

To: Mayor and Members of Township of Norwich Council
From: Amy Hartley, Development Planner, Community Planning

Application for Zone Change ZN 3-23-18 – Henk and Michelle Vrugteveen

REPORT HIGHLIGHTS

- The application for zone change proposes to rezone the subject lands from 'Limited Agricultural Zone (A1)' to 'Special Limited Agricultural Zone (A1-sp)' to permit an additional residential unit (ARU) on the subject lands. It is proposed that an existing agricultural building be on the lands will be demolished and replaced with a new agricultural storage building which includes personal storage space and a residential dwelling unit.
- Staff are not generally supportive of the proposal, as it is not consistent with the Provincial Policy Statement and the policies contained within the Official Plan respecting additional residential units as permitted uses in prime agricultural areas with respect to Minimum Distance Separation I (MDS I) setbacks.

DISCUSSION

Background

APPLICANT/OWNER: Henk & Michelle Vrugteveen
325422 Norwich Road, Norwich, ON N0J 1P0

AGENT: Nathan Kok
210 Main Street East, Otterville, ON N0J 1R0

LOCATION:

The subject lands are described as Part of Lot 14, Concession 5 (North Norwich), being Part 1, Plan 41R-1966, Township of Norwich. The subject lands are located on the south side of Norwich Road, between Middletown Line and Pick Line and are municipally known as 325422 Norwich Road.

COUNTY OF OXFORD OFFICIAL PLAN:

Schedule "N-1" Township of Norwich Land Use Plan Agricultural Reserve

TOWNSHIP OF NORWICH ZONING BY-LAW 07-2003-Z:

Existing Zoning: 'Limited Agricultural Zone (A1)'

Requested Zoning: 'Special Limited Agricultural Zone (A1-sp)'

PROPOSAL:

The application for zone change has been submitted to facilitate the establishment of an additional residential unit (ARU) on the subject lands in the form of an ARU within an agricultural storage building.

The subject lands are approximately 4.3 ac (1.74 ha) in area and contain an existing single detached dwelling, two residential accessory structures (being pool houses), and an existing agricultural storage building that is proposed to be removed. Surrounding land uses are predominantly agricultural, with existing non-farm rural residential parcel to the north.

The applicants have proposed an ARU within an agricultural storage building located to the east of the existing single detached dwelling which would result in non-compliance with respect to the Minimum Distance Separation I setback to the neighbouring dairy barns to the southwest and east of the subject lands.

Specifically, MDS I setback calculations indicate that the proposed ARU would need to be setback a minimum of 330 m (1,083 ft) from the neighbouring dairy barn to the southwest and 356 m (1,168 ft) to the neighbouring dairy barn to the east, whereas the proposed location would result in a setback of 262 m (859 ft) from the barn to the southwest and 305 m (1,000 ft) from the barn to the east.

The applicants have indicated that the requested location (being on the southeast side of the proposed agricultural structure) is the preferred location as it will provide for privacy and use of the historical gravel laneway on the east side of the property.

Plate 1, Location Map with Existing Zoning, shows the location of the subject property and the existing zoning in the immediate vicinity.

Plate 2, Subject Lands (2020 Aerial Photo) provides an aerial view of the existing structures on the subject lands and identifies the approximate location of the proposed dwelling.

Plate 3, Applicants' Sketch, identifies the location of the existing and proposed structures on the subject lands, as submitted by the applicant, including the location of the ARU.

Application Review

PROVINCIAL POLICY STATEMENT:

The 2020 Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Under Section 3 of the Planning Act, where a municipality is exercising its authority affecting a planning matter, such decisions shall be consistent with all policy statements issued under the Act.

Section 2.3 of the Provincial Policy Statement (PPS) directs that prime agricultural areas shall be protected for long term agricultural use. In prime agricultural areas, permitted uses and activities include agricultural uses, agriculture-related uses and on-farm diversified uses. All types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards, and new land uses in prime agricultural areas shall comply with the minimum distance separation formulae.

OFFICIAL PLAN:

The subject lands are located within the Agricultural Reserve designation according to the Township of Norwich Land Use Plan, as contained in the Official Plan. In the Agricultural Reserve designation, lands are to be developed for a wide variety of agricultural land uses, including general farming, animal or poultry operations, regulated livestock farms, cash crop farms and specialty crop farms, together with associated farm buildings and structures required for the farm. Within the Agricultural Reserve designation, residential uses are also permitted as accessory to the farming operation, and shall be permitted only as part of the farm.

In the Agricultural Reserve designation, additional residential units (ARUs) are permitted within a single detached dwelling and/or in a structure ancillary to subject dwelling, provided they are located on a lot zoned for agricultural or rural residential uses that permit a dwelling, and are in accordance with the policies of the Official Plan. Further, a maximum of two ARUs shall be permitted per farm unit, being two in a principal dwelling or one in a principal dwelling and/or one in an structure ancillary to that dwelling.

ARUs located outside of a settlement area shall be in accordance with the following:

- The ARU shall be clearly secondary and subordinate to the principal dwelling on the lot and have a cumulative gross floor area of no greater than 50% of the gross floor area of the principal dwelling, to a maximum of 140 m² (1,506 ft²);
- ARUs shall not generally be permitted where a lot or dwelling already contains other accessory residential dwelling and/or uses, including a group home, boarding or lodging house or a home occupation that is characterized by higher occupancy such as a bed and breakfast, a farm vacation rental or other similar uses;
- Individual on-site water supply and sewage services are demonstrated to be adequate to serve the proposed use, in accordance with the applicable policies;
- The existing principal dwelling and the lot are of a sufficient size to accommodate the creation of an ARU and to provide adequate off-street parking, landscaping, stormwater management and outdoor amenity areas;
- The principal dwelling must have direct, individual vehicular access to a public street and all ARUs shall use the same driveway as the principal dwelling;
- There is adequate access from the front lot line and parking area to each ARU for both occupant use and emergency response;
- To the extent feasible, existing trees and other desirable vegetation are preserved;
- Land use compatibility concerns (e.g. due to proximity to industrial areas or major facilities) will not be created or intensified;
- The location of ARUs and related services and outdoor amenities shall comply with all other applicable policies of the Official Plan;
- All other municipal requirements, such as servicing, stormwater management, waste management and emergency access, can be adequately addressed.

The following additional policies shall apply to the establishment of an ARU in a detached ancillary structure;

- The lot must be a minimum of 0.6 ha (1.48 ac) in area;
- The siting, design and orientation of the ancillary structure, parking areas and outdoor amenity areas will allow for privacy for the occupants of the ARU, principal dwelling and abutting residential properties; and
- An ARU will satisfy MDS I or will not further reduce an existing insufficient setback.

In addition to these policies, the following shall apply to the establishment of an ARU in a detached ancillary structure on an agricultural lot:

- Shall only be permitted through a minor variance granted by the Area Municipal Committee of Adjustment to ensure all applicable policy criteria, zoning provisions and any local standards and requirements can be adequately addressed (i.e. through the review and conditions of approval);
- The ARU should share individual on-site water supply and sewage services and utility services with the principal dwelling, where possible;
- The ancillary structure must be located within the established residential area on the agricultural lot (i.e. the area comprising the principal dwelling and accessory residential structure, driveway, outdoor amenity area and individual on-site services);
- An ARU in a new ancillary building shall be located a maximum distance of 30 m (98 ft) from the principal dwelling; and
- The cumulative area of the lot utilized for residential purposes shall be minimized to the extent feasible to a maximum of 0.8 ha (2 ac) and the location of the ARU and/or related services and outdoor amenity areas shall minimize the loss of tillable agricultural land and potential impact on the farm operation and adjacent farms.

An additional residential unit shall not be severed from the lot containing the principal dwelling or converted into a separately transferable unit through plan of condominium.

TOWNSHIP OF NORWICH ZONING BY-LAW:

The subject lands are currently zoned 'Limited Agricultural Zone (A1)' in the Township of Norwich Zoning By-law. The 'A1' zone permits a limited range of agricultural uses, together with a single detached dwelling accessory to a farm and establishes a minimum lot frontage and area requirement of that existing as of the date of passing of the Zoning By-law. New farm residences are required to satisfy the minimum distance separation requirements, as determined through the Minimum Distance Separation Formula I, or not further reduce an existing insufficient setback.

AGENCY COMMENTS:

The Township of Norwich Fire Department, and Oxford County Public Works, have indicated no concerns with the proposal.

The Township of Norwich Building Department indicated no information in relation to the private site servicing was submitted in support of the application and therefore the adequacy of the site servicing cannot be confirmed for the purposes of the proposed development. Additionally, the MDS I setbacks exceed the setbacks required from the neighbouring livestock housing and manure storage facilities within the area and therefore relief will be required. The complete text of the Building Department's comments are attached to this report for the information of the Committee and the applicant.

Canada Post commented that mail delivery will be via property owner installed/maintained rural mailbox.

PUBLIC CONSULTATION:

Notice of a complete application and notice of public meeting regarding this application were circulated to surrounding property owners in accordance with the requirements of the Planning Act. As of the writing of this report, no comments have been received from any members of the public.

Planning Analysis

Planning staff have reviewed the proposal to rezone the subject lands to permit an additional residential dwelling unit and are of the opinion that the proposal, as submitted, is not consistent with the PPS with respect to protection of agricultural areas for long term agricultural use and compliance with the minimum distance separation formulae.

It is noted that the location of the proposed dwelling unit does not appear to comply with the MDS I setback requirements with respect to the existing dairy barns to the southwest and to the east. Where an ARU is proposed to be located within a detached structure, the Official Plan policies require that the ARU will satisfy MDS I, or not further reduce an existing insufficient MDS I setback.

It is the intent of the MDS I requirement to minimize nuisance complaints with respect to odour from neighbouring livestock facilitates and to ensure that minimal impact is had on surrounding livestock operations with respect to their ability for future expansion.

The Township Zoning By-law requires accessory farm dwellings to satisfy the MDS I setback requirements or not further reduce an existing insufficient setback. The applicants are proposing to locate the said dwelling 262 m (859 ft) from the neighbouring dairy barn to the southwest, whereas 330 m (1,083 ft) is required, and 305 m (1,000 ft) from the neighbouring dairy barn to the east, whereas 356 m (1,168 ft) is required.

While staff are generally satisfied with the applicants' request to establish an additional residential dwelling unit on the subject lands, Planning staff are of the opinion that further information regarding MDS and consideration of any relief of MDS requirements to establish the proposed ARU is required. To this end, staff recommend that the current application be deferred to allow the applicant an opportunity to amend the application to include relief from the MDS I requirements of the Township Zoning By-law.

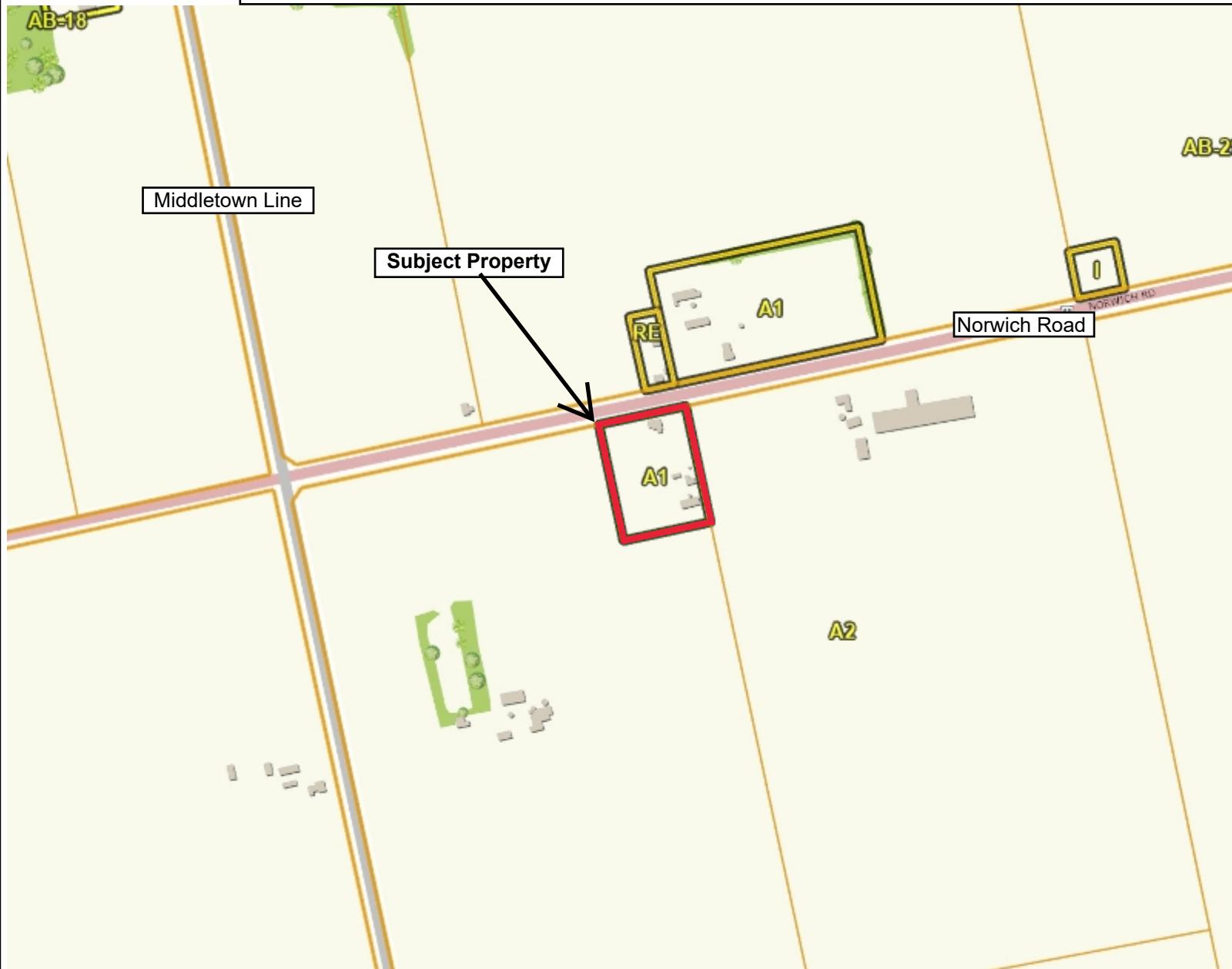
RECOMMENDATIONS

It is recommended that the Council of the Township of Norwich defer the zone change application submitted by Henk and Michelle Vrugteveen, for lands described as Part of Lot 14, Concession 5 (North Norwich), to allow the applicant to revise the application to apply for site specific relief from the MDS I setbacks for the purpose of establishing an additional residential unit.

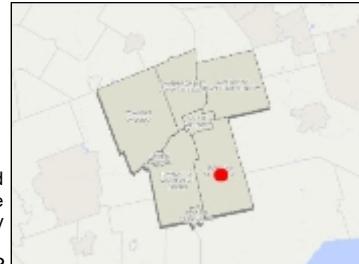
SIGNATURES

Authored by: *“Original Signed by”* Amy Hartley, Development Planner

Approved for submission: *“Original Signed by”* Gordon K. Hough, RPP
Director



Notes



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. This is not a plan of survey

November 10, 2023





Legend

Parcel Lines

- Property Boundary
- Assessment Boundary
- Unit
- Road
- Municipal Boundary

Zoning Floodlines

Regulation Limit

- 100 Year Flood Line
- 30 Metre Setback
- Conservation Authority Regulation Limit
- Regulatory Flood And Fill Lines

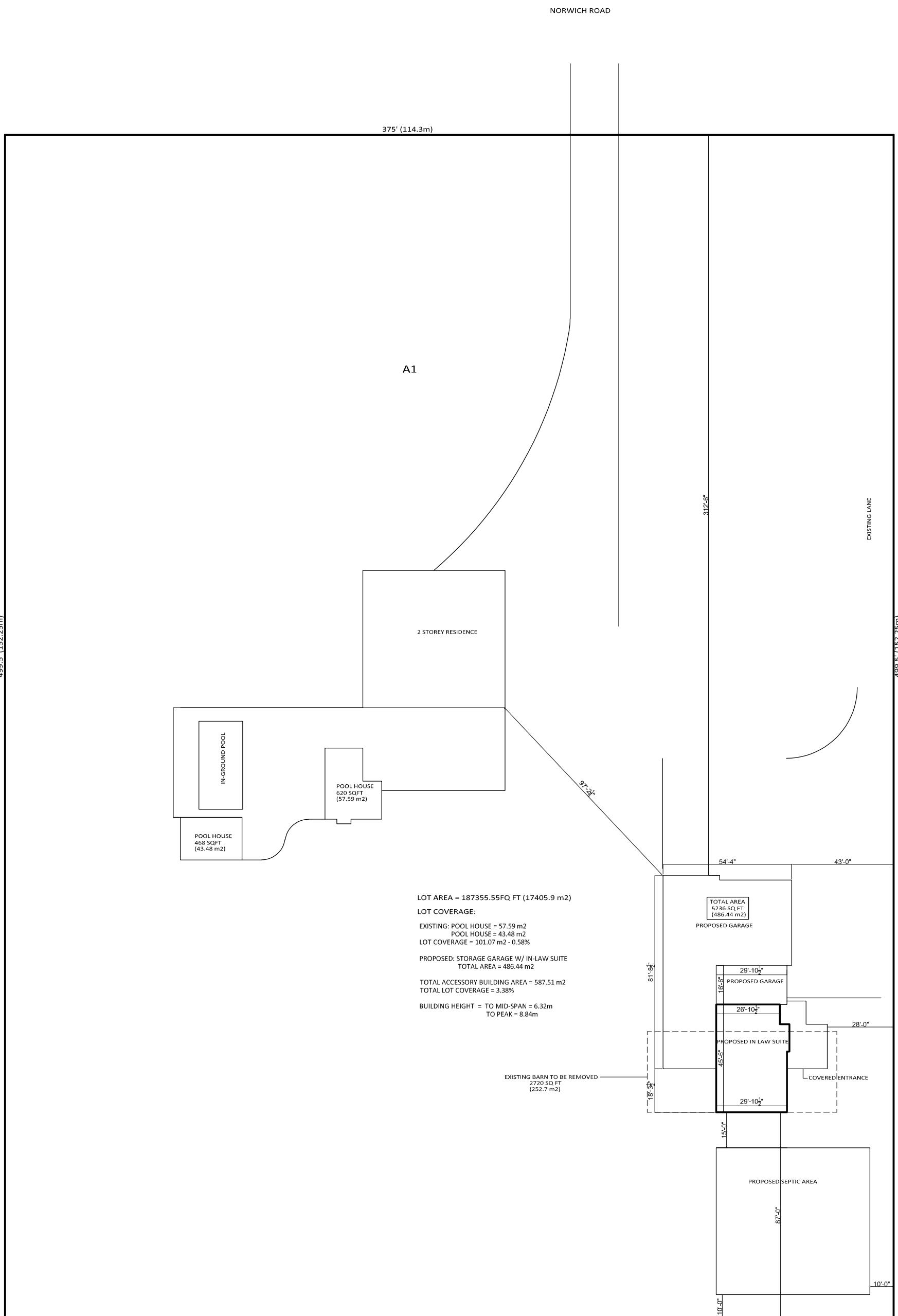
Land Use Zoning (Displays 1:16000 to 1:500)

Notes

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October 24, 2023







THE CORPORATION OF THE TOWNSHIP OF NORWICH

Date: Jan. 3rd, 2024

To: Amy Hartley – Development Planner
Sean McCoy – Planning Coordinator
Re: **ZN3-23-18 (Vrugteveen)** - Review and Comments

Amy,

In review of the plates and sketches submitted supplemental to the application to rezone the subject lands from 'Limited Agricultural Zone (A1)' to 'Special Limited Agricultural Zone (A1-sp)' to permit the establishment of an Additional Residential Unit (ARU) within a proposed new residential accessory structure which would replace the existing barn. The ARU will be approximately 120.7 m² (1,300 ft²) in size and will utilize the existing private services that service the principal dwelling – and to which the building department has the following comments;

- **Buildings Constructed under Permit(s)** – a review of the files reveals permits issued for the construction of existing dwelling, the septic system, and the pool house located upon the subject property. NO permit was found on file pertaining to the existing barn located on the property. No outstanding orders were found on file.
- **Mun. service connections (none permitted/none exist)** - This property is not served by a municipal drinking water system or a public sewer and as such no application to make a new connection to such systems is required prior to zoning approval.
- **Private site servicing (further review, approvals required)** – subject to the above, where no sanitary sewer or potable water servicing information has been provided in addendum to this application and sketches, and where no opportunity for connection to municipal servicing is provided to the subject lands, I am not able to comment upon the sufficiency of the existing associated private services however, I am able to confirm that a new dwelling unit will require provisions for private potable water and storm sewerage, and private sanitary sewage disposal systems made in conformance with applicable law including, but limited to, the Ontario Building Code. Further review of these provisions will be completed at time of the submission for application to permit construction, pending committee approval of this Zoning amendment.
 - **MDS I (required, non compliant)** – as per the provisions of #2 of the OMAFRA Pub. 851 document, the provisions for calculation of MDS apply to the construction of all non-agricultural related buildings for which no livestock or nutrient storage is proposed. Further the guidance for ARU's in Ag. Areas specifies that any proposed ARU the location must satisfy Minimum Distance Separation Formulae (MDS I). Considering these requirements, I have reviewed your calculation sheets as submitted to me on Dec. 22nd, 2023 and I concur with the setbacks as calculated. I do note that these minimum setbacks appear to exceed the proposed setbacks from the neighboring livestock housing and manure storage facilities located at the following addresses;
 - **713200 Middletown Line** (Tie Stall Dairy and Liquid Manure storage)
 - **325448 Norwich Rd.** (Free Stall Diary Barn and under floor liquid manure storage)

(see below accompanying sketch illustrating the required minimum setbacks from the affect facilities above)

Where so, I can confirm that based upon the information provided accompanying the application the proposed ARU will not comply with the OMAFRA prescribed MDS I calculated setbacks and further that the proposed location of the dwelling would not comply with the Township's Zoning by-law Subsection 2.7 provisions (Minimum Distance Separation Formulae (MDS I)).

- **Provision of access for EMS/Fire** – The Ontario Building Code requires access for fire department equipment to be provided to each *building* containing a *dwelling unit* by means of a *street*, private roadway or yard. Where such access to a new *dwelling unit* is required, specific provisions for compliance with the provision of access requirements under the Building Code must be met. This may be facilitated by way of either; a new laneway and entrance (subject to Township Roads Superintendent approval of construction and orientation), or by way of construction of an extension to the existing private driveway extending to the Southeast of the existing driveway.
- **New Civic Address, Plate/post Required** – where the subject sketch denotes the creation of a new dwelling, it may be required that a new civic address be assigned in accordance with the Township civic addressing by-law.

In consideration of the above, where the new dwelling unit and related service infrastructure are made to comply with the Zoning By-law, the Building Code, and all forms of applicable law thereto, the Building Department would have no concerns with the approval of the requested amendment.

Nevertheless, where the above noted concerns with MDS I calculation and compliance with 2.7 of the Townships Zoning by-law cannot be met by approving the submitted application for Zone Change any subsequent application to construct the proposed dwelling and attached garage/shop would not be approved for permit.

It may be in the applicants interest to consider applying for relief from the prescribed MDS I setbacks, in addition to the subject application for Zone Change, via a Minor Variance to the 2.7 provisions of the Townships Zoning By-law.

Regards,

Brad Smale *B. Arch. Sci, CBCO*
Manager, Building Services/Chief Building Official
Township of Norwich



0 242 484 Meters

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December 19, 2023