development of the land and building and is not inconsistent with the general intent and purpose of the By-Law and the Official Plan a referred to in Section 45 of The Planning Act, 1990.

3. The relief granted will facilitate a consent application to establish each of the subject parcels of land as separate entities compatible with use and no detriment to the neighbourhood.
NOTE: It has been noted that these barns will not be used for livestock purposes. If the barns are to be used for livestock purposes, MDS calculations will apply and further variances will be necessary.

THE DECISION OF THE COMMITTEE IS:

That the application to prohibit the use of the lands to be retained (as identified in land severance application GL/B-07:70) for residential and livestock purposes notwithstanding that these uses are permitted within the A1 Zone be DENIED for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the relief requested is beyond that of a minor nature.

2. The Committee having regard to evidence and submissions made by staff is of the opinion that the prohibition of a use should be undertaken through a rezoning process and not a minor variance.

DATED AT HAMILTON this 30th day of August, 2007

M. Sudzic (Chairman)
L. Tew
C. Lewis
D. Smith
L. Gaddye
M. Switzer
M. Switzer
V. Alphonse
D. Drury

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS September 19th, 2007.

NOTE: This decision is not final and binding unless otherwise noted.