SUBJECT: Application for an Amendment to the Glanbrook Official Plan and to Amend Glanbrook Zoning By-law No. 464 for the Lands Located at 9345 Chippewa Road West (Glanbrook) (PED08170) (Ward 11)

RECOMMENDATION:

(a) That approval be given to Official Plan Amendment Application OPA-08-006 by Robert Misener, Owner, for Amendment No. ______ to the Glanbrook Official Plan, to permit the severance of a surplus farm dwelling as a result of a farm consolidation, notwithstanding the farm holdings do not abut each other, for lands located at 9345 Chippewa Road West, as shown on Appendix “A” to Report PED08170, on the following basis:

(i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED08170, be adopted by City Council.

(b) That approval be given to Zoning Application ZAR-08-022 by Robert Misener, Owner, for a change in zoning from the General Agriculture “A1” Zone to the General Agriculture “A1-240” Zone in order to prohibit residential uses and the outside parking and storage of larger vehicles not related to the farm operation, and to permit a reduction in the minimum lot frontage from 150.0 metres to 108.8 metres on Block “1”, and for a change in zoning from the General Agricultural “A1” Zone to the General Agriculture “A1-241” Zone in order to permit a reduction in the minimum required rear yard setback for an accessory building from 10.7 metres to 5.38 metres on Block “2”, for the lands located at 9345 Chippewa Road West, (Glanbrook), as shown on Appendix “A” to Report PED08170, on the following basis:

(ii) That the draft By-law, attached as Appendix “C” to Report PED08170, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
SUBJECT: Application for an Amendment to the Glanbrook Official Plan and to Amend Glanbrook Zoning By-law No. 464 for the Lands Located at 9345 Chippewa Road West (Glanbrook) (PED08170) (Ward 11) - Page 2 of 11

(ii) That the amending By-law be added to Schedule “B” of Zoning By-law No. 464.

(iii) That the proposed changes in zoning conform to the Hamilton-Wentworth Official Plan and will conform to the Township of Glanbrook Official Plan upon approval of Official Plan Amendment No.____.

EXECUTIVE SUMMARY:

The applicant has applied to amend the Glanbrook Official Plan in order to allow for the severance of a surplus farm dwelling as a result of a farm consolidation where the two properties do not abut each other. The applicant has also applied to change the zoning in order to prohibit the development of a new residential dwelling on the consolidated farm parcel, as well as three modifications to the General Agricultural “A1” Zone. These modifications will ensure both the retained and severed parcels conform to Zoning By-law No. 464. The modifications in zoning are required as a condition of approval for Consent Application GL/B-06:151, and are necessary to ensure that the retained lands comply with existing Provincial policies.

The applications have merit and can be supported as they are consistent with the Greenbelt Plan, the Provincial Policy Statement, and conform to the Hamilton-Wentworth Official Plan. In addition, approval of the subject application fulfils conditions of approval for Consent Application GL/B-06:151 (Appendix “D” - Conditions 2, 5, and 6).

BACKGROUND:

Proposal

The applicant has applied to amend the Glanbrook Official Plan in order to allow for the consolidation of two farm parcels which are not abutting. The applicant has also applied to change the zoning of the subject lands from the General Agricultural “A1” Zone to the General Agricultural “A1-240” Zone for the retained parcel (Block “1”), and from the General Agricultural “A1” Zone to the General Agricultural “A1-241” for the severed parcel Zone (Block 2). These modifications will satisfy conditions of approval for Consent Application GL/B-06:151 (see Appendix “D” - Conditions 2, 5, and 6).
SUBJECT: Application for an Amendment to the Glanbrook Official Plan and to Amend Glanbrook Zoning By-law No. 464 for the Lands Located at 9345 Chippewa Road West (Glanbrook) (PED08170) (Ward 11) - Page 3 of 11

Consent Application GL/B-06:151 was conditionally approved by the Committee of Adjustment on November 8, 2007 (Appendix “D”). The Consent application proposed to sever off the existing farm dwelling from the subject lands on the basis that the dwelling was deemed to be surplus as a result of a farm consolidation. The effect of the consent application was to create a new lot containing an existing single detached dwelling and accessory building, and to retain a parcel of land for agricultural purposes. The severed lot has a frontage of 100.6 metres and a lot area of 1.04 hectares. The retained lot has a total frontage of 181.0 metres and a lot area of approximately 56.5 hectares.

Details of Submitted Application

Location: 9345 Chippewa Road West (see Appendix “A”)

Owner: Robert Misener

Applicant: Chris Berghius

Property Description:  

<table>
<thead>
<tr>
<th></th>
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<th>Retained</th>
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<td>Lot Frontage</td>
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<td>Lot Depth</td>
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Servicing: Existing Private Services

EXISTING LAND USE AND ZONING

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<tr>
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<td>General Agriculture “A1” Zone</td>
</tr>
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</table>
ANALYSIS/RATIONALE

1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the policies of the Provincial Policy Statement and the Greenbelt Plan.

   (ii) 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.

   (iii) The proposed amendments satisfy conditions of approval for Consent Application GL/B-06:151, which was approved by the Committee of Adjustment on November 8, 2007 (Conditions 2, 5, and 6 - Appendix “D”).

2. The new Rural Official Plan policies were approved by the Economic Development and Planning Committee on September 5, 2006, and by Council on September 13, 2006. The policies included provisions for a severance as a result of the consolidation of land holdings which do not abut each other. These policies are consistent with the policy direction of the Province, as per the Provincial Policy Statement and Greenbelt Plan. These policy documents outline that the severance of a surplus farm dwelling, as a result of a farm consolidation, is permitted as long as the dwelling was existing on the date the Plan came into effect. This policy is subject to planning authorities ensuring that a residential dwelling is not permitted on the retained farmland created by this severance.

   The implementation section of the new Rural Official Plan outlines the criteria for a severance of a surplus farm dwelling as a result of farm consolidation. It allows for a severance provided that the application complies with the criteria below:

   “1.13.2.2

c) In cases of a farm dwelling made surplus as a result of acquisition as part of a farm operation that does not result in the merging in title of abutting parcels of land, applications for severance of the surplus dwelling shall comply with the following conditions:

   i) The owner and operator of the farm maintains an existing dwelling on land that is also part of the consolidated farm operation and is located in Rural Hamilton.

   ii) The parcels of land comprising the consolidated farm operation shall be a minimum of 38.4 hectares (95 acres) in total.
iii) The parcel of land from which the surplus dwelling is severed shall be a minimum of 8.1 hectares (20 acres) in size for lands designated Specialty Crop on Schedule D - Rural Land Use Designations, or 16.2 hectares (40 acres) in size for lands designated Agriculture or Rural on Schedule D - Rural Land Use Designations.

iv) The parcel of land from which the surplus dwelling is severed shall have been owned and part of the consolidated farm operation for at least one year.

v) The owner of the retained land shall grant in favour of Hamilton a restrictive covenant prior to the granting of final consent which prohibits the construction of any dwelling unit.

vi) 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.

vii) 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.

d) In all cases where surplus farm dwellings are to be severed, the following conditions shall also apply:

i) The surplus dwelling to be severed shall be at least 25 years old.

ii) The surplus dwelling lot shall be a minimum of 0.4 hectares (1 acre), or such larger area as may be required by Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan.

iii) A private water well and private sewage disposal system shall be provided in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services of this Plan.

iv) The shape and dimensions of the surplus farm dwelling lot shall not impair agricultural operations on the retained land and shall not exceed 122 metres (400 feet) in depth.

v) The surplus dwelling lot shall not include barns or other farm buildings which are not suitable to be used as accessory structures to a residential use prescribed by the Zoning By-law, and no such buildings or structures shall be used for industrial or commercial purposes."
Based on these proposed criteria, the application is consistent with the new Rural Official Plan policies.

3. The retained farm parcel will continue to be zoned for agricultural uses. A wide range of agricultural uses are permitted under the existing General Agricultural “A1” Zone. The proposed zoning modification will prohibit any new residential development on the retained agricultural lands. Therefore, the only structures that will be permitted by the zoning will be for agricultural purposes. This is consistent with the policies of the Provincial Policy Statement and the Greenbelt Plan, which requires that the development of a new residential dwelling 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.

As a result of the proposed zoning modification to prohibit residential uses on the retained farm parcel (Block “1”), farm help houses, home occupations, home professions, home industries, and bed and breakfast establishments can no longer be established as these uses are permitted only when accessory to a single detached dwelling.

4. The applicant has requested modifications to the General Agricultural “A1” Zone for the minimum lot frontage of the retained farm parcel (Block “1”) and the minimum rear yard setback for an accessory building for the lot with the single detached dwelling (Block “2”). In addition, staff is proposing the deletion of outside parking and storage of larger vehicles not related to the farm operation. The proposed modifications are discussed below:

Lot Frontage (Block “1”)

The applicant is proposing a minimum lot frontage of 109.36 metres, whereas the “A1” Zone provisions require a minimum lot frontage of 150.0 metres for agricultural uses. The farm parcel surrounds the lot with the single detached dwelling with a frontage of 109.36 metres on one side and 71.64 metres on the other, for a total frontage of 181.0 metres. However, the Glanbrook Zoning By-law defines frontage as:

“the horizontal distance between the side lot lines measured along the continuous front lot line, and if the front lot line is not continuous, measured along the longest front lot line.”

As the retained parcel has a total frontage of 181.0 metres, the modification is considered to be minor in nature.
Outside Parking and Storage of Larger Vehicles (Block “1”)

Included in the list of permitted uses within the General Agriculture “A1” Zone is a provision for outside parking and storage of larger vehicles. The regulations for this provision allow not only for vehicles accessory to and required for the farm operation, but also for the following:

A maximum of one (1) vehicle not accessory to or not required for an agricultural use and a maximum of one (1) trailer or boat along with its trailer, shall be permitted provided that the entire parking/storage area is setback a minimum distance of 4.5 metres (15 feet) from any lot line, exterior side lot line and rear lot line, and setback a minimum distance of 1.2 metres (4 feet) from any interior side lot line.

Staff is of the opinion that the outside storage of larger vehicles not relating to the farm operation is no longer appropriate. The parcel will be solely used for agricultural purposes, and there will no dwelling associated with the subject lands.

Minimum Rear Yard Setback to an Accessory Building (Block “2”)

The applicant is proposing a minimum rear yard setback for an accessory building of 5.38 metres instead of the minimum required 10.7 metres. Staff is of the opinion that reducing the setback is considered to be appropriate as it will result in less agricultural land to be taken out of production and will not adversely affect any abutting land uses.

ALTERNATIVES FOR CONSIDERATION:

Should the applications be denied, the subject land may only be used in accordance with the General Agricultural “A1” Zone provisions and the severance cannot be finalized.

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 amendments to the Official Plan and Zoning By-law.
POLICIES AFFECTING PROPOSAL:

Greenbelt Plan

The subject lands are located within the “Protected Countryside” and designated “Prime Agricultural” in the Greenbelt Plan. 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.

With respect to lot creation in Prime Agricultural areas, Policy 4.6.3 c) states:

“More specifically, within specialty crop and prime agricultural area, lot creation is permitted for:

The severance of a residence surplus to a farming operation as a result of a farm consolidation, which residence was an existing use as of the date of this Plan came into force, provided that the planning authority ensures a dwelling is not permitted in perpetuity of the retained lot of farmland created by this severance. Approaches to ensuring no new residential dwellings on the retained lot of farmland may be recommended by the Province, or municipal approaches that achieve the same objective should be considered.”

In addition, 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.

As a condition of Application GL/B-06:151 (see Appendix “D” - Condition 4), the applicant was required to ensure that the severed parcel containing the existing single family dwelling was in conformity with the requirements of Minimum Distance Separation 1 (MDS 1). According to the information submitted by the applicant, there are three barns in the area, shown as Barns A, B and C on Appendix “E”. However, it was determined that Barn C was not capable of housing livestock. With regards to Barns A and B, it was calculated that both barns, as well their manure storage facilities, were in conformity with the MDS 1 requirements of 286 metres for Barn A and 253 metres for Barn B.

Based on the foregoing, the application is consistent with the policies of the Greenbelt Plan.

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 this Act.
Policy 2.3.4.1 c) states:

“Lot creation in prime agricultural areas is discouraged and may only be permitted 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 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.”

As a result, the application is consistent with the Provincial Policy Statement which permits the severance of a surplus dwelling as a result of a farm consolidation.

**Hamilton-Wentworth Official Plan**

The subject property is designated “Rural Area” in the Hamilton-Wentworth Official Plan. Policy D-8.1.1 of the Hamilton-Wentworth Official Plan requires that Area Municipal Official Plans contain detailed policies consistent with this Plan, which limit consents in the Rural Area and on prime agricultural lands, and directs severance activity to Rural Settlement Areas. The Area Municipal policies will also provide locational criteria for those types of consents permitted in the Rural Area.

In addition, policies related to consolidation of agricultural lands, surplus farm houses, continued farm viability and lots limited to appropriate size of intended use must be incorporated into the Area Municipal Official Plans. As directed by the Hamilton-Wentworth Official Plan, the Town of Glanbrook Official Plan contains said policies within Section D of the Plan. As a result, the application conforms with the policies of the Hamilton-Wentworth Official Plan.

**Township of Glanbrook Official Plan**

The subject property is designated “Agricultural” in the Township of Glanbrook Official Plan. The following policy, among others, is currently applicable to the subject property:

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 conforms to the “Agricultural” policies of the Plan.

The applicant has applied to amend Policy D.2.2.6 of the Glanbrook Official Plan in order to allow for the consolidation of two farm parcels which are not abutting.
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 a result, the plan does not have legal status at this time. The subject lands are designated “Agriculture” on Schedule “D” - Rural Land Use Designations. Section F.1.13.2.2 contains policies for the severance of surplus farm dwellings. The proposed severance is consistent with the policies. As a result, the proposed amendments are consistent with the new Rural Official Plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Traffic Engineering and Operations Section, Public Works Department.
- Forestry and Horticulture Section, Public Works Department.
- Health Protection Division, Public Health Services Department.
- Hamilton Police Service.
- Emergency Services Department.
- Hydro One.
- Union Gas.
- Bell Canada.

Public Consultation

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to seven property owners within 120 metres of the subject lands on May 13, 2008. A Public Notice sign was posted on the property on May 7, 2008, and notice of the Public Meeting was given in accordance with the requirements of the Planning Act. To date, no responses have been 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 Official Plan Amendment and zoning will prevent unnecessary residential 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

::DAF
Attachs: (5)
Location Map

File Name/Number: ZACR-08-022/OPA-08-005
Date: April 29, 2008

Appendix "A"
Scale: N.T.S.
Planner/Technician: DF/NB

Subject Property
9345 Chippewa Road West, Glenbrook

Block 1: Change in zoning from the General Agriculture "A1" Zone to the General Agriculture "A1-240" Zone

Block 2: Change in zoning from the General Agricultural "A1" Zone to the General Agriculture "A1-241" Zone
Amendment No. ___

to the

Official Plan for the former Township of Glanbrook

The following text, together with Schedule “A”, attached hereto, constitute Official Plan Amendment No. ___ to the Official Plan of the former Township of Glanbrook.

Purpose:

The purpose of the Amendment is to permit the severance of a surplus farm dwelling for non-abutting farm parcels.

Location:

The lands affected by this Amendment are 9345 Chippewa Road West, former Township of Glanbrook.

Basis:

The intent of the Amendment is to permit the severance of a surplus farm dwelling for non-abutting farm parcels. The basis for permitting the proposal is as follows:

- The proposed development is consistent with the Provincial Policy Statement and the Hamilton-Wentworth Official Plan.

- The proposed severance is consistent with the adopted Official Plan for Rural Hamilton.

Actual Changes:

Schedule Changes

1. That Schedule “A”, Land Use Plan, be revised by identifying the subject lands as OPA No. ___, as shown on the attached Schedule “A” of this Amendment.

2. That Section B.1.1.14, Site-Specific Policies, be amended by adding the following subsection:

   “B.1.1.14.10  Notwithstanding Section D.2.2.6, for the lands known municipally as 9345 Chippewa Road, the existing farm dwelling may be severed as a result of a consolidated farm operation where the two farms are not abutting. A dwelling shall be prohibited on the 56.5 hectare farm parcel.”
Implementation:

An implementing Zoning By-law Amendment will give effect to the intended use on the subject lands.

This is Schedule "1" to By-law No. 08-_____, passed on the ___ day of ________, 2008.

The
City of Hamilton

______________________________  ________________________________
Fred Eisenberger               Kevin C. Christenson
Mayor                          Clerk
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 464 (Glanbrook) Respecting Lands located at 9345 Chippewa Road West

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 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 Section __ of Report 08-____ 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 will be in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Township of Glanbrook) with the approval of Official Plan Amendment No. ______;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Schedule “B”, appended to and forming part of By-law No. 464 (Glanbrook) is amended:
(a) by changing from the General Agricultural “A1” Zone to the General Agricultural “A1-240” Zone, the land comprised as Block “1”; and,

(b) by changing from the General Agricultural “A1” Zone to the General Agricultural “A1-241” Zone, the land comprised as Block “2”;

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 the By-law”, of Zoning By-law No. 464, be amended by adding a new special provision, “A1-240”, as follows:

“A1-240” 9345 Chippewa Road West

Notwithstanding SECTION 8: GENERAL AGRICULTURAL “A1” ZONE, Subsection 8.1 - PERMITTED USES, the following uses shall be prohibited on the lands zoned “A1-240”;

(a) A single detached dwelling.

(b) Outside parking and storage of larger vehicles not accessory to or required for an agricultural use.

Notwithstanding SECTION 8: GENERAL AGRICULTURAL “A1” ZONE, Subsection 8.2 - REGULATIONS FOR USES PERMITTED IN PARAGRAPH (a) OF SUBSECTION 8.1 (AGRICULTURAL USES), Clause (a), the following regulation shall apply to the lands zone “A1-241”;

(a) Minimum Lot Frontage .............................................109.36 metres

3. That Section 44, “Exceptions to the Provisions of the By-law”, of Zoning By-law No. 464, be amended by adding a new special provision, “A1-241”, as follows:

“A1-241” 9345 Chippewa Road West

Notwithstanding the regulations of SECTION 8: GENERAL AGRICULTURAL “A1” ZONE, Subsection 8.3.2 - REGULATIONS FOR USES PERMITTED IN PARAGRAPH (b) OF SUBSECTION 8.1 (SINGLE DETACHED DWELLINGS), Clause (d), the following regulation shall apply to the lands zone “A1-241”;

An accessory building in excess of 15 square metres may be located 5.7 metres from the rear lot line.

4. 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 [blank] day of [blank], 2008.

Fred Eisenberger
Mayor

Kevin C. Christenson
City Clerk

ZAR-08-022
This is Schedule "A" to By-Law No. 08-
Passed the ........... day of ...................., 2008

Subject Property
9345 Chippewa Road West, Glenbrook

- Block 1: Change in zoning from the General Agriculture "A1" Zone to the General Agriculture "A1-240" Zone
- Block 2: Change in zoning from the General Agricultural "A1" Zone to the General Agriculture "A1-241" Zone

Schedule "A"
Map Forming Part of By-Law No. 08-
to Amend By-law No. 464

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Clerk

Mayor

Scale: N.T.S.
File Name/Number: ZAR-08-022/OPA-08-006
Date: April 29, 2008
Planner/Technician: DF/NB

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Hamilton
Appendix “D” to Report PED08170 (Page 1 of 2)

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. GL/B-06:151
SUBMISSION NO. B-151/06

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 9345 Chippewa Road West, formerly in the Township of Glanbrook, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owners Misener Farms Ltd., Robert L. Misener and Thomas B. Misener, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land measuring 100.6m (330') x 94.5m (310') containing an existing dwelling and detached garage for residential purposes, and to retain a vacant parcel of land having a frontage of 183.5m (602'), and an area of 56.5ha. (139.6 acres) 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 Greenbelt Plan, the Provincial Policy Statement and the Regional 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 deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar;

2. That the owner/applicant shall obtain a Local Official Plan Amendment to allow for the consolidation of two non-adjacent farms;

3. Prior to the finalization of the subject severance, the owner/applicant will be required to demonstrate that the existing private services are entirely contained within the limits of the proposed residential building lot and appropriate setbacks are incorporated;

4. Prior to the finalization of the subject severance, the owner/applicant will be required to demonstrate conformity with the Agricultural Code of Practice – Minimum Distance Separation Formulas, to the satisfaction of the City of Hamilton, Director of Planning; and,

5. That the retained vacant farm parcel be rezoned to prohibit the construction of any future residential dwellings in perpetuity.

6. The applicant shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Services Division).
7. That the owner submit to the Committee of Adjustment office an administration fee of $15.00 payable to the City of Hamilton to cover the costs of setting up new tax account for the newly created lot.

NOTE (TO BE INCLUDED IN DECISION IF APPROVED):

1. The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staking, stockpiling or other soil disturbances and the applicant is advised to conduct a Stage 1 and 2 archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be required as determined by the Ontario Ministry of Culture.

   Should deeply buried archaeological remains be found on the property during any of the above development activities the Ontario Ministry of Culture (OMC) should be notified immediately (519.873.7742). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemetery Association Regulation Unit of the Ministry of Government Services (416.326.8392).

2. Based on this application being approved by the Committee of Adjustment and all conditions being completed, the applicant will be required to obtain a municipal number(s) at the time of applying for a building permit(s) for the newly created lot(s). Please contact Paul Tofield 905-546-2424 Ext. 4548 Development Planning, Legislative Approvals.

DATED AT HAMILTON this 1st day of November, 2007.

D. Smith, Acting Chairman

L. Gadday

M. Gwizder

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS November 5th, 2007. HEREBY NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (November 5th, 2007) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS November 26th, 2007.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.
A = #9519 Chippewa: 400 m from property line. Currently has 2 head of beef, has had 70 feeders. Outside, uncovered manure storage, 40 ha tillable farm parcel.

B = #9460 Chippewa: 380 m from property line. 20 head of beef feeders. Outside, uncovered manure storage, 28.3 ha tillable farm parcel.

C = #9275 Chippewa: 85 m from property line. Had some cattle before 1979. Now not structurally sound for livestock. Floor is not appropriate for livestock and the stalls etc have all been removed (pictures on next page)