REPORT

TO: Committee of Adjustment
FROM: Michael Benner
DATE: October 8, 2019
REPORT: PL.19.91
SUBJECT: B28.2019 Aaron and Hannah Bowman

RECOMMENDATION:

That Consent Application B28.2019 be approved, subject to the following conditions:

- Payment of any Municipal Taxes, if any.
- Payment of the $300.00 Approval Fee.
- Payment of the Parkland Dedication Fee.
- Applicant to obtain an entrance permits from the Municipality of Grey Highlands.

BACKGROUND AND ANALYSIS:

Application Details:

Consent Applications B03.2019, B04.2019 and B05.2019

Location: LT 19 CON 3 SDR ARTEMESIA; PT LT 18, 20 CON 3 SDR ARTEMESIA AS IN R480485 EXCEPT PT 15, 17R634; GREY HIGHLANDS; 305374 Southline A. Registered Owner: AH Farms Ltd

Grey County Official Plan: Agricultural and Hazard
Grey Highlands Official Plan: Agricultural and Hazard
Zoning By-law No. 2004-50: Agricultural (A1) and Hazard (H)

Proposal:
To sever an agricultural lot and merge this lot with the abutting lands (having roll number: 42 08 180 005 12601) resulting in a lot area of approximately 37.8 hectares
and a lot frontage of 242 meters onto Southline A. The retained parcel will have a lot area of 37.77 hectares and a lot frontage of 342 metres onto Southline A. It should be noted that the lot sizes have been amended from originally proposed to satisfy County comments.

OPERATIONAL CONSIDERATIONS:

1.0 Overview:

The subject lands are known as 305374 Southline A. The lands have a total lot area of 75 hectares and a lot frontage of 584 metres. The lands agricultural lands, creeks and woodlands. The proposal is to divide the subject lands into 2 equal parts all with frontage on Southline A. The lands to be severed will be merged with an existing 1 hectare vacant parcel that is surrounded by the subject lands.

2.0 Planning Analysis:

The following issues were reviewed as part of this application:
• General Development Policies
• Agricultural Consent Policies
• Proposed Lot Configuration
• Permitted uses for the subject lands.

2.1 Provincial Policy Statement (2014):

The Provincial Policy Statement (PPS) states that in respect of the exercise of any authority that affects a planning matter, Section 3 of the Planning Act requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act.

Section 2.3. of the PPS provides policies related to Agricultural areas in municipalities. The PPS states that Prime agricultural areas shall be protected for long-term use for agriculture. Prime agricultural areas are areas where prime agricultural lands predominate. Specialty crop areas shall be given the highest priority for protection, followed by Canada Land Inventory Class 1, 2, and 3 lands, and any associated Class 4 through 7 lands within the prime agricultural area, in this order of priority.

Lot creation in Prime agricultural areas is restricted and only allowed for:

a. agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;
b. agriculture-related uses, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;
c. a residence surplus to a farming operation as a result of farm consolidation, provided that:
   a. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
b. the planning authority ensures that new residential dwellings are prohibited on any 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; and

d. infrastructure, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.

Lot adjustments in prime agricultural areas may be permitted for legal or technical reasons.

As the proposal requests to sever the existing lands into 2 large farm parcels, as noted in policy (a) above, Staff are satisfied that the proposal meets the intent of the Provincial Policy Statement.

2.2 The County of Grey Official Plan

The subject lands are designated as Agricultural and Wetland in the County's Official Plan. The predominant land use within the Agricultural designation will be agriculture and forestry.

Schedule A of the County's OP designates the subject lands as ‘Agricultural’. Policy 5.2.3(1)(a) of the County OP states that:

A consent for one new lot may be permitted provided the original farm parcel is a minimum of 40 hectares. The options for consent would be:

(a) One lot severed to create a farm parcel of generally 40 hectares in size, provided both the severed and retained lots are 40 hectares in size and are both intended to be used for agricultural uses. Where a severance is proposed to create a farm lot smaller than 40 hectares, an official plan amendment will not be required, but an Agricultural Report is required by a qualified individual, (which may include an agrologist, agronomist, or a professional agricultural business degree) that addresses the following criteria:

1. Agriculture shall be the proposed use of both the severed and retained lots, A farm business plan is required, demonstrating the viability of the severed and retained uses for the farm operations proposed,
2. Demonstration that both the severed and retained lots will be economically viable and flexible to respond to economic change. The applicant shall provide information necessary to evaluate the viability of the new farming operations on the parcels of land. Information pertaining to the scale and nature of the operation, projected revenue, expenses, financing, soil quality, water quality and quantity, and any other viability criteria relevant to the proposal shall be provided to the satisfaction of the County, in consultation with the Province,
3. Demonstration that nearby lots of similar size and farm capability to the proposed lots are not available and suitable for the intended agricultural use,
4. The suitability of both the severed and retained lots should be assessed based on:
5. The type and size of agricultural operations common in the area or to the type of agricultural operation proposed, or
6. Demonstration that a new viable form of agriculture is suitable for the area and lot sizes proposed,
7. Demonstration that both the severed and retained lots remain sufficiently large to permit a change; in the agricultural product produced, an adjustment in the scale of operation, or diversification; and,
8. Both the severed and retained lots shall comply with Provincial MDS Formulae.

Portions of the subject lands are also identified as Hazard in the county OP. Schedule A. Policy 7.2(3) states that:
In the Hazard Lands land use type, buildings and structures are generally not permitted. Minor extensions or enlargements of existing buildings and structures may be permitted subject to the policies of Section 7. Non-habitable buildings connected with public parks, such as picnic shelters, may be permitted.

The proposed severances comply with these requirements.

2.3 The Municipality of Grey Highlands Official Plan:

The subject lands are designated as Agricultural and Hazard in the municipality's Official Plan. The purpose of the Agricultural designation is to ensure the long-term viability of the agricultural sector, the protection of prime agricultural areas, and that agricultural practices are integral and compatible with the natural and built environment.

All applications for Consent must comply with the Agricultural Consent Policies contained in subsection 4.1.3 of the Official Plan.

Subsection 4.1.3.1. states that:

A consent for one lot may be permitted provided the original farm parcel is a minimum of 40 hectares and no non-farm lot creation has been provided for in the past. The creation or acquisition of a lot by a public body (i.e. a road deviation) will not be considered as a previous severance providing this does not result in an additional remnant lot.

The options for consent would be:

(a) one lot severed to create a farm parcel of generally 40 hectares in size, and provided the development criteria within Section 4.1.2 has been satisfied, or;
(b) where a residence is deemed surplus to a farm operation as a result of farm consolidation.

In staff's opinion, the proposal generally conforms to the Agricultural policies and meets the intent of the Agricultural designation.
2.4 The Municipality of Grey Highlands Comprehensive Zoning By-law No. 2004-50:

The lands are zoned Agricultural (A1) and Hazard (H). These zoning categories permit the proposal and as such, no additional zoning amendments will be required.

3.0 Comments Received (Summary):

Comments were provided from the following authorities having jurisdiction over the subject lands:

The County of Grey Planning and Development Services Department. Comments dated September 25, 2019.

County planning staff recommend comments are received from the local conservation authority. County Transportation Services have no concerns with the proposed application. County planning staff also recommend deferral of the subject application until the additional policy requirements as outlined under section 5.2.3(1)(a) are met or if the applicant opts to revise the proposal such that both the severed and retained lands will be approximately 40 ha (100 acres) in size. It should be noted that the applicant has opted to revise the proposal to create equally sized parcels.

The Saugeen Valley Conservation Authority: Comments dated September 26, 2019.

The application for consent is acceptable to SVCA staff.

The Municipality of Grey Highlands Transportation & Environmental Services Department: Comments dated September 25, 2019.

An entrance permit will be required.

4.0 Conclusion:

Planning Staff have reviewed the application and are of the opinion that the application is consistent with the Provincial Policy Statement, and maintains the general intent and policies of the Official Plan, including the applicable policies of the Agricultural designation.

5.0 Attachments

Appendix 1 – MGH Location Map
Appendix 2 – Aerial Map
Appendix 3 – Zoning Map
Appendix 4 – Agency/Department comments
Appendix 5 – Notice and Sketch
<table>
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<tr>
<th>Approved By</th>
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<tr>
<td>Michael Benner, Director of Planning</td>
<td>Approved - 03 Oct 2019</td>
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<td>Karen Mills, Chief Administrative Officer</td>
<td>Approved - 04 Oct 2019</td>
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September 25th, 2019

Raylene Martell, Clerk
Municipality of Grey Highlands
206 Toronto Street South, Unit One
P.O. Box 409 Markdale, Ontario N0C 1H0
*Sent Via E-mail

RE: Consent Application B28/2019
Concession 3 SDR Lot 19, N Part Lot 18, S Part Lot 20; 305374 South Line A
Municipality of Grey Highlands (geographic Township of Artemesia)
Owner: Aaron Bowman and Hannah Bowman (AH Farms Ltd.)
Agent: Israel Bowman

Dear Ms. Martell,

This correspondence is in response to the above noted application. We have had an opportunity to review the application in relation to the Provincial Policy Statement (PPS) and the County of Grey Official Plan (OP). We offer the following comments.

The purpose and effect of the subject application is to sever a rural lot with a lot area of approximately 26.3 hectares and a lot frontage of 85 meters onto Southline A and merge with the abutting lands (having roll number: 42 08 180 005 12601). The retained parcel will have a lot area of 48.3 hectares and a lot frontage of 407 metres onto Southline A.

Schedule A of the OP designates the subject lands as ‘Agricultural’. Policy 5.2.3(1)(a) of the County OP states,

    A consent for one new lot may be permitted provided the original farm parcel is a minimum of 40 hectares. The options for consent would be:

(a) One lot severed to create a farm parcel of generally 40 hectares in size, provided both the severed and retained lots are 40 hectares in size and are both intended to be used for agricultural uses. Where a severance is proposed to create a farm lot smaller than 40 hectares, an official plan amendment will not be required, but an Agricultural Report is required by a qualified individual, (which may include an agrologist, agronomist, or a professional agricultural business degree) that addresses the following criteria:

Grey County: Colour It Your Way
1) Agriculture shall be the proposed use of both the severed and retained lots,

2) A *farm business plan* is required, demonstrating the viability of the severed and retained uses for the farm operations proposed,

3) Demonstration that both the severed and retained lots will be economically viable and flexible to respond to economic change. The applicant shall provide information necessary to evaluate the viability of the new farming operations on the parcels of land. Information pertaining to the scale and nature of the operation, projected revenue, expenses, financing, soil quality, water quality and quantity, and any other viability criteria relevant to the proposal shall be provided to the satisfaction of the *County*, in consultation with the *Province*,

4) Demonstration that nearby lots of similar size and farm capability to the proposed lots are not available and suitable for the intended agricultural use,

5) The suitability of both the severed and retained lots should be assessed based on:

   6) The type and size of agricultural operations common in the area or to the type of agricultural operation proposed, or

   7) Demonstration that a new viable form of agriculture is suitable for the area and lot sizes proposed,

   8) Demonstration that both the severed and retained lots remain sufficiently large to permit a change; in the agricultural product produced, an adjustment in the scale of operation, or diversification; and,

   9) Both the severed and retained lots shall comply with Provincial *MDS Formulae*.  

The proposal would have the effect of severing a lot area of approximately 26.3 ha from the abutting (74.6 ha) farm parcel and merging these lands with the existing (0.8 ha or 2 acre) parcel. The retained farm parcel will have a lot area of approximately 48.3 ha and the newly created parcel will have a lot area of approximately 27.5 ha. Under the County OP policy stated above, the requirements for a consent in Agricultural lands would be such that one lot may be severed to create a farm parcel of generally 40 hectares in size, provided both the severed and retained lots are 40 hectares in size. In this case, the severed lands will be ~27.5 ha in size, below the required 40 ha. At this time, the application is recognized as incomplete, as the applicant will be required to address the criteria under bullet points 1-9, clearly stating whether the 27.5 ha parcel would be sufficiently sized to accommodate a viable farm operation. Staff would also note, if the landowner of the existing 184.4 acre farm is willing to sell additional lands such that the resulting area of both lots would be closer to 40 ha (100 acres) in size, this would be something the County would consider. It appears that the retained and severed lands (including the 0.8 ha or 2 acre) parcel is ~77 ha. This divided by 2 = 38.5 ha/per parcel, which would be closer in size to 40 ha as per the policy requirements.
There is also a portion of the subject lands designated as ‘Hazard Lands’ under Schedule A. Policy 7.2(3) states,

In the Hazard Lands land use type, buildings and structures are generally not permitted. Minor extensions or enlargements of existing buildings and structures may be permitted subject to the policies of Section 7. Non-habitable buildings connected with public parks, such as picnic shelters, may be permitted.

Provided no residential or farm-related development is proposed in the hazardous lands, County planning staff have no concerns.

Appendix B identifies ‘Streams’ and ‘Other Identified Wetlands’ on a portion of the subject property. Section 7.3.2(1) states,

No development or site alterations are permitted within Other Wetlands or their adjacent lands, shown on Appendix B, or as identified by conservation authorities, unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

And Section 7.9(2) states,

No development will be permitted within 30 metres of the banks of a stream, river, or lake unless an environmental impact study prepared in accordance with Section 7.11 of this Plan concludes setbacks may be reduced and/or where it has been determined by the appropriate conservation authority these setbacks may be reduced.

County planning staff recommend comments are received from the local conservation authority.

County Transportation Services have no concerns with the proposed application.

County planning staff recommend deferral of the subject application until the additional policy requirements are met as outlined under section 5.2.3(1)(a) or if the applicant opts to revise the proposal such that both the severed and retained lands will be approximately 40 ha (100 acres) in size.

The County requests notice of any decision rendered with respect to this file.

If you wish to discuss this matter further, please contact me.

Yours truly,

Grey County: Colour It Your Way
SENT ELECTRONICALLY ONLY (BennerM@greyhighlands.ca)

September 26, 2019

Municipality of Grey Highlands
206 Toronto Street South, Suite 1
Markdale, Ontario
N0C 1H0

ATTENTION:  Michael Benner, Director of Planning

Dear Mr. Benner,

RE: Application for Consent B28.2019
305374 Southline A
Roll No. 420818000512500
Part Lot 18 and 20, Lot 19, Concession 3 SDR
Geographic Township of Artemesia
Municipality of Grey Highlands

(AH Farms Ltd. c/o Bowman)

Saugeen Valley Conservation Authority (SVCA) staff has reviewed the application for consent in accordance with the SVCA’s mandate, and the SVCA Environmental Planning and Regulations Policies Manual, amended October 16, 2018. The purpose of the application is to sever a rural lot with a lot area of approximately 26.3 hectares and a lot frontage of 85 metres onto Southline A and merge with the abutting lands (Roll Number 420818000512601). The retained parcel will have a lot area of 48.3 hectares and a lot frontage of 407 metres onto Southline A. The application is acceptable to SVCA staff, and the following comments are offered.

Natural Hazards

Portions of the parcel are designated Hazard Lands in the Grey County Official Plan (OP), Municipality of Grey Highlands OP, and the Municipality of Grey Highlands Zoning By-Law 2004-50, as amended. In the opinion of SVCA, these schedules generally coincide with the SVCA Hazard Land Mapping. While portions of the severed parcel are designated hazard, SVCA staff is of the opinion there is sufficient area for development, outside the hazard land areas.

Natural Heritage

The significant natural heritage features affecting the property include Significant Woodlands, Fish Habitat, Other Identified Wetlands, and potentially the habitat of Endangered Species and Threatened Species. We elaborate in the following paragraphs.
Significant Woodlands

Significant woodlands are identified on portions of the property, and on lands adjacent to the property, as per Appendix B Constraint Mapping, of the Grey County OP. Section 7.4(1) of the Grey County OP and Section 2.3 of the Grey Highlands OP, states in part that no development or site alteration may occur within significant woodlands or their adjacent lands unless it has been demonstrated through an Environmental Impact Study (EIS), that there will be no negative impacts on the natural features or their ecological functions. It is the opinion of SVCA staff that negative impacts to significant woodlands or their adjacent lands as part of the proposal would be negligible, provided any proposed development is not located within the significant woodlands. Based on the proposal, it is the opinion of SVCA staff that the preparation of an EIS could be waived, in accordance with Section 7.11.3(b) of the Grey County OP.

Fish Habitat

A tributary of the Saugeen River flows through the property and is considered fish habitat by SVCA staff. Section 2.1.8 of the Provincial Policy Statement (PPS 2014) indicates that, among other things, development and site alteration shall not be permitted on the adjacent lands of fish habitat unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on fish habitat or on their ecological function. At this time, SVCA staff are not recommending the preparation of an Environmental Impact Statement (EIS) to address impacts to the adjacent lands to fish habitat, as SVCA staff does not anticipate any negative impacts to the adjacent lands to fish habitat as a result of this proposal.

Other Identified Wetlands

According to Appendix B Constraint Mapping of the Grey County OP, Other Identified Wetlands exist on the lands adjacent to the proposed retained parcel. It is the opinion of SVCA staff that potential impacts to the wetlands as a result of this proposal will be negligible, and we are not recommending the preparation of an EIS at this time.

Significant Habitat of Endangered Species and Threatened Species

It has come to the attention of SVCA staff that habitat of endangered or threatened species may be located on and adjacent to the property. Section 2.1.7 of the Provincial Policy Statement (PPS 2014) indicates that development and site alteration shall not be permitted in habitat of endangered species or threatened species, except in accordance with provincial and federal requirements. It is the responsibility of the applicant to ensure the endangered and threatened species policy referred to in the PPS has been appropriately addressed. Please contact the Ministry of Environment, Conservation and Parks (MECP) for information on how to address this policy. MECP inquiries can be addressed to SAROntario@ontario.ca.

SVCA Regulation

Please be advised that portions of the retained and severed lands, are subject to the SVCA’s Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (Ontario Regulation 169/06, as amended). This Regulation is in accordance with Section 28 of the Conservation Authorities Act, R.S.O. 1990, Chap. C. 27, and requires that a person obtain the written permission of the SVCA prior to any “development” in a Regulated Area or alteration to a wetland or watercourse.
“Development” and Alteration

Subsection 28(25) of the Conservation Authorities Act defines “development” as:

a) the construction, reconstruction, erection or placing of a building or structure of any kind,
b) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure increasing the number of dwelling units in the building or structure,
c) site grading, or
d) the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

According to Section 5 of Ontario Regulation 169/06, as amended, alteration generally includes the straightening, diverting or interfering in any way the existing channel of a river, creek, stream or watercourse, or the changing or interfering in any way with a wetland.

To determine where the SVCA’s areas of interest are located associated with our Regulation for the subject property, please refer to the SVCA’s online mapping program, available via the SVCA’s website at http://eprweb.svca.on.ca. Should you require assistance, please contact our office directly.

Permission for Development or Alteration

If development or alteration including construction, reconstruction, conversion, grading, filling or excavation, including agricultural tile drainage, is proposed within the Approximate Screening Area on the proposed retained parcel, the SVCA should be contacted, as permission may be required.

Outstanding Matters

SVCA staff are working with the current owners to resolve an outstanding regulatory matter on the proposed severed parcel. Should you have any concerns regarding this, please contact our office directly.

Conclusion

The application for consent is acceptable to SVCA staff.

We trust you find this information helpful. Should questions arise, please do not hesitate to contact this office.

Sincerely,

Megan Stansfield
Environmental Planning Technician
Saugeen Conservation

cc: Israel Bowman, Agent (via email)
    Paul Allen, Authority Member, SVCA (via email)
Planning Application Comments

Department: Transportation and Environmental Services
Date: September 25, 2019
File No: B28.2019 AH Farms Ltd.
Property Owner: Aaron and Hannah Bowman
Roll Number: 420818000512500

Comments:

The Transportation and Environmental Services Department provides the following comment as it relates to the Consent Development Application.

1. An entrance permit will be required for access to South Line A at the time of developing the newly merged property.

Name: Herb Lemon
Title: Director, Transportation and Environmental Services
The 2 acre lot will be merged with the (approx) 51 acres so both farms will be approx the same size.