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## COMMITTEE OF ADJUSTMENT MEETING MINUTES

June 20, 2024, 6:00 p.m.

Members Present: Steve Bartolini, Angelo Miniaci, Eric Lehtinen, Paul Johnston

Members Absent: Margaret Louter

Staff Present: Natalie Thomson, Aimee Alderman

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### 1. CALL TO ORDER

Chair Eric Lehtinen called the meeting to order and confirmed quorum at 6:00 p.m.

### 2. ADOPTION OF AGENDA

Moved by: Steve Bartolini

that the agenda be adopted, as presented

**APPROVED**

### 3. CONFLICT OF INTEREST

There were no conflicts declared.

### 4. REQUEST FOR WITHDRAWAL OR ADJOURNMENT

#### 4.1 Deferral Request - 240 Nassau Street, Minor Variance A-08/24

Natalie Thomson explained that the deferral request was due to public notice requirements under the *Planning Act* not being met.

### 5. APPLICATIONS

#### 5.1 Consent Application B-27/23 – 298 Niven Road Addendum Report, CDS-24-062

Natalie Thomson summarized the notice.

Aimee Alderman summarized the staff report.

Dave Froese and Al Nickle were present on behalf of the application.

General discussion ensued regarding the following topics:

- History of the property
- Designating dwellings on the property as a "help house"
- Definition of a surplus farm
- Undertaking signed by the owner at building permit stage

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Moved by: Angelo Miniaci

to accept the recommendation of the staff report that Consent Application B-27/23 for 298 Niven Road be refused.

**Decision: RECOMMENDATION REFUSED / APPLICATION APPROVED.**

**Reasons:** The Committee of Adjustment agrees that this application meets Planning Act requirements, is consistent with Provincial Policy, the Niagara Region Official Plan and the Town Official Plan regarding the severance applications.

The Chair summarized the decision.

Moved by: Steve Bartolini

to implement conditions for 298 Niven Road, B-27/23 as follows:

1. That the owner/applicant provides a legal description of Part 2, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
2. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Town, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 2, has been carried out, the documentation to be provided within two years of issuance

of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;

3. That the owner/applicant obtains final approval of Consent Application B-26/23 for the creation of a right-of-way (Part 3) off of Niven Road for continued access to the agricultural lot (Part 4);
4. That the owner/applicant obtains final approval of a Zoning By-law Amendment to rezone Part 4 to "Agricultural Purposes Only (APO) Site-Specific Zone" to preclude a residential dwelling in perpetuity and permit the use of three farm help houses to the satisfaction of the Director of Community and Development Services;
5. That the owner/applicant contact the Town's Environmental Services Department to establish that there is no interconnection or easement of services between Part 1, Part 2 and combined Parts 3 and 4 of the proposed severance, to the satisfaction of the Town. Where an interconnection exists, such interconnections are to be disconnected and capped at the boundary between the Parts; and
6. That the owner/applicant apply to the Town's Environmental Services Department for the installation of a water service lateral connecting to the Niven Road watermain and wholly fronting Part 2 of the proposed severance.

**Decision: RECOMMENDATION ACCEPTED / CONDITIONS APPROVED.**

**Reasons:** The Committee of Adjustment agrees that this application meets Planning Act requirements, is consistent with Provincial Policy, the Niagara Region Official Plan and the Town Official Plan regarding the severance applications.

The Chair summarized the decision.

**5.2 Consent Applications B-09/23 & B-10/23 – 501 East and West Line, CDS-24-048**

Natalie Thomson summarized the notice.

Aimee Alderman summarized the staff report and noted staff's proposed removal of two conditions for B-10/23.

Max Fedchyshak (NPG) and Jonathon Dick (property owner) were present on behalf of the application.

General discussion ensued regarding the following topics:

- Existing water services
- Purpose of the easement
- Agricultural versus residential uses

The Chair called on those registered to speak in support or against the proposal. Hendrick Heikoop spoke in objection to the proposal expressing concerns with potential future development along Four Mile Creek Road.

Moved by: Angelo Miniaci

to accept the recommendation of the staff report that Consent Application B-09/23 for 501 East and West Line (Part 2) be approved, subject to the following conditions:

1. That the owner/applicant provides a legal description of Part 2, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
2. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 1, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
3. That the owner/applicant enters into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 2, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:

1. That prior to the issuance of a Building Permit for any future accessory structure(s) and/or dwelling, an archaeological assessment will be required for the particular location of development on the property;
2. That all archaeological assessments be completed at the owner/applicants' expense, and that no demolition, grading or other soil disturbances shall take place on the subject property, that are not attributed to the agricultural land use of the lands, prior to the Ministry of Citizenship and Multiculturalism confirming to the Town that all archaeological resources concerns have met licensing and resource conservation requirements, to the satisfaction of the Town;
3. That a copy of all archaeological assessment reports and associated Ministry Compliance Letters are submitted to the Town; and
4. Any agreements of Purchase and Sale of Part 2, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
4. That the Town Operations Department be provided with a copy of the deposited reference plan;
5. That the owner/applicant dedicate a 3.0 metre road widening on East and West Line (approximate, to be confirmed by survey) fronting Parts 1 and 2 of the proposed severance, to the benefit of the Town;
6. That the owner/applicant dedicate a 3.0 metre road widening on Line 1 Road (approximate, to be confirmed by survey) fronting Part 2 of the proposed severance, to the benefit of the Town;
7. That the owner/applicant dedicate a 3.0 metre road widening on Concession 6 Road (approximate, to be confirmed by survey) fronting Part 2 of the proposed severance, to the benefit of the Town; and
8. That a new sewage system is installed on Part 1, to replace the existing compromised septic system servicing the southerly dwelling on this parcel, which meets all Ontario Building Code

requirements. A permit for the new system shall be applied for and obtained from Niagara Region prior to installation.

2. Consent Application B-10/23 for 501 East and West Line (Part 3 & 4) be approved, subject to the following modified conditions:

1. That the owner/applicant provides a legal description of Part 3, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
2. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the transaction, i.e. transfer of Part 3, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;
3. That the owner/applicant, at their own expense, obtains and submits an appraisal for the purposes of payment of cash-in-lieu of parkland dedication, by a qualified appraiser, which is to be based on the fair market value of Part 3 using the direct comparison approach, to the satisfaction of the Manager of Finance; and that the owner/applicant pays to the Town a cash-in-lieu of parkland dedication, which shall be 5% of the appraised value of Part 3;
4. That the owner/applicant provides a legal description of Part 4, acceptable to the Registrar, together with 1 digital copy to-scale of the deposited reference plan, if applicable, or a copy of all instruments and plans referred to in the legal description, to the satisfaction of the Director of Community and Development Services, for use in the issuance of the Certificate of Consent;
5. That the owner/applicant provides a lawyer's undertaking, to the satisfaction of the Director of Community and Development Services, to forward a copy of documentation confirming the

transaction, i.e. registration of the easement on Part 4, has been carried out, the documentation to be provided within two years of issuance of the consent certificate, or prior to the issuance of a building permit, whichever occurs first;

6. That the owner/applicant enters into a Development Agreement with the Town, and that such Development Agreement will be registered on the title of Part 3, to the satisfaction of the Director of Community and Development Services, in which the owner/applicant shall agree:
  1. That prior to the issuance of a Building Permit on the lands, an archaeological assessment will be required for the entire property;
  2. That all archaeological assessments be completed at the owner/applicants' expense, and that no development, grading or other soil disturbances shall take place on the subject property prior to the Ministry of Citizenship and Multiculturalism confirming to the Town that all archaeological resources concerns have met licensing and resource conservation requirements, to the satisfaction of the Town;
  3. That a copy of all archaeological assessment reports and associated Ministry Compliance Letters are submitted to the Town; and
  4. Any agreements of Purchase and Sale of Part 3, which may be negotiated, shall contain a clause notifying the purchaser of the Development Agreement and the requirement to comply with the Development Agreement.
7. That the Town's Operations Department be provided with a copy of the deposited reference plan;
8. That the owner verify to the Town's Environmental Services Department that there is no existing internal wastewater connection between Parts 1 and 3 of the proposed severance. If such connection does exist it must be terminated and capped at the western boundary at Part 3 of the proposed severance;

9. That the Town's Operations Department be provided with a copy of the registered easement (Part 4) in favour of Part 1 of the proposed severance;
10. That the owner/applicant dedicate a 3.0 metre road widening on Four Mile Creek Road (approximate, to be confirmed by survey) fronting Parts 3 and 4 of the proposed severance, to the benefit of the Town;
11. That the owner/applicant obtain approval in the form of a municipal entrance permit from the Town's Operations Department for a new driveway on Part 3 of the proposed severance, including payment of the associated fees. Proposed entrance and existing municipal trees must be shown on submitted plans; and
12. That the owner/applicant verify to the Town's Environmental Services Department that the alignment of the proposed 3.0 metre wide easement (Part 4) is located such that it encompasses the entirety of existing water service connection between the Four Mile Creek Road watermain and the dwelling at 501 East and West Line.

**Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.**

**Reasons:** The Committee of Adjustment agrees that this application meets Planning Act requirements, is consistent with Provincial Policy, the Niagara Region Official Plan and the Town Official Plan regarding the severance applications.

The Chair summarized the decision.

**5.3 Minor Variance Application A-08/24 - 240 Nassau Street, CDS-24-098**

Application deferred to July 18, 2024

**5.4 Minor Variance Application A-09/24 – 149 Read Road, CDS-24-093**

Natalie Thomson summarized the notice.

Aimee Alderman summarized the staff report.



David Eqbal (agent) was present on behalf of the application. David explained the purpose of the proposed variance was to add existing storage space to the agricultural market.

The Committee had no questions relating to the application.

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Moved by: Steve Bartolini

to accept the recommendation of the staff report that Minor Variance Application A-09/24 for 149 Read Road be approved, subject to the following condition:

1. That, prior to the issuance of a building permit, the applicant/owner installs a new septic system on the property to service the proposed development, which meets all Ontario Building Code requirements. A permit for the new system shall be applied for and obtained from Niagara Region prior to installation.

**Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.**

Reasons: The Committee of Adjustment agrees with the minor variance report analysis and recommendation that this application meets the four Planning Act tests for minor variance:

2. The variance is minor in nature.
3. The variance is appropriate for the development of the land.
4. The general intent and purpose of the Zoning By-law is maintained.
5. The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

**5.5 Minor Variance Application A-10/24 - 93 River Beach Drive, CDS-24-099**

Natalie Thomson summarized the notice and mentioned one public comment was received.

Aimee Alderman summarized the staff report and noted discrepancies with the site plan drawing and on-site conditions. Aimee noted that the

approval of the application would relate to the measurements provided in the site plan.

Jackie Kevill (owner) and Mike Jeffs (Heartscape Niagara) were present on behalf of the application.

General discussion ensued regarding the following topics:

- Existing deck boards not aligning with site plan drawing
- NPCA work permit and safeguards along shoreline
- Deck boards sitting on the armour stone wall to be removed

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Moved by: Steve Bartolini

to accept the recommendation of the staff report that Minor Variance Application A-10/24 for 93 River Beach Drive be approved.

**Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.**

Reasons: The Committee of Adjustment agrees with the minor variance report analysis and recommendation that this application meets the four Planning Act tests for minor variance:

1. The variance is minor in nature.
2. The variance is appropriate for the development of the land.
3. The general intent and purpose of the Zoning By-law is maintained.
4. The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

**5.6 Minor Variance Application A-11/24 – 134 Victoria Street, CDS-24-094**

Natalie Thomson summarized the notice.

Aimee Alderman summarized the staff report.

Eric Beauregard (Upper Canada Consultants) was present on behalf of the application. Eric delivered a brief presentation.

General discussion ensued regarding the following topics:

- Municipal Heritage Committee demo permit
- Recommendation of MHC endorsed by Council
- Rebuilding the existing dwelling using some materials saved from demolition
- Two storey dwelling versus bungalow in regards to lot coverage

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Moved by: Angelo Miniaci

to accept the recommendation of the staff report that Minor Variance Application A-11/24 for 134 Victoria Street be approved, subject to the following conditions:

1. That the owner/applicant enter into an encroachment agreement with the Town for the stairs fronting Victoria Street. If an encroachment agreement already exists for the subject lands, the owner/applicant is required to forward a copy to Town Staff, to the satisfaction of the Town;
2. That the buildings/structures are demolished to the satisfaction of the Town and that the owner/applicant obtains any required building permit for demolition and that final inspection and closure of the permit is completed to the satisfaction of the Chief Building Official;
3. That no demolition, grading or other soil disturbances shall take place on the subject property prior to the Ministry of Citizenship and Multiculturalism confirming to the Town that all archaeological resources concerns have met licensing and resource conservation requirements, and that a copy of the Ministry letter is submitted to the Town, to the satisfaction of the Town;
4. That the owner/applicant signs and submits the Tree Declaration Form, to the satisfaction of the Town;
5. That the owner/applicant provides a written undertaking confirming that all tree protection measures as outlined in the Tree Preservation Plan, prepared by Colville Consulting Inc,

dated March 28, 2024, will be implemented, to the satisfaction of the Town; and

6. That the owner/applicant submits and obtains approval of permit applications for the proposed tree removals from the Town. If any boundary trees are proposed for removal, the owner/applicant is required to obtain written permission from adjacent landowners for the removal of any boundary trees, to the satisfaction of the Town.

**Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.**

Reasons: The Committee of Adjustment agrees with the minor variance report analysis and recommendation that this application meets the four Planning Act tests for minor variance:

2. The variance is minor in nature.
3. The variance is appropriate for the development of the land.
4. The general intent and purpose of the Zoning By-law is maintained.
5. The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

**5.7 Minor Variance Application A-12/24 - 8 Henegan Road, CDS-24-095**

Natalie Thomson summarized the notice.

Aimee Alderman summarized the staff report.

Chelsea Liotta (Upper Canada Consultants) was present on behalf of the application.

General discussion ensued regarding the following topics:

- Existing landscape conditions on site
- Height measurement
- Surrounding property heights

The Chair called on those registered to speak in support or against the proposal. There was no one in the audience who wished to speak for or against the application.

Moved by: Paul Johnston

to accept the recommendation of the staff report that Minor Variance Application A-12/24 for 8 Henegan Road be approved.

**Decision: RECOMMENDATION ACCEPTED / APPLICATION APPROVED.**

Reasons: The Committee of Adjustment agrees with the minor variance report analysis and recommendation that this application meets the four Planning Act tests for minor variance:

1. The variance is minor in nature.
2. The variance is appropriate for the development of the land.
3. The general intent and purpose of the Zoning By-law is maintained.
4. The general intent and purpose of the Official Plan is maintained.

The Chair summarized the decision.

**6. MINUTES FOR APPROVAL**

The May 16, 2024 minutes were approved by unanimous consent.

**7. NEW BUSINESS**

There was no new business.

**8. NEXT MEETING DATE**

Thursday, July 18, 2024 at 6:00pm.

**9. ADJOURNMENT**

The meeting was adjourned at 7:51 pm.