

Minor Variance Report

Application No.: A-02-24
Applicant: Altaf Qadir/Khyber Khattak
Property Description: Part Lot 5, Con. 8 (Douro)
1376 Nassau Road
1522-010-003-13901

Purpose of Application:

The property is subject to Peterborough County Land Division Files B-49-23 and B-55-23, each for the creation of one new residential lot. The applications were granted provisional consent on November 30, 2023. As a condition of consent, the retained parcel requires a minor variance to recognize a deficient lot area.

The purpose of the minor variance is to reduce the minimum lot area requirement for the retained parcel from 20 hectares to 16 hectares. Assessment information indicates the subject property is 43.42 acres (17.57 hectares) in size. The draft survey prepared by JBF Surveyors, Chris Musclow, dated May 7, 2024, illustrates the proposed severed parcels are 0.54 hectares (1.33 acres) and 0.44 hectares (1.09 acres) in area respectively for B-49-23 (Part 1) and B-55-23 (Part 2). Therefore, the retained parcel will be approximately 16.59 hectares (40.99 acres) in size. Staff have rounded the requested variance to 16 hectares to cover any discrepancies. A copy of the draft survey is attached to this Report.

Notice of the public meeting was provided on October 9, 2024, by ordinary mail and/or e-mail to all prescribed persons and public bodies and to every person and public body that has provided a written request for Notice.

Notice of the public meeting was circulated by ordinary mail to every owner of land within 60 metres of the subject property on October 9, 2024. Signs were posted on the County Road 4 and Nassau Road frontages of the subject property and the Notice was posted on the Township Website.

The giving of Notice complies with the applicable Regulations of the Planning Act.

Agency Comments:

Bell Canada did not identify any concerns with the application.

The Engineering and Construction (E&C) Division of Planning, Development and Public Works (PDPW) Department for Peterborough County had no objections, comments or concerns with respect to the application.

The Otonabee Region Conservation Authority (ORCA) indicated that the application is consistent with Section 3.1 of the Provincial Policy Statement (PPS) referencing Natural Hazards.

The development does not appear to create new or aggravate existing hazards and the subject property is not located within an area that is subject to the policies contained in the Trent Source Water Protection Plan.

ORCA noted that permits from their agency are not required since the property is not subject to Ontario Regulation 41/24, ORCA's "Prohibited Activities, Exemptions and Permits" regulation.

A copy the agency comments are attached to this Report.

As of the writing of this Report, there have been no other written or verbal comments received from the prescribed persons or public bodies.

Public Comments:

Staff received a call from the Owner of 420 Douro Seventh Line who identified a number of concerns with respect to the creation of the severed lots.

The concerns identified can be summarized as follows:

- Potential impacts on water quantity;
- Possibility of increased traffic volumes and speed;
- Unsafe entrances for the new lots;
- Permitting lot creation on good farm land;
- Reducing the lot size for agricultural operations;
- Length of ownership of the property; and
- Minimum Distance Separation (MDS) from existing livestock facilities.

The Owner indicated that they did not submit a formal objection to the County of Peterborough through the severance application process however, was aware that another neighbour had objected.

Staff Comments:

The application was circulated to Senior Staff on October 9, 2024. There were no concerns identified by Senior Staff.

Planning Review:

Section 45 of the Planning Act provides the tests that must be satisfied to support a minor variance application. The tests are as follows:

1. Does the minor variance maintain the general intent and purpose of the Official Plan?

The subject property is designated Rural as illustrated on Schedule 'A4-1' to the Official Plan (OP). The existing and proposed use of the retained parcel is agricultural. As illustrated on the 2023 air photo attached to this Report, the property is currently developed with a single detached dwelling, attached garage, barn and accessory structures. Agricultural uses are permitted within the Rural designation (S. 6.2.2.2).

There are no new buildings or structures proposed for the retained parcel at this time, however, any new livestock operations will be required to comply with the Minimum Distance Separation requirements of the Provincial Policy Statement (S. 6.2.2.3 (d)).

Since there was an objection to the severances, the applications were presented to the Peterborough County Land Division Committee on November 30, 2023, for a decision. The Land Division Committee granted approval of the applications, subject to several conditions. The Decision identified the last day for filing an appeal under Section 53 of the Planning Act as December 20, 2023. There were no appeals received. The decisions of the Land Division Committee indicate the applications conform to the Growth Plan for the Greater Golden Horseshoe and/or Provincial Policy Statement policies and conforms to the County and Municipal Official Plans. A copy of the Land Division Committee Decisions are attached to this Report.

The proposed variance meets the general intent and purpose of the Official Plan.

2. Does the minor variance maintain the general intent and purpose of the Zoning By-law?

The subject property is zoned Rural Zone (RU) as illustrated on Schedule A1 to By-law No. 10-1996, as amended. An agricultural use or farm is a permitted use in the (RU) Zone (S. 9.1.1) and must comply with Section 9.2.1 of By-law 10-1996, as amended. In particular, a minimum lot area of 20 hectares (49.42 acres) is required (S. 9.2.1(a)).

According to Assessment information, the subject property is 43.42 acres (17.57 hectares) in size and is therefore deficient in lot area. Given the property has less than the required lot area for an agricultural use, the buildings and structures would be considered non-complying for the purposes of Section 3.28 of the By-law.

The effect of the severances will further reduce the size of the retained parcel to approximately 16.59 hectares (40.99 acres) and therefore, a minor variance was required to recognize the deficient lot area.

The By-law defines an agricultural use as "a use of land, buildings or structures for the purpose of forestry, field crops, orchard crops, berry crops, aviaries, apiaries, animal husbandry, tree nurseries, market gardening, dairying, poultry, aquafarming and any other use customarily and normally related to the field of agriculture." (S. 22.6).

The By-law defines a farm as "land used for the tillage of soil, the growing of vegetables, fruits, grains and other staple crops and raising of livestock, dairying or woodlots. "Farm" shall include a single detached dwelling and buildings and structures, such as barns and silos, which are incidental to the operation of the farm; and shall not include a 'hobby farm' as defined herein." (S. 22.75).

A hobby farm is defined as "an area of land on which a barn, shed or animal shelter may be erected to house horses, cows, goats, or similar domestic animals, kept for recreational purposes or for personal consumption by the occupant(s) of a dwelling unit on the same lot; and may also include market gardening and/or the growing of crops." (S. 22.102).

The difference between an agricultural/farm use and a hobby farm appears to be in whether the growing of crops and raising of livestock is intended for commercial gain/primary income or for personal recreation/consumption/supplementary income.

Staff contacted the Agent to confirm whether the Owner's primary income is from the farm. The Agent advised that the Owner has a full-time job and if any income is derived from the farm, it is purely supplemental. Therefore, the existing use of the property could be viewed as a hobby farm.

A hobby farm is a permitted use within the (RU) Zone (S. 9.1.7) and requires a minimum lot area of 10 hectares (24.71 acres) (S. 9.2.6.1 (a)).

Although the subject property was already deficient in lot area for an agricultural or farm use by approximately 2.43 hectares (6 acres), the effect of the severances further reduces the lot area by another 0.98 hectares (2.42 acres). Nevertheless, the retained parcel still exceeds the minimum lot area requirement for a hobby farm by over 6 hectares (14.83 acres) and contains sufficient area for potential expansion for hobby farm purposes.

Since both an agricultural/farm use and a hobby farm are permitted within the (RU) Zone, and although the lot was already deficient in lot area and will be further reduced by the severances, the reduction is minor and the lot still exceeds the minimum lot area

required for a hobby farm. As a result, the application meets the general intent and purpose of the Zoning By-law.

3. Is the proposed use desirable for the appropriate development or use of the land?

While less than the required lot area for an agricultural use, the air photo and parcels by property code map attached to this Report illustrate the retained parcel is similar in size to many farm parcels south of Nassau Road and bisected by County Road 4. Farm parcel sizes north of Nassau Road are larger and appear to have experienced less fragmentation in terms of residential lot creation. Severances B-49-23 and B-55-23 are located in an area of the subject property that is adjacent to existing residential development. Minimum Distance Separation (MDS) calculations were completed by the Peterborough County Planning Department in February 2023 as part of the Preliminary Severance Review (PSR) process. According to the PSR, the severed parcels are located outside the MDS arcs for livestock facilities on the subject property, 1503 Nassau Road, 420 Douro Seventh Line and 503 County Road 4. The proposal was found to meet all MDS requirements. A copy of the MDS calculations and a map illustrating the MDS arcs from the PSR is attached to this Report. On this basis, the Applicant proceeded to the formal severance application process.

During the review of the severance applications, the Township Manager of Public Works indicated that safe entrances were possible for both lots and the County of Peterborough E&C Division did not identify any concerns related to their mandate.

With respect to water quantity, Planning Staff are not aware of any historical water quantity issues in this area. A review of ten Ministry of Environment well records in the immediate area of the subject lands found that existing wells varied between dug and drilled. All wells, with the exception of one, produced a water supply. One well was abandoned due to poor water quality.

The proposed use is desirable and appropriate to the development of the subject land.

4. Is the variance minor?

The proposed variance is minor in nature.

The minimum lot area requirement for farm uses in the (RU) Zone varies between 10 hectares (24.71 acres) and 20 hectares (49.42 acres) depending on whether the use is considered a hobby farm or a farm as defined in the Zoning By-law. The lot area of the retained parcel will be 16.59 hectares (40.99 acres). The subject property was already deficient in lot area for an agricultural or farm use by approximately 2.43 hectares (6 acres) and the effect of the severances further reduces the lot area by another 0.98 hectares (2.42 acres). For a farm, the requested variance for a reduced minimum lot area of 16 hectares represents a total difference of 4 hectares (9.88 acres).

Conformity to PPS:

This application appears to be consistent with the Provincial Policy Statement, 2024 (PPS).

Application of Four Tests:

The Committee should state in the decision how the application meets/or does not meet the four tests:

- 1) The application is (or is not) minor in nature.
- 2) The application is (or is not) desirable and appropriate to the development of this land.
- 3) The application meets (or does not meet) the general intent of the Official Plan.
- 4) The application meets (or does not meet) the general intent of the Zoning By-law.

Summary:

The Committee will need to decide if the request is considered minor, that it is desirable and appropriate development of this parcel, and that the use intended meets the general intent of the Official Plan and Zoning By-law.

After hearing public comment and considering all written submissions, the Committee has the following options:

1. approve the minor variance with no conditions;
2. approve the minor variance with conditions;
3. defer the minor variance for further consideration at a later date; or
4. reject the minor variance.

Recommendation:

That the Committee review and consider all verbal and written comments received regarding Minor Variance Application File A-02-24;

That the Committee approve Minor Variance Application A-02-24 as requested, to address a condition of the decisions for Peterborough County Land Division Files B-49-23 and B-55-23 and to bring the retained parcel into compliance with the Zoning By-law. This variance is deemed to be minor in nature and is appropriate for the development of this land. The application maintains the general intent and purpose of the Official Plan and Zoning By-law. Approval is recommended with no conditions.

Report Approval Details

Document Title:	A-02-24 (Qadir) Report.docx
Attachments:	<ul style="list-style-type: none"> - A-02-24 - Application_Redacted.pdf - A-02-24 9389_RP-DRAFT.pdf - A-02-24 - Meeting Notice.pdf - A-02-24 Bell Comments (October 9, 2024).pdf - A-02-24 County PW Comments (October 10, 2024).pdf - A-02-24 ORCA Comments File PPLD-2331 (October 16, 2024).pdf - A-02-24 - Air Photo.pdf - 49-23 Decision.pdf - 55-23 Decision.pdf - A-02-24 - Parcels by Property Code.pdf - A-02-24 - PSR MDS Calculations (February 2023).pdf
Final Approval Date:	Oct 24, 2024

This report and all of its attachments were approved and signed as outlined below:

Martina Chait-Hartwig

Todd Davis