



A G E N D A

Monday September 13, 2021

COMMITTEE OF ADJUSTMENT MEETING

7:30 p.m., Council Chambers, Fingal/Via Video Link

-
1. CALL TO ORDER
 2. ADDENDUM TO AGENDA
 3. DISCLOSURE OF PECUNIARY INTEREST
 4. ADOPTION OF MINUTES
 - (a) **Minutes of Committee of Adjustment meeting of August 9, 2021**
 5. NEW BUSINESS
 - (a) **Minor Variance Application MV 2021-07, Fife**
 - (b) **Minor Variance Application MV 2021-06 M. Mels and J. Campbell**
 6. ADJOURNMENT



Meeting of the Committee of Adjustment
Monday August 9, 2021
Council Chamber, Fingal/via video link

MEMBERS PRESENT: Mayor Grant Jones
Deputy Mayor Monteith
Councillors: Peter North, Justin Pennings

MEMBERS ABSENT: Councillor Sarah Emons

TOWNSHIP ADMINISTRATION PRESENT: Lisa Higgs, Secretary-Treasurer
Bryan Pearce, Planner
Brent Clutterbuck, Drainage
Superintendent

Minutes:

C of A 2021- 18

MOVED BY: Member Monteith
SECONDED BY: Member North

Resolved that the minutes of the Committee of Adjustment meeting of May 25, 2021 are hereby adopted.

| <u>Recorded Vote</u> | <u>Yeas</u> | <u>Nays</u> |
|----------------------|-------------|-------------|
| S. Emons | — | — |
| G. Jones | <u>√</u> | — |
| R. Monteith | <u>√</u> | — |
| P. North | <u>√</u> | — |
| J. Pennings | <u>√</u> | — |

CARRIED

In Attendance:

- Michael Mels (M. Mels), owner of 35246 Fourth Line, Township of Southwold

- Jody Campbell (J. Campbell), owner of 35246 Fourth Line, Township of Southwold
- Marilyn and Keith Campbell (M & K. Campbell), 417 Beachwood Ave, City of London
- Cam Campbell, no address provided when requested
- Deneane DeKort (D. Dekort), no address provided, Township of Southwold
- Jeff Bannerman (J. Bannerman), Crop Quest Inc, Fife Family's MDS Consultant, 520 Inkerman Street East, Municipality of North Perth
- Brad Fife (B. Fife), family owns 35360 Fourth Line, Township of Southwold
- John Fife (J. Fife), family owns 35360 Fourth Line, Township of Southwold

The applicants are proposing to seek relief from Section 3.20 Regulations of the General Provisions for Minimum Distance Separation Formulae (MDS I & II), to permit the construction of a 276 square metre (2,970 square foot) foot print area single detached dwelling with a reduced MDS-I setback, being the distance from the existing manure storage facility to the dwelling, from the required 528.1 metres (1732.6 feet) to the proposed 300 metres (984.3 feet).

Planner Bryan Pearce presented his report to the Committee, indicating that notices were sent out in accordance to the requirements under *The Planning Act*. Section 45 (1) of *The Planning Act* outlines the four "tests" with which the Committee of Adjustment must be satisfied with when considering an application for a minor variance to the Zoning By-law. The Municipal Planner's report indicates that:

1. The variance maintains the intent and purpose of the Official Plan.
2. The variance maintains the intent and purpose of the Zoning By-law;
3. The variance requested is desirable for the appropriate and orderly development and use of the lands and buildings.
4. The variance is minor in nature.

The Secretary- Treasurer reported that Staff have no concerns with this application. Lower Thames Valley Conservation Authority also commented that after reviewing their files and mapping, staff determined that the property in question is not subject to the Authority's regulations. Also, the lands are not subject to flooding of a general nature and as such structures are not required to be flood proofed. However, the flood proofing of structures for the purposes of prevention of flood damage from local, overland drainage waters is always recommended.

J. Campbell provided the Committee with their plans for the subject property. They have planted trees to be used as a wind break to prevent erosion. They are aware of the regulations that are in place to protect their property and neighbouring property that contains a manure storage facility and she indicated that they do not want any conflicts with the neighbours. Their plans are long term. There have been few times when the smell of manure was evident.

The hearing was opened to questions from Council.

Chairperson Jones questioned the setbacks and the significant change. B. Pearce responded that the setbacks are based on calculations, and we need to consider all aspects and the application must meet the four tests. Mr. Pearce also reported that a letter was received from the lawyer of the adjacent property, citing concerns with the MDS I calculations.

Member North questioned the property adjacent to the manure facility and their ability to expand within the 300 m. Mr. Pearce responded that it won't meet the setbacks based on the location of the dwellings, but that this property owner can also seek relief from the zoning regulations. Mr. North also questioned the construction of the home and its future impact on the future compliance to the owner of the manure storage property. Mr. Pearce responded that anytime there is development proposed, you need to comply with the MDS. We are dealing with a dwelling unit today and it need to maintain a separation of an existing

Member Monteith questioned whether the dwelling could be located to far west portion of the subject property. Mr. Pearce responded that it would enhance the distance but the entire lot is in the ordour ring of the existing facility. The western portion has a municipal drain and there would be some constraints. The lands also include a slope and the owners had to complete an Environmental Impact Study for significant woodlands and wetlands south of Fourth Line. The EIS required them to have a certain elevation point so that it would not affect the wetland feature. They would also need a lot of fill because of wetlands in the western portion of the subject property.

Member Pennings questioned the 3 year commitment for the reduced storage for the maximum depth of the manure tank that was mentioned in the letter from Mr. Coombes. Mr. Pearce responded that the province has a 3 year MDS guideline for no building activity. If the manure tank is to be expanded, it would change the algorithm on their setback calculation, which does not eliminate the total setback, but minimizes the expansion of the odour ring.

Member North questioned if there is any legal undertaking that could be put on title that the facility is kept in place. Mr. Pearce responded that with land titles there is an ability to put provisions (warning clause) on title, noting there is a livestock facility with odours to the east.

Chairperson Jones questioned that it would put an onus on the Fifes in the future to do a minor variance if they wanted to expand. Mr. Pearce responded that they would have to comply with the MDS II and if not, they can seek relief through the

minor variance process. It could have been done in 2019 when the manure pit was constructed.

Member North questioned if they applied now would they have to comply with MDS II. Mr. Pearce responded that a manure expansion is an MDS II calculation and they would have to comply.

Member Pennings commented on the smell of the manure pit and the applicant's position on future expansion of the tank. Mr. Pearce also commented that the MDS is based on cubic volume of the facility. An increase in volume would increase a setback distance. It would have increased odour potential as the volume would be increased but additives could be added to mitigate odour.

The Secretary -Treasurer reported that written comments were received from the Financial Services department and were captured in the planning staff report.

The Secretary-Treasurer also reported that written comments were received from the Lower Thames Valley Conservation Authority and were captured the planning staff report. Since the report was written, comments were received from Mark Coombes, Solicitor, Bowsher + Bowsher Law Firm, representing Robert and Dorothy Fife, 35360 Fourth Line, letter dated August 6, 2021 and Brad Beharrell, 36699 Third Line, email dated August 6, 2021. Copies of the correspondence was provided to the members of the Committee of Adjustment and the Applicant.

These comments are summarized below.

Mark Coombes letter:

Please consider this submission to the Committee on behalf of Robert and Dorothy Fife, the owners of the farm property north-east adjacent to the property that is the subject of this minor variance application....

The agricultural property owned by the Fifes contains a liquid manure tank, measuring 220ft in diameter and a 14.5ft depth, which tank receives and stores dairy manure....

The Fife's strongly oppose this application and wish to make their position, submissions, and information contained in this letter known to the Committee as it considers the application...

The letter addresses Provincial Policy Statement 2020, Minimum Distance Formulae, Problems with the Application and Conclusion.

The conclusion of the letter noted the following:

The Fife's submit that allowing this application would not be in keeping with good planning practice and would not be consistent with the directives of the *Provincial Policy Statement*. Allowing this application would threaten both the Fifes existing and future planned uses of their agricultural property and for that reason the Fifes respectfully ask that this honourable Committee refuse to grant the Applicant's application.

Brad Beharrell email:

My comments are this is agriculture zoning and it seems this is solely a manor of convenience with a major exemption to the MDS, close to 50%, without considering various other options available to allow building with much less variance needed....

Options not used are turning road allowance over to adjoining property owners increasing building area, reducing side yard and back yards to move building farther away.

I happen to be talking to someone and stepped into the manure pit location issue using dairy on MDS instead of imported manure for the difference in numbers but have seen the Township totally ignore the MDS requirements, to the point one would say is discriminatory against agriculture.

...There is no attempt in the proposal to maximize the separation distance to an active farm operation and instead focus the passive EA of a minor wetland with a municipal drain coming to the area seems like a complete disregard for MDS or an excuse to build in a preferred location creating a high risk of conflict in the future with many options to maximize the distance not used to reduce this risk...

Chairperson Jones asked if there was anyone who received this notice and would like to comment.

D. Dekort questioned who represents the wetlands. Chairperson Jones responded that it is the Lower Thames Valley Conservation Authority.

J. Fife commented that they do not want conflict with the neighbours, but with the changes being proposed it may cause problems for us in the future. He notified the committee that the facility now is in compliance with the dwellings around it.

J. Bannerman from Crop Quest Inc. prepared a report on the MDS I calculations. His report cited that there would be a problem with the new MDS calculations with an explanation that was misinterpreted when the tank was built. The Fife's worked with Township staff to meet the MDS requirements and to be in compliance with the regulations. What is being proposed is not the compliance with MDS. This is not a minor variance at 43%. The size of the tank, circumference and depth would not change the odour. A straw cover could be added to the tank to mitigate the odour. The MDS calculation do not meet the situation here.

M. Mels commented that the capacity of the tank still needs to go through a MDS calculation. The MDS II still applies. J. Fife commented that they already know they are in compliance with the existing dwelling.

Chairperson Jones questioned the municipal drains. Drainage Superintendent Brent Clutterbuck responded that there a process to follow to move a drain and the owner would have to pay the costs involved.

J. Fife questioned if this was the drain that is going to cross the 401. Mr. Clutterbuck responded yes.

Member Monteith questioned what the percentage would be if not in compliance with the MDS. J. Fife responded to the west it would 1750 ft but we wouldn't want to go any closer than 1420 ft to the house as this would not affect the MDS for our expansion.

Member Monteith asked if the proponents had a problem building in the western part of their property. M. Mels responded that there are several issues including the wetlands, elevation and the site lines if the dwelling was to be located the western part of the property. It would cost them a lot of money.

J. Fife questioned the process for expansion and B. Pearce responded that the MDS needs to be done and there are no guarantees in the planning process. The landowners of both properties can have a further discussion and the Committee of Adjustment can add conditions of approval.

J. Campbell commented that they are not opposed to the Fifes filling their tank to capacity.

Chairperson Jones questioned if there is something we can put on title as a mutual agreement. L. Higgs commented that the Committee could defer the application and allow staff to do some research to find a solution for both property owners, as

both parties are agreeable to proceeding. Chairperson Jones commented that he was not comfortable making a decision tonight and the members agreed.

C of R 2021-20

MOVED BY: Member Pennings
SECONDED BY: Member Monteith

Resolved that the decision on application MV 2021-06 be deferred until September 13, 2021 so staff can do more research.

| <u>Recorded Vote</u> | <u>Yeas</u> | <u>Nays</u> |
|----------------------|-------------|-------------|
| S. Emons | <u>—</u> | <u>—</u> |
| G. Jones - Mayor | <u>√</u> | <u>—</u> |
| R. Monteith | <u>√</u> | <u>—</u> |
| P. North | <u>√</u> | <u>—</u> |
| J. Pennings | <u>√</u> | <u>—</u> |

CARRIED

C of A 2021- 21

MOVED by: Member Monteith
SECONDED by: Member North

RESOLVED that the meeting of the Committee of Adjustment to hear Application MV 2021-06, filed by Michael Mels closes at **8:51 p.m.** and the regular meeting of council reconvene.

| <u>Recorded Vote</u> | <u>Yeas</u> | <u>Nays</u> |
|----------------------|-------------|-------------|
| S. Emons | <u>—</u> | <u>—</u> |
| G. Jones | <u>√</u> | <u>—</u> |
| R. Monteith | <u>√</u> | <u>—</u> |
| P. North | <u>√</u> | <u>—</u> |
| J. Pennings | <u>√</u> | <u>—</u> |

CARRIED

Chairperson

Secretary-Treasurer



TOWNSHIP OF SOUTHWOLD

Report to Committee of Adjustment

MEETING DATE: September 13, 2021

PREPARED BY: Bryan Pearce, HBA, CPT, MCIP, RPP, Planner

REPORT NO: PLA 2021-29

SUBJECT MATTER: Minor Variance Application ZBA 2021-07 – Recommendation Report

Recommendation(s):

THAT the Committee of Adjustment of the Township of Southwold receive Report PLA 2021-29 regarding Minor Variance Application ZBA 2021-07 – Recommendation Report;

AND THAT Committee of Adjustment of the Township of Southwold approve the proposed Minor Variance Application MV 2021-07, to obtain relief from Section 3.20 Regulations of the General Provisions for Minimum Distance Separation Formulae (MDS I & II), to permit the following:

1. The expansion of the existing 67 metre (220 foot) diameter manure storage facility (pit), by covering up the existing hole at a side wall height of 3.0 metres (9.9 feet) within the existing side wall height of 4.4 metres (14.5 feet), to allow the manure storage facility (pit) to be filled up to 4.1 metres (13.5 feet) in height with a 0.3 metres (1 foot) of freeboard space at the top of the wall, with a reduced MDS-II setback, being the distance from the proposed dwelling to the existing manure storage facility (pit) proposed to be expanded, from the required 595 metres (1,953 feet) to the proposed 300 metres (984.3 feet); and
2. A future proposed livestock and manure facility, with a reduced MDS-II setback to the proposed dwelling at 35246 Fourth Line, being no closer than 300 metres (984.3 feet), while still complying with the MDS-II setbacks to the other nearby dwellings.

Subject to the following conditions:

1. That the proposed development is substantially in accordance with the Minor Variance MV2021-07 drawings, as appended to Report PLA 2021-29.
2. That the Owner enter into a Minor Variance Agreement with the Municipality for the proposed development, addressing all municipal interests and associated fees and charges, which may include, but is not limited to: receipt of information on technologies to aid in the mitigation of odour through facility design and site location for the future proposed livestock and manure storage facility; and utilizing best management practices to aid with the mitigation of odour potential with the existing manure storage facility, to be executed and registered on title prior to issuance of a building permit for the proposed development, to the satisfaction and clearance of the Municipality.

Purpose:

The proposal is to seek relief from Section 3.20 Regulations of the General Provisions for Minimum Distance Separation Formulae (MDS I & II), to permit the following:

1. The expansion of the existing 67 metre (220 foot) diameter manure storage facility (pit), by covering up the existing hole at a side wall height of 3.0 metres (9.9 feet) within the existing side wall height of 4.4 metres (14.5 feet), to allow the manure storage facility (pit) to be filled up to 4.1 metres (13.5 feet) in height with a 0.3 metres (1 foot) of freeboard space at the top of the wall, with a reduced MDS-II setback, being the distance from the proposed dwelling to the existing manure storage facility (pit) proposed to be expanded, from the required 595 metres (1,953 feet) to the proposed 300 metres (984.3 feet); and
2. A future proposed livestock and manure facility, with a reduced MDS-II setback to the proposed dwelling at 35246 Fourth Line, being no closer than 300 metres (984.3 feet), while still complying with the MDS-II setbacks to the other nearby dwellings.

Background:

Below is a background information, in a summary chart:

| | |
|--------------------------|--|
| Application | MV 2021-07 |
| Owner | Robert and Dorothy Fife |
| Applicant | John Fife |
| Legal Description | South Part Lots 8 and 9, Concession 3 |
| Civic Address | 35360 Fourth Line |
| Entrance Access | Fourth Line |
| Water Supply | Township water supply |
| Sewage Supply | None |
| Use of Property | Existing: Agricultural Proposed: Agricultural |
| Buildings | Existing: Manure Storage Facility and Farm Machinery Storage Barn Proposed: Expansion to the existing Manure Storage Facility and a future proposed livestock and manure storage facility |

| | |
|------------------------------------|---|
| Existing Land Area | 41.0 ha (101 ac) |
| Official Plan Land Use Designation | Agricultural |
| Zoning Category | Agricultural 1 (A1), with Natural Areas and Adjacent Lands constraint (Schedule A, Map 2) |

Figure One below, depicts the existing parcel of the Fife Lands.

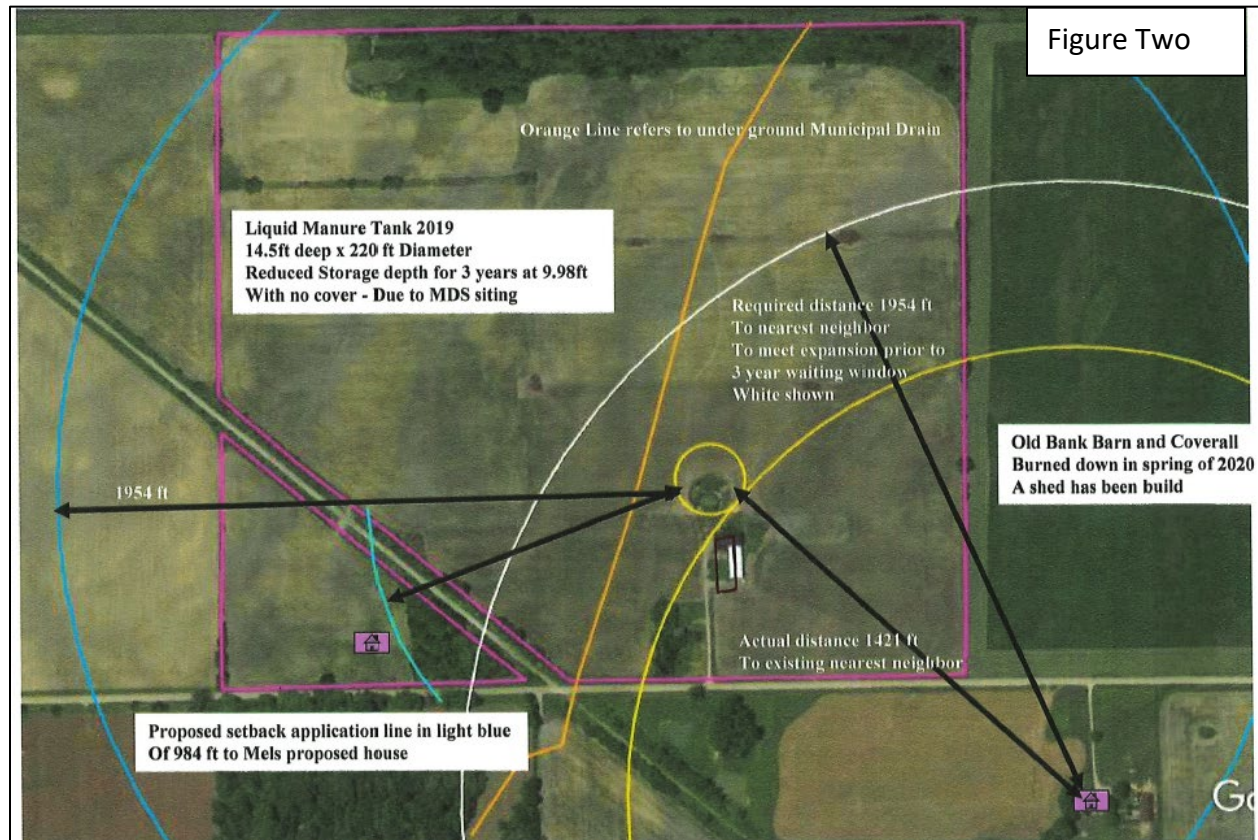


The owner is proposing to expand the existing manure storage facility (pit) on the subject lands, with considerations of a future proposed livestock and manure facility. Section 3.20 Regulations of the General Provisions for Minimum Distance Separation Formulae (MDS I & II), states that all lands within the Municipality shall be subject to MDS-I and MDS-II in accordance with Provincial requirements as amended time to time. The owner is proposing to reduce the MDS-II setback for the following:

- expansion of the existing 67 metre (220 foot) diameter manure storage facility (pit), by covering up the existing hole at a side wall height of 3.0 metres (9.9 feet) within the existing side wall height of 4.4 metres (14.5 feet), to allow the manure storage facility (pit) to be filled up to 4.1 metres (13.5 feet) in height with a 0.3 metres (1 foot) of freeboard space at the top of the wall, being the distance from the proposed dwelling to the existing manure storage facility (pit) proposed to be expanded, from the required 595 metres (1,953 feet) to the proposed 300 metres (984.3 feet).
- A future proposed livestock and manure facility, to the proposed dwelling at 35246 Fourth

Line, being no closer than 300 metres (984.3 feet), while still complying with the MDS-II setbacks to the other nearby dwellings.

Figure Two below is an excerpt of the site plan drawing submitted:



The proposed expansion to the existing manure storage facility (pit) is located 433 metres (1421 feet) from the dwelling at 35507 Fourth Line and 300 metres (984 feet) from proposed dwelling at 35246 Fourth Line.

The proposed future livestock and manure storage facility would need to maintain the 300 metres (984 feet) from 25246 Fourth Line, while complying with the other nearby dwellings for the MDS-II calculations at the time development is being considered.

Ontario Ministry of Agricultural Food and Rural Affairs (OMAFRA)'s Minimum Distance Separation (MDS) Document Publication 853 has the following applicable application guidelines, for further understanding:

- Guideline #18: MDS-II for Building Permit Applications to Renovate Existing Livestock Facilities

- States that an MDS-II setback is required to the approval of a building permit application to renovate existing livestock facilities that would result in an altered livestock facility.
- Guideline #19: Cumulative Design Capacity of Livestock Facilities on a lot
 - States that MDS calculations shall be based on the combined design capacity for all livestock barns on a lot, even if they are unoccupied livestock barns or separated by a substantial distance on the lot. Where there are no livestock barns on a lot, MDS calculations shall be based on the combined design capacity for all manure storages on a lot, even if they are unused manure storages or separated by a substantial distance on the lot.
- Guideline #27: Factor C: Expansion Factor
 - States the following:
 - Factor C only applies for MDS II, and is based on the percentage increase in the number of Nutrient Units for the proposed construction of a first or altered livestock facility, compared to the Nutrient Units of all existing livestock facilities on the lot. The greater the percentage increase, the greater the value for Factor C and the further the resulting MDS II setbacks, all things being equal.
 - Expansion of a livestock facility is a necessary and typical process for most farm operations, and can reasonably be expected over time.
 - Factor C is 1.14 for the first livestock facility on a lot, resulting in a building location that will allow for future expansion of most subsequent livestock facilities within a reasonable building envelope.
 - Factor C is 0.5 for no increase in Nutrient Units (0% increase) and for decreases in Nutrient Units.
 - Where an existing livestock facility is to be expanded, the percentage increase shall be calculated using the total additional Nutrient Units proposed as the numerator and the total existing Nutrient Units as the denominator, with the result multiplied by 100.
 - Where a livestock facility is to be expanded, and one or more building permits to establish or expand that livestock facility were already issued within the previous 3 years, the percentage increase shall be calculated using the total additional Nutrient Units established or added by building permit(s) issued during the previous 3-year period, plus the proposed expansion, as the numerator, and the total existing Nutrient Units prior to the previous 3-year period as the denominator.
- Guideline #40: Measurement of MDS setbacks for development and dwellings

- States that MDS-II setbacks are measured as the shortest distance between the point of new construction for the livestock occupied portions of the livestock barn, manure storages and the surrounding dwellings.
- Guideline #43: Reducing MDS Setbacks
 - States the following:
 - MDS II setbacks should not be reduced except in limited site specific circumstances that meet the intent of this MDS Document. Examples include circumstances that mitigate environmental or public health and safety impacts, or avoid natural or human-made hazards.
 - If deemed appropriate by a municipality, the process by which a reduction to MDS II may be considered would typically be through a minor variance to the local zoning by-law provisions. To a lesser extent a site specific zoning by-law amendment may also be appropriate.

Comments/Analysis:**Planning Policy Review:**Provincial Policy Statement

Under Section 3(5) of the *Planning Act*, the Township “shall be consistent with” matters of provincial interest as set out in the Provincial Policy Statements (PPS).

Agricultural policies under Section 2.3 of the PPS permits agricultural uses. New land uses, including the creation of lots and new or expanding livestock facilities shall comply with the minimum distance separation formulae.

The intent of the MDS Formula, created by OMAFRA, is to provide a recommended separation distance between livestock/manure facilities and non-farm residential uses for such potential nuisances as odour (smell). MDS setbacks are based on information from the affected farm in terms of current size of facility, type of livestock and type of manure storage. MDS is a guideline that can be varied based on site-specific circumstances.

The owner is proposing to reduce the MDS-II setback, being the distance from the proposed dwelling and a proposed expansion to an existing manure storage facility and a future proposed livestock and manure facility, as mentioned in detail above. The reductions to MDS-II are appropriate as the existing lot where the existing manure storage facility was constructed in 2019. The hole in the pit wall was put in as a solution to obtain compliance with MDS-II calculations, since incorrect MDS data was provided to the Municipality at time of building permit and was caught during construction. The existing manure pit location sterilizes the subject lands

of 35246 Fourth Line, that is being considered through Minor Variance Application MV 2021-06 for a proposed dwelling to reduce the MDS-I setback. Likewise, in order for the existing manure pit to be expanded, a proposed reduction to the MDS-II setback is required since the proposed new dwelling would make the manure pit non-compliant, even though the intent was to fill in the hole on the manure pit 3 years after it was built, based on the expansion factor guidelines of the MDS to then comply with the existing setback to the dwelling at 35507 Fourth Line. Further, the Applicant has requested a MDS-II reduction for a future proposed livestock and manure facility, from 35246 Fourth Line, so that the subject lands aren't further constrained from the proposed new dwelling being considered on the adjacent lands to the west.

This proposed Minor Variance is consistent with the PPS.

County of Elgin Official Plan

The subject lands are designated Agricultural Area on Schedule 'A' Land Use in the County of Elgin Official Plan (CEOP). Section C2.3 of the CEOP permits agricultural uses and single detached dwellings with the agricultural use, conforming to this proposal.

Section C2.10(a) Compatibility of Agricultural Uses with Other Land Uses states in order to provide farmers with the ability to carry out normal farm practices, all new development, including development on existing lots of record, shall be set back from agricultural operations in accordance with the minimum distance separation one formula, as amended. Section C2.10(c) states the minimum distance separation one and two formulae shall be included in local zoning by-laws, as appropriate and in accordance with this Plan and the local Official Plans.

The MDS-II setback from the nearby dwelling and proposed dwelling cannot be met from the existing manure storage facility and the proposed future facility, as further rationalized above. However the owner has applied for this Minor Variance application as the request for the reduction is appropriate. The owner is still providing a 300m (984 feet) buffer distance from the proposed new dwelling to potential farm nuisances related to odour and other normal farm practices aspects, and are currently farming the subject lands as well.

Therefore, this proposed Minor Variance conforms to the CEOP.

Four Tests Of The Minor Variance:

Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

- 1. Does the variance maintain the intent and purpose of the Township of Southwold Official Plan?***

Yes. The subject lands are designated Agricultural on Schedule 'A' Land Use in the Township of Southwold Official Plan. Section 4.1 agricultural land use policies allow for agricultural uses and limited residential uses. New land uses, including the creation of lots, and new or expanding livestock facilities will comply with the Minimum Distance Separation formulae.

The intent of the MDS-II is still being maintained as there would be a proposed 300 metre (984 foot) setback distance between the proposed new dwelling on 35246 Fourth Line; and an existing setback distance of 433 metres (1421 feet) from the dwelling at 35507 Fourth Line for the manure pit expansion; and the into with the future proposed livestock and manure facility would be no closer than 300 metres (984 feet) from the proposed dwelling at 35246 Fourth Line, as in not to allow the future facility no closer than the existing manure pit is to the proposed dwelling, while still needing to comply with the MDS-II setbacks to the other nearby dwellings.

The proposal has the potential to introduce incompatible activities; however, the impacts will be minimal, with the proposed conditions of approval, as the existing lot of record of 35246 Fourth Line has co-existed for a significant period of time and once owned by the farmer on the subject lands that had livestock facility's previously on the property; and the existing dwelling at 35507 Fourth Line has co-existing with livestock facilities on the subject lands for a period of years and the proposed manure pit expansion would be in compliance in 2022, so this non-compliance request is just a shift in the time horizon since it was constructed to 2.5 years versus 3 years.

The proposed reduced MDS-II setbacks do not contravene the Official Plan policies.

2. *Does the variance maintain the intent and purpose of the Township of Southwold Zoning By-law?*

Yes. The subject lands are zoned Agricultural 1 (A1) Zone in the Township of Southwold Zoning By-law 2011-14, Map 2. Agricultural use (which includes livestock facilities) is a permitted use in the Agricultural 1 (A1) Zone. With the exception of the proposed reduced minimum distance separation, the application complies with the remaining zoning provisions for the proposed manure pit expansion; and the proposed future livestock facility would need to comply with the zoning by-law provisions, subject to the proposed reduction to 35246 Fourth Line for the MDS-II setback at the time of building permit application review.

Section 3.4 Natural Areas constraint only affects nominal portion of the subject lands by the former railway lands in the southwest portion of the subject property; and has no effect on the development proposal.

Section 3.20 Minimum Distance Separation Formulae (MDS I & MDS II) states all lands within the Township shall be subject to MDS-I and MDS-II in accordance with Provincial requirements as amendment from time to time. The reductions to MDS-II are appropriate, with the proposed conditions of approval, as the proposed new dwelling at 35296 Fourth Line is still providing a

300m (984 foot) buffer distance to the existing manure pit and potentially the future livestock and manure facility, to potential farm nuisances related to odour and other normal farm practices aspects.

3. *Is the variance requested desirable for the appropriate and orderly development and use of the lands and buildings?*

Yes. The variance will enable the owner to expand the existing manure pit with a reduced minimum distance separation to the proposed dwelling at 35246 Fourth Line and the existing dwelling at 35507 Fourth Line. Due to the existing odour buffer ring of the existing manure storage facility that encompasses all of 35246 Fourth Line, minor variance application 2021-06 is being considered simultaneously to reduce the MDS-I setback, to be mutually beneficial, with recommending conditions of approval to aid in mitigation of odour-related issues of concern. Secondly, the proposed future livestock and manure facility would allow for additional potential subject to the new dwelling being considered at 35296 Fourth Line. The variance will not impede the function of the lot and still provides for spatial separation between the dwellings and the existing manure facility and proposed future livestock and manure facility on the property to mitigate odour, subject to the recommended conditions.

4. *Is the variance minor in nature?*

Yes. The meaning of ‘minor’ is not based on a specific number, where a difference of a number of feet determines whether or not the development is acceptable. It is more appropriate to base this test on the degree of potential impact on neighbouring property owners; the environment; and the municipal, County, or provincial functions.

It is anticipated the proposed reduced MDS-II setbacks would have negligible impacts to the neighbouring property owners with the proposed/existing dwellings with the existing manure facility and proposed future livestock and manure facilities, subject to the recommended conditions, due to site location and existing topography, and mature tree inventory that would aid in putting odour plume up higher into the area and stir. Further, the proposed future new facility can be designed and located in a manner than mitigates odour potential to the surrounding area; and the existing manure pit to be expanded can utilized best management practices to aid in mitigate of odour potential.

The impact from the proposed variance is negligible with respect to the environment, Township functions, County functions, or provincial functions and surrounding property owners.

Circulation Of The Application:

The application was circulated to the applicable Township Departments, Commenting Agencies, neighboring property owners within 60 metres of the subject lands, and to those that expressed interest in the application through the first public hearing on September 3, 2021, 10 days prior to the public hearing (minimum 10 days required).

Township Department Comments

The proposed minor variance application was circulated to Township staff for comment. No comments were received.

Agency Comments

Lower Thames Valley Conservation Authority, in their September 7, 2021 letter, noted the following:

- After reviewing our files and mapping, staff determined that the property in question is not subject to the Authority's regulations.
- The lands are not subject to flooding of a general nature and as such structures are not required to be flood proofed. However, the flood proofing of structures for the purposes of prevention of flood damage from local, overland drainage waters is always recommended.

No further comments were received from applicable commenting agencies at time of writing of this report.

Public Comments

At the time of submission of this report, no written comments from the public have been received related to the Minor Variance.

In verbal discussions with the Owner of the proposed dwelling at 35246 Fourth Line, the conditions of approval will aid mitigation of the odour potential from the proposed expansion of the existing manure pit; and proposed future livestock and manure facility, so that there are no further land area constraints being proposed with the proposed new dwelling being considered at 35246 Fourth Line.

Again the land owner of the subject lands will need to demonstrate zoning by-law compliance at time of building permit application for MDS-II calculations. If the proposed MDS-II setback complies with the setbacks nearby land uses, such as dwellings, then expansion can occur. Alternatively, zoning relief can be sought through a future planning application process, subject to public engagement and Planning Approval authority decision-making, at that time.

Financial Implications:

None. Application fees were collected in accordance with the Township's Tariff of Fees By-law, as amended time to time.

Strategic Plan Goals:

The above recommendation helps the Township meet the Strategic Plan Goal of:

- ☒ Promoting residential, agricultural, commercial, and industrial development by ensuring policies and services are in place to support growth in The Township of Southwold.
- ☐ Promoting a healthy, naturally beautiful, and community-oriented municipality by encouraging and supporting involvement of volunteer organizations wishing to provide cultural and recreational activities in the Township of Southwold.
- ☐ Providing improved transportation and a strong commitment to asset management with a goal of maintaining the Township's infrastructure in the promotion of public safety
- ☐ Exercising good financial stewardship in the management of Township expenditures and revenues.
- ☒ Promoting public engagement, transparent government, and strong communications with all members of the community across various mediums for the strengthening of civic participation.

SUMMARY/CONCLUSION:

The application has been assessed for appropriateness with regard to existing policy and the impact of the proposal on the surrounding land uses. The application maintains the intent and purpose of the Official Plan and Zoning By-law, desirable for the appropriate and orderly development and use of the lands and buildings and is minor in nature; and therefore the minor variance application satisfies the four tests pursuant to Section 45(1) of the *Planning Act*, and constitutes good land use planning.

Planning Staff recommends that the request for Minor Variance be conditionally approved, subject to no concerns being raised through any oral and written submissions being received since the writing of this report and at the public hearing.

Once a Committee of Adjustment decision is made, Notice will be sent to those who have requested a copy and/or attended the public hearing.

There will be a 20 day appeal period from the Decision in which the Notice will be sent out within 10 days of the Decision. Any appeals received by the Township of Southwold will be

forwarded to the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal) for a hearing, in accordance with the *Planning Act*.

Respectfully submitted by:
Bryan Pearce, HBA, CPT, MCIP, RPP
Planner

Approved for submission by:
Lisa Higgs
CAO/Clerk

Appendices:

1. Appendix One: Minor Variance Application MV 2021-07 Drawings

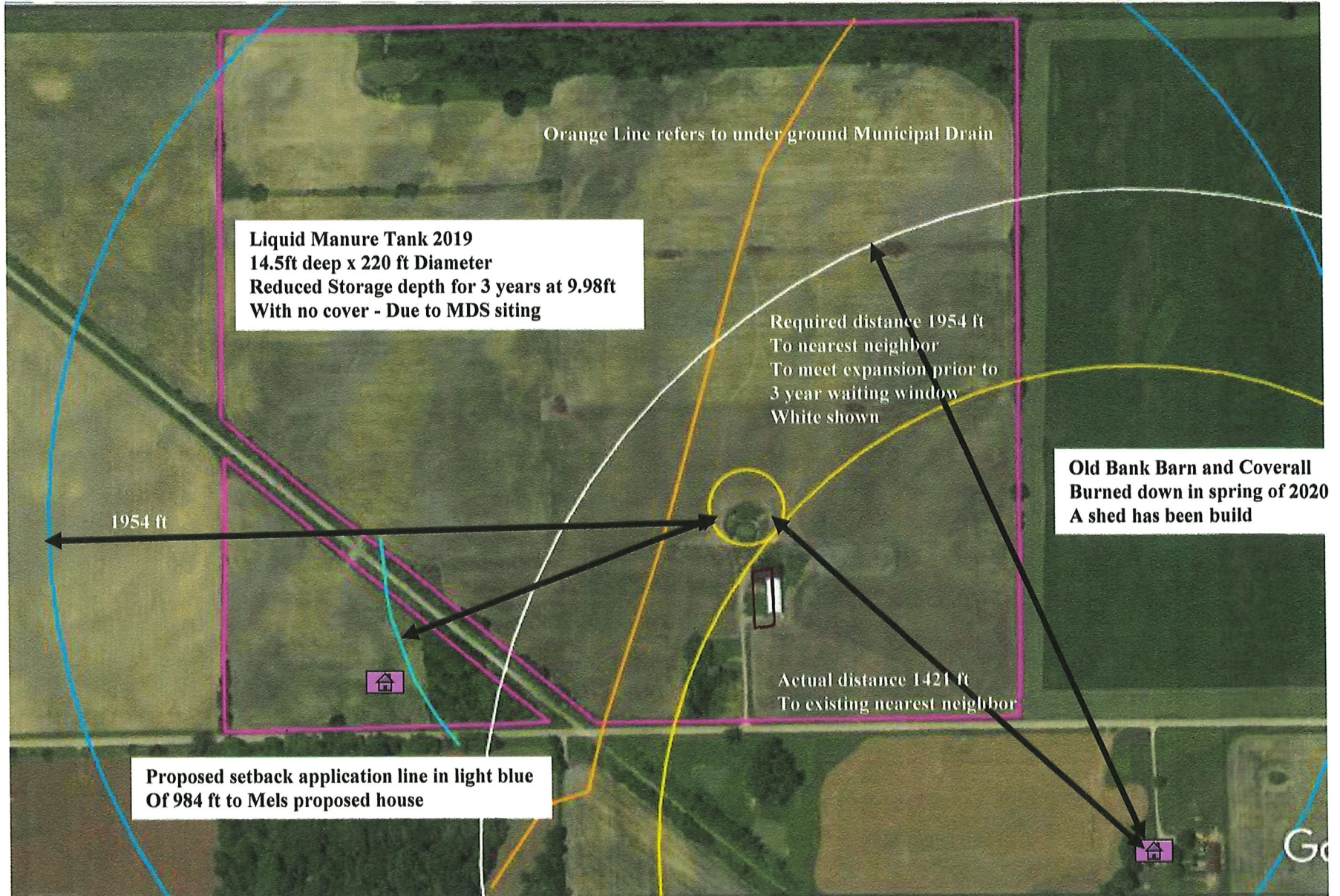
Chamberlan Farm
35360 4th Line, Shedden
Pt Lot 8 & 9 Concession 3
Southwold Twp.
92.16 acres

Fife Farms Ltd

Sept 1, 2021



MDS 2 Sketch for Minor Variance Mtg





TOWNSHIP OF SOUTHWOLD

Report to Committee of Adjustment

MEETING DATE: September 13, 2021

PREPARED BY: Bryan Pearce, HBA, CPT, MCIP, RPP, Planner

REPORT NO: PLA 2021-28

SUBJECT MATTER: Minor Variance Application ZBA 2021-06 – Follow-up Recommendation Report

Recommendation(s):

THAT the Committee of Adjustment of the Township of Southwold receive Report PLA 2021-28 regarding Minor Variance Application ZBA 2021-06 – Follow-up Recommendation Report;

AND THAT the Committee of Adjustment of the Township of Southwold approve the proposed Minor Variance Application MV 2021-06, to obtain relief from Section 3.20 Regulations of the General Provisions for Minimum Distance Separation Formulae (MDS I & II), to permit the construction of a 276 square metre (2,970 square foot) foot print area single detached dwelling with a reduced MDS-I setback, being the distance from the existing manure storage facility to the dwelling, from the required 528.1 metres (1732.6 feet) to the proposed 300 metres (984.3 feet), subject to the following conditions:

1. That the proposed development is substantially in accordance with the Minor Variance MV2021-06 drawings, as appended to Report PLA 2021-24.
2. That the Owner enter into a Minor Variance Agreement with the Municipality for the proposed development, addressing all municipal interests and associated fees and charges, including and not limited to heating, ventilation and air conditioning system, tree planting plan, notice on title, to be executed and registered on title prior to issuance of a building permit for the proposed development, to the satisfaction and clearance of the Municipality.

Purpose:

This is a follow-up report, based on the August 9, 2021 Committee of Adjustment Public Hearing that was deferred, as a result of comments received on the application.

The proposal is to seek relief from Section 3.20 Regulations of the General Provisions for Minimum Distance Separation Formulae (MDS I & II), to permit the construction of a 276 square metre (2,970 square foot) foot print area single detached dwelling with a reduced MDS-I setback, being the distance from the existing manure storage facility to the dwelling, from the required 528.1 metres (1732.6 feet) to the proposed 300 metres (984.3 feet).

Background:

Comments were received from the farmer (Fife) adjacent to the subject lands to the east with the existing manure storage facility on the farm, as well as a livestock farmer beyond the circulation area with a livestock operation 3.5 kilometres from the subject lands.

Township Administration coordinated a meeting between the Applicant and farmer to the east with the existing manure storage facility on the farm, to aid in resolving the issues raised through the comments received.

As a result, of the issues raised with the proposed pit expansion and future proposed livestock/manure facility, the Fife's have applied for a minor variance application, being file MV 2021-07, being heard at the same Committee of Adjustment Meeting. Details of that proposal will be further discussed under that application.

Comments/Analysis:

In efforts to mitigate odour potential from the existing manure storage facility to the proposed development on the subject lands, Township Administration recommends entering into a Minor Variance Agreement, with provisions addressing, at minimum the following:

- Heating, ventilation and air conditioning (HVAC) System;
- Tree Planting; and
- Notice on Title

HVAC System

The installation of HVAC system, will allow for filtered air supply to the development proposal, rather than relying on operable window openings that could have odour potential as a result of the existing livestock/manure facility of land application processes.

Tree Planting

The installation of tree planting will aid with the mitigation of odour potential through the mixing and stirring of the air. There are certain tree species that aid in this, which may be informed by a Landscape Architect and the municipality may request a design prior to building permit issuance. The intent would be for the trees to be planted prior to issuance of an occupancy permit by the Municipality so that the plantings are in place with habitation of the dwelling.

Notice on Title

Notice on title, will create added awareness to future owners of the subject lands of the existing livestock facilities and/or manure storage facilities on the adjacent lands to the east and that the minimum distance separation distance has been reduced for the dwelling on the subject lands, as it would be registered on Title on the Property Identification Number.

Planning Report PLA 2021-24 is attached to this report as Appendix One for reference purposes to the first public hearing.

Second Circulation of The Application:

The application was circulated to the applicable Township Departments, Commenting Agencies, neighboring property owners within 60 metres of the subject lands, and to those that expressed interest in the application through the first public hearing on September 3, 2021, 10 days prior to the public hearing (minimum 10 days required).

Township Department Comments

The proposed minor variance application was circulated to Township staff for comment. No additional comments were received.

Agency Comments

Ministry of Transportation (MTO), in their September 1, 2021 email, note the following:

- The subject property falls outside of the MTO permit control area, as such, MTO permits are not required.

No further comments were received from applicable commenting agencies at time of writing of this report.

Public Comments

At the time of submission of this report, no additional written comments from the public have been received related to the Minor Variance, as a result of the second circulation.

Financial Implications:

None. Application fees were collected in accordance with the Township's Tariff of Fees By-law, as amended time to time. It is acknowledged that there is additional time and cost incurred with a second public hearing, with no additional fees required.

Strategic Plan Goals:

The above recommendation helps the Township meet the Strategic Plan Goal of:

- ☒ Promoting residential, agricultural, commercial, and industrial development by ensuring policies and services are in place to support growth in The Township of Southwold.
- ☐ Promoting a healthy, naturally beautiful, and community-oriented municipality by encouraging and supporting involvement of volunteer organizations wishing to provide cultural and recreational activities in the Township of Southwold.
- ☐ Providing improved transportation and a strong commitment to asset management with a goal of maintaining the Township's infrastructure in the promotion of public safety
- ☐ Exercising good financial stewardship in the management of Township expenditures and revenues.
- ☒ Promoting public engagement, transparent government, and strong communications with all members of the community across various mediums for the strengthening of civic participation.

Summary/Conclusion:

The application has been assessed for appropriateness with regard to existing policy and the impact of the proposal on the surrounding land uses. The application maintains the intent and purpose of the Official Plan and Zoning By-law, desirable for the appropriate and orderly development and use of the lands and buildings and is minor in nature; and therefore the minor variance application satisfies the four tests pursuant to Section 45(1) of the *Planning Act*, and constitutes good land use planning.

Planning Staff recommends that the request for Minor Variance be conditionally approved, subject to no concerns being raised through any oral and written submissions being received since the writing of this report and at the public hearing.

Once a Committee of Adjustment decision is made, Notice will be sent to those who have requested a copy and/or attended the public hearing.

There will be a 20 day appeal period from the Decision in which the Notice will be sent out within 10 days of the Decision. Any appeals received by the Township of Southwold will be forwarded to the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal) for a hearing, in accordance with the *Planning Act*.

Respectfully submitted by:
Bryan Pearce, HBA, CPT, MCIP, RPP
Planner

Approved for submission by:
Lisa Higgs
CAO/Clerk

Appendices:

1. Appendix One: Planning Report PLA 2021-24



TOWNSHIP OF SOUTHWOLD PLANNING REPORT

Application: Minor Variance
Report No: PLA 2021-24
File No: MV 2021-06
Date: August 9, 2021

TO: Members of the Committee of Adjustment of the Township of Southwold

FROM: Bryan Pearce, HBA, CPT, MCIP, RPP, Planner

SUBJECT: Minor Variance Application MV2021-06 – Recommendation Report

REASON FOR AND NATURE OF THE PROPOSED APPLICATION:

The proposal is to seek relief from Section 3.20 Regulations of the General Provisions for Minimum Distance Separation Formulae (MDS I & II), to permit the construction of a 276 square metre (2,970 square foot) foot print area single detached dwelling with a reduced MDS-I setback, being the distance from the existing manure storage facility to the dwelling, from the required 528.1 metres (1732.6 feet) to the proposed 300 metres (984.3 feet).

BACKGROUND INFORMATION:

Below is a background information, in a summary chart:

| | |
|---|---|
| Application | MV 2021-06 |
| Owner/Applicant | Michael Mels and Jody Campbell |
| Applicant | Michael Mels |
| Legal Description | South Part Lot 9, Concession 3 |
| Civic Address | 35264 Fourth Line |
| Entrance Access | Fourth Line |
| Water Supply | Township water supply |
| Sewage Supply | Private on-site individual septic system |
| Use of Property | Existing: Agricultural Proposed: Agricultural |
| Buildings | Existing: None Proposed: House and Garage |
| Existing Land Area | 3.5 ha (8.6 ac) |
| Official Plan Land Use Designation | Agricultural |
| Zoning Category | Agricultural 1 (A1), with Natural Areas and Adjacent Lands constraint (Schedule A, Map 2) |

Figure One below, depicts the existing parcel of the Mels/Campbell Lands.



Figure One

The owner is proposing to construct a single detached dwelling on the subject lands. Section 3.20 Regulations of the General Provisions for Minimum Distance Separation Formulae (MDS I & II), states that all lands within the Municipality shall be subject to MDS-I and MDS-II in accordance with Provincial requirements as amended time to time. The owner is proposing to reduce the MDS-I setback, being the distance from the existing manure storage facility to the dwelling, from the required 528.1 metres (1732.6 feet) to the proposed 300 metres (984.3 feet), as depicted in Figure Two to the right. The reason the proposed single detached dwelling cannot meet the minimum setback is due to the entire property being within the MDS-I setback and limitations from the wetlands on the south side of Fourth Line, as per the Environmental Impact Study recommendations.

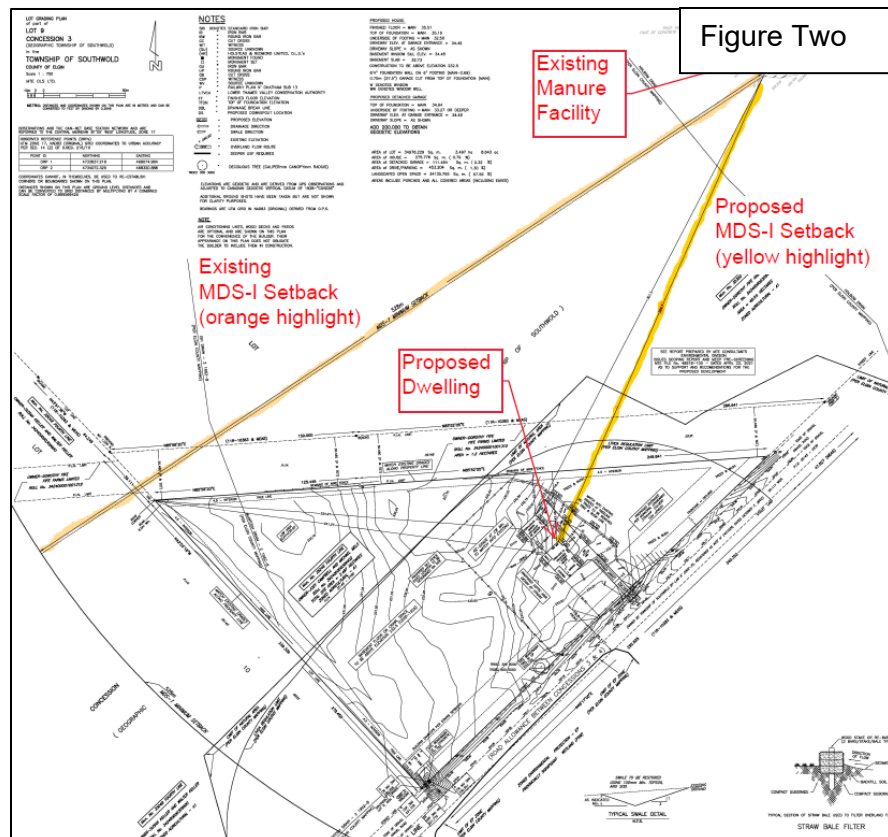


Figure Two

Ontario Ministry of Agricultural Food and Rural Affairs (OMAFRA)'s Minimum Distance Separation (MDS) Document Publication 853 Guideline #7 MDS I Setbacks for Building Permits on Existing Lots states MDS I setbacks are required for all other building permit applications for dwellings on lots that existed prior to March 1, 2017, unless otherwise specified in a municipality's zoning by-law or where otherwise not required by this MDS Document. The subject lands have been in existence prior to March 1, 2017.

Implementation Guideline #43 Reducing MDS Setbacks states MDS I setbacks should not be reduced except in limited site-specific circumstances that meet the intent of this MDS Document. Examples include circumstances that mitigate environmental or public health and safety impacts, or avoid natural or human-made hazards. If deemed appropriate by a municipality, the processes by which a reduction to MDS I may be considered include a minor variance to the local zoning by-law provisions.

PLANNING POLICY REVIEW:

Provincial Policy Statement

Under Section 3(5) of the *Planning Act*, the Township "shall be consistent with" matters of provincial interest as set out in the Provincial Policy Statements (PPS).

Agricultural policies under Section 2.3 of the PPS permits agricultural uses. New land uses, including the creation of lots and new or expanding livestock facilities shall comply with the minimum distance separation formulae.

The intent of the MDS Formula, created by OMAFRA, is to provide a recommended separation distance between livestock/manure facilities and non-farm residential uses for such potential nuisances as odour (smell). MDS setbacks are based on information from the affected farm in terms of current size of facility, type of livestock and type of manure storage. MDS is a guideline that can be varied based on site-specific circumstances.

The owner is proposing to reduce the MDS-I setback, being the distance from the existing manure storage facility to the dwelling, from the required 528.1 metres (1732.6 feet) to the proposed 300 metres (984.3 feet). The reductions to MDS-I are appropriate as the lot where the new home is proposed to be constructed, balances natural environment considerations without sterilizing the subject lands, based on the current MDS-I setback.

The majority of the property is within the 120 metre adjacent lands to the significant woodland and wetland features on the south side of Fourth Line. Section 2.1 of the PPS polices states that development and site alteration in significant woodlands and significant wetlands or on adjacent lands is not permitted unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions, generally through an Environmental Impact Study (EIS). The Proponent has an Issues Scoping Report and MECP Pre-Screening, completed by Melissa Cameron, Ecologist with MTE Consultants. The Conclusion of the report, noted the following:

- We have evaluated the current proposal on the Subject Lands and potential impacts to natural heritage features on the Subject Lands and Adjacent Lands. Provided the above recommendations are followed during all stages of future construction, no significant impacts to the adjacent natural heritage features are expected and further studies would not be required.

Township Administration have no issues of concern with the recommendations and conclusions of the EIS.

This proposed Minor Variance is consistent with the PPS.

County of Elgin Official Plan

The subject lands are designated Agricultural Area on Schedule 'A' Land Use in the County of Elgin Official Plan (CEOP). Section C2.3 of the CEOP permits agricultural uses and single detached dwellings with the agricultural use, conforming to this proposal.

Section C2.10(a) Compatibility of Agricultural Uses with Other Land Uses states in order to provide farmers with the ability to carry out normal farm practices, all new development, including development on existing lots of record, shall be set back from agricultural operations in accordance with the minimum distance separation one formula, as amended. Section C2.10(c) states the minimum distance separation one and two formulae shall be included in local zoning by-laws, as appropriate and in accordance with this Plan and the local Official Plans.

The existing MDS-I setback from the adjacent manure facility system cannot be met as it is encompassing the whole of the subject lands; however the owner has applied for this Minor Variance application as the request for the reduction is appropriate. The owner is still providing a 300m buffer distance from the new dwelling to potential farm nuisances related to odour and other normal farm practices aspects, and plans to farm the subject lands as well.

Section D1.2 Natural Heritage contains policies pertaining to significant woodlands and significant wetlands. Section D1.2.6 states development and site alteration are not permitted in a significant woodland or on adjacent lands unless an EIS has been completed, demonstrating there will be no negative impact to the natural heritage features. Lastly, Section D1.2.7 Adjacent Lands states development and site alteration within 120 metres of a significant woodland and significant wetlands shall not proceed unless an EIS has been completed, demonstrating there will be no negative impact to the natural heritage features. An EIS has been completed with recommendations and conclusions. Township Administration have no issues of concern with the recommendations and conclusions of the EIS.

Therefore, this proposed Minor Variance conforms to the CEOP.

FOUR TESTS OF THE MINOR VARIANCE:

Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

1. Does the variance maintain the intent and purpose of the Township of Southwold Official Plan?

Yes. The subject lands are designated Agricultural on Schedule 'A' Land Use in the Township of Southwold Official Plan. Section 4.1 agricultural land use policies allow for agricultural uses and limited residential uses. New land uses, including the creation of lots, and new or expanding livestock facilities will comply with the Minimum Distance Separation formulae.

The intent of the MDS I is still being maintained as there would be a proposed 300 metre setback distance between the new dwelling and the adjacent manure storage facility on the property to the east of the subject lands. The proposal has the potential to introduce

incompatible activities; however, the impacts will be minimal, as the existing lot of record have co-existed for a significant period of time and once owned by the farmer that use to have the farmlands to the east. The proposed reduced MDS-I setbacks do not contravene the Official Plan policies.

2. Does the variance maintain the intent and purpose of the Township of Southwold Zoning By-law?

Yes. The subject lands are zoned Agricultural 1 (A1) Zone in the Township of Southwold Zoning By-law 2011-14, Map 2. A single detached dwelling is a permitted use in the Agricultural 1 (A1) Zone. With the exception of the proposed reduced minimum distance separation, the application complies with the remaining zoning provisions.

Section 3.4 Natural Areas constraint was address through the EIS completed by the Owner's Consultant, as mentioned above, demonstrating no negative impacts, subject to the recommendations in the report.

Section 3.20 Minimum Distance Separation Formulae (MDS I & MDS II) states all lands within the Township shall be subject to MDS-I and MDS-II in accordance with Provincial requirements as amendment from time to time. The reductions to MDS-I are appropriate as the lot where the proposed new dwelling is still providing a 300m buffer distance from the new dwelling to potential farm nuisances related to odour and other normal farm practices aspects, and plans to farm the subject lands as well.

3. Is the variance requested desirable for the appropriate and orderly development and use of the lands and buildings?

Yes. The variance will enable the owner to construct a single detached dwelling with a reduced minimum distance separation to the existing manure facility on the property to the east of the subject lands. Due to the existing odour buffer ring of the existing manure storage facility that encompasses all of the subject lands, relief to the zoning by-law is required to develop this existing lot of record. The variance will not impede the function of the lot and still provides for spatial separation between the existing manure facility on the property to the east to mitigate odour.

4. Is the variance minor in nature?

Yes. The meaning of 'minor' is not based on a specific number, where a difference of a number of feet determines whether or not the development is acceptable. It is more appropriate to base this test on the degree of potential impact on neighbouring property owners; the environment; and the municipal, County, or provincial functions.

It is anticipated the proposed reduced MDS-I setbacks would have negligible impacts to the neighbouring property owner with the existing manure facility, due to site location and existing mature tree inventory that would aid in putting odour plume up higher into the area and stir.

The impact from the proposed variance is negligible with respect to the environment, Township functions, County functions, or provincial functions and surrounding property owners.

CIRCULATION OF THE APPLICATION:

The application was circulated to the applicable Township Departments, Commenting Agencies and neighboring property owners within 60 metres of the subject lands on July 29, 2021, 11 days prior to the public hearing (minimum 10 days required).

Township Department Comments

The proposed minor variance application was circulated to Township staff for comment. The following comments were submitted:

Financial Services

Financial Services Department noted that there will not be Township Development Charges owing, as long as the Proponent applies for the building permit before January 1, 2022, in accordance with By-law 2020-70. If application is after January 1, 2022, the 2022 Township Development Charge is \$4,004 plus the annual construction price indexing adjustment.

Other Township fees would be associated with entrance access permit applications, civic addressing modifications, water service/connection, building permit application(s), would be required as well, amongst any other applicable municipal fees.

It is also noted that the County of Elgin is currently studying county development charges, so there may be a charge if they pass a by-law. See the weblink below for more information:

<https://www.elgincounty.ca/developmentchargesstudy/>

At this time of submission of this report, no other comments or concerns were received from Administration.

Agency Comments

Lower Thames Valley Conservation Authority, in their July 29, 2021 letter, noted the following:

- After reviewing our files and mapping, staff determined that the property in question is subject to the Authority's Development and Interference with Wetlands portion of the regulations. The issue of concern in this area is the adjacent lands of the Provincially Significant Wetland (PSW) known as the 4th, 61h Line and Vachon Swamp Headwaters Wetland Complex.
- An application from this office was obtained from this office on June 2, 2021 for the construction of the proposed residence and barn.
- The lands are not subject to flooding of a general nature and as such structures are not required to be flood proofed. However, the flood proofing of structures for the purposes of prevention of flood damage from local groundwater and overland drainage waters is always recommended.

No further comments were received from applicable commenting agencies at time of writing of this report.

Public Comments

At the time of submission of this report, no written comments from the public have been received related to the Minor Variance.

In verbal discussions with the Owner of the existing manure facility, they want to ensure that that can expand in the future. It is noted that the existing manure facility was constructed through Township Building Permit 2019-05. The Farmer's future intent is to fill the hole in the existing manure storage facility to utilize more manure capacity. MDS-II would be applicable, as per MDS Guideline #18: MDS II for Building Permit Applications to Renovate Existing Livestock Facilities, stating an MDS II setback is require prior to the approval of a building permit application to renovate existing livestock facilities that would result in an altered livestock facility. The Expansion Factor (Factor C) of the MDS-II would then apply as per MDS Guideline #27. If the proposed MDS-II setback complies with the setbacks nearby land uses, such as dwellings, then expansion can occur. Alternatively, zoning relief can be sought through a planning application process, subject to public engagement and Planning Approval authority decision-making.

SUMMARY/CONCLUSION:

The application has been assessed for appropriateness with regard to existing policy and the impact of the proposal on the surrounding land uses. The application maintains the intent and purpose of the Official Plan and Zoning By-law, desirable for the appropriate and orderly development and use of the lands and buildings and is minor in nature; and therefore the minor variance application satisfies the four tests pursuant to Section 45(1) of the *Planning Act*, and constitutes good land use planning.

Planning Staff recommends that the request for Minor Variance be conditionally approved, subject to no concerns being raised through any oral and written submissions being received since the writing of this report and at the public hearing.

Once a Committee of Adjustment decision is made, Notice will be sent to those who have requested a copy and/or attended the public hearing.

There will be a 20 day appeal period from the Decision in which the Notice will be sent out within 10 days of the Decision. Any appeals received by the Township of Southwold will be forwarded to the Ontario Land Tribunal (formerly Local Planning Appeal Tribunal) for a hearing, in accordance with the *Planning Act*.

RECOMMENDATION:

THAT Committee of Adjustment of the Township of Southwold receive Report PLA 2021-24 regarding Minor Variance Application MV 2021-06 – Recommendation Report;

AND THAT Committee of Adjustment of the Township of Southwold grant relief from Section 3.20 of the Township of Southwold Zoning By-law 2011-14, to permit the construction of a 276 square metre (2,970 square foot) foot print area single detached dwelling with a reduced MDS-I setback, being the distance from the existing manure storage facility to the dwelling, from the required 528.1 metres (1732.6 feet) to the proposed 300 metres (984.3 feet), subject to the following conditions:

1. That the proposed development is substantially in accordance with the Minor Variance MV2021-06 drawings, as appended to Report PLA 2021-24.

Respectfully submitted by:

**Bryan Pearce, HBA, CPT, MCIP, RPP
Planner**

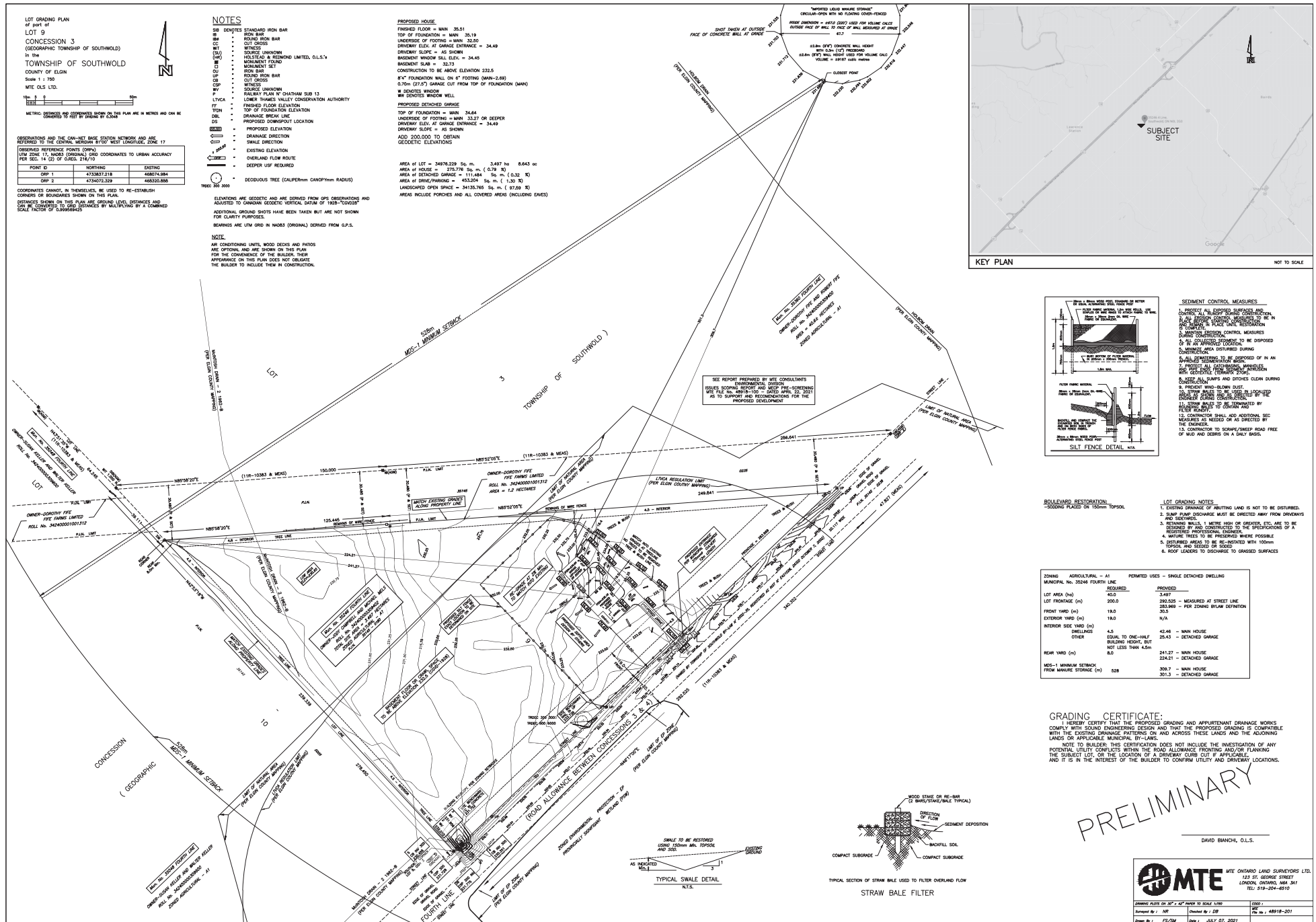
Approved for submission by:

**Lisa Higgs
CAO/Clerk**

Appendices:

1. Appendix One: Minor Variance Application MV2021-06 Drawings

REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS



| |
|---|
| REPORT PLA 2021-24 APPENDIX ONE: MV 2021-06 DRAWINGS |
|---|

PROPOSED HOUSE

FINISHED FLOOR = MAIN 35.51
TOP OF FOUNDATION = MAIN 35.19
UNDERSIDE OF FOOTING = MAIN 32.50
DRIVEWAY ELEV. AT GARAGE ENTRANCE = 34.49
DRIVEWAY SLOPE = AS SHOWN
BASEMENT WINDOW SILL ELEV. = 34.45
BASEMENT SLAB = 32.73
CONSTRUCTION TO BE ABOVE ELEVATION 232.5
8'4" FOUNDATION WALL ON 6" FOOTING (MAIN-2.69)
0.70m (27.5") GARAGE CUT FROM TOP OF FOUNDATION (MAIN)
W DENOTES WINDOW
WW DENOTES WINDOW WELL

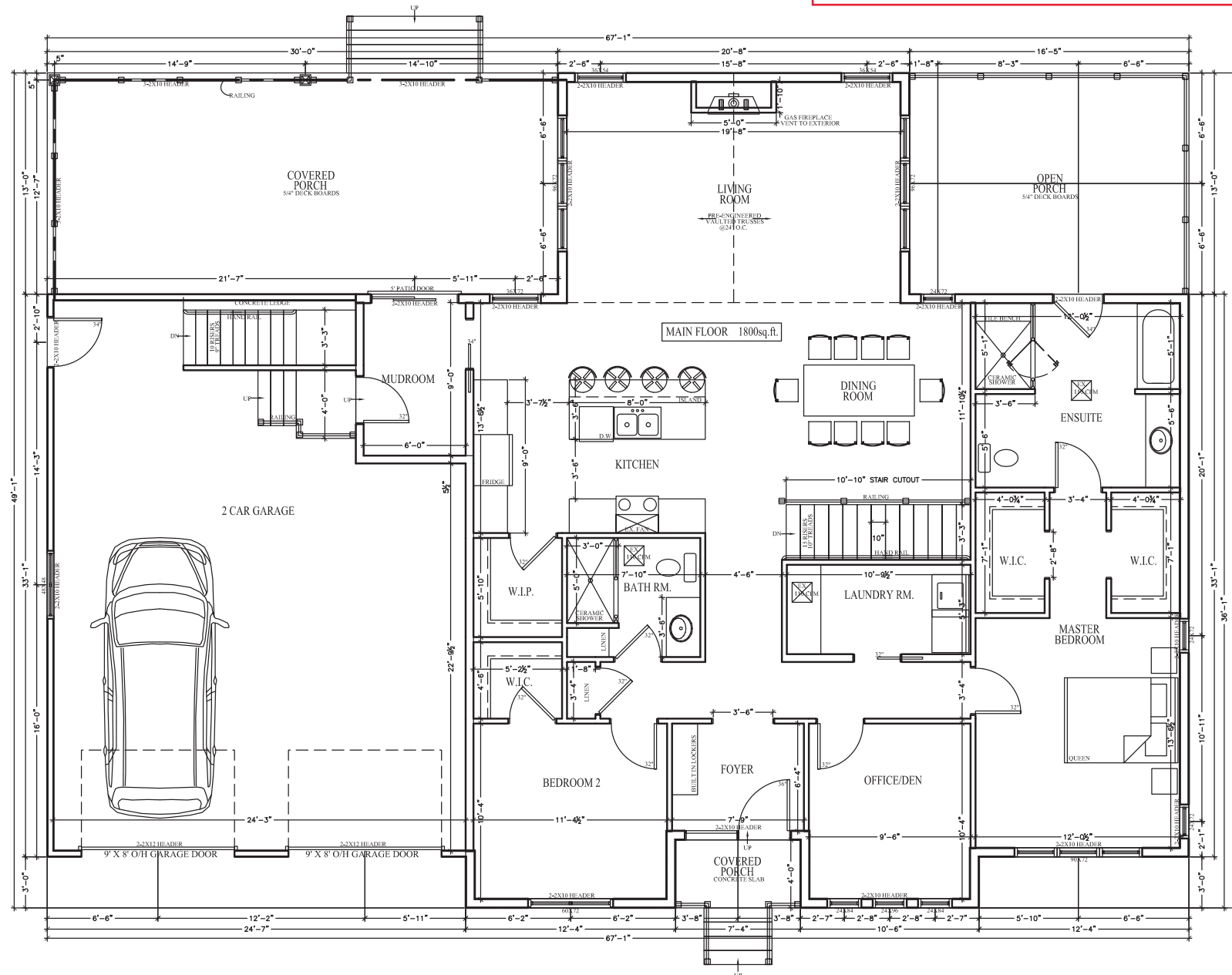
PROPOSED DETACHED GARAGE

TOP OF FOUNDATION = MAIN 34.64
UNDERSIDE OF FOOTING = MAIN 33.27 OR DEEPER
DRIVEWAY ELEV. AT GARAGE ENTRANCE = 34.49
DRIVEWAY SLOPE = AS SHOWN

**ADD 200.000 TO OBTAIN
GEODETIC ELEVATIONS**

AREA of LOT = 34976.229 Sq. m. 3.497 ha 8.643 ac
AREA of HOUSE = 275.776 Sq. m. (0.79 %)
AREA of DETACHED GARAGE = 111.484 Sq. m. (0.32 %)
AREA of DRIVE/PARKING = 453.204 Sq. m. (1.30 %)
LANDSCAPED OPEN SPACE = 34135.765 Sq. m. (97.59 %)
AREAS INCLUDE PORCHES AND ALL COVERED AREAS

REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS



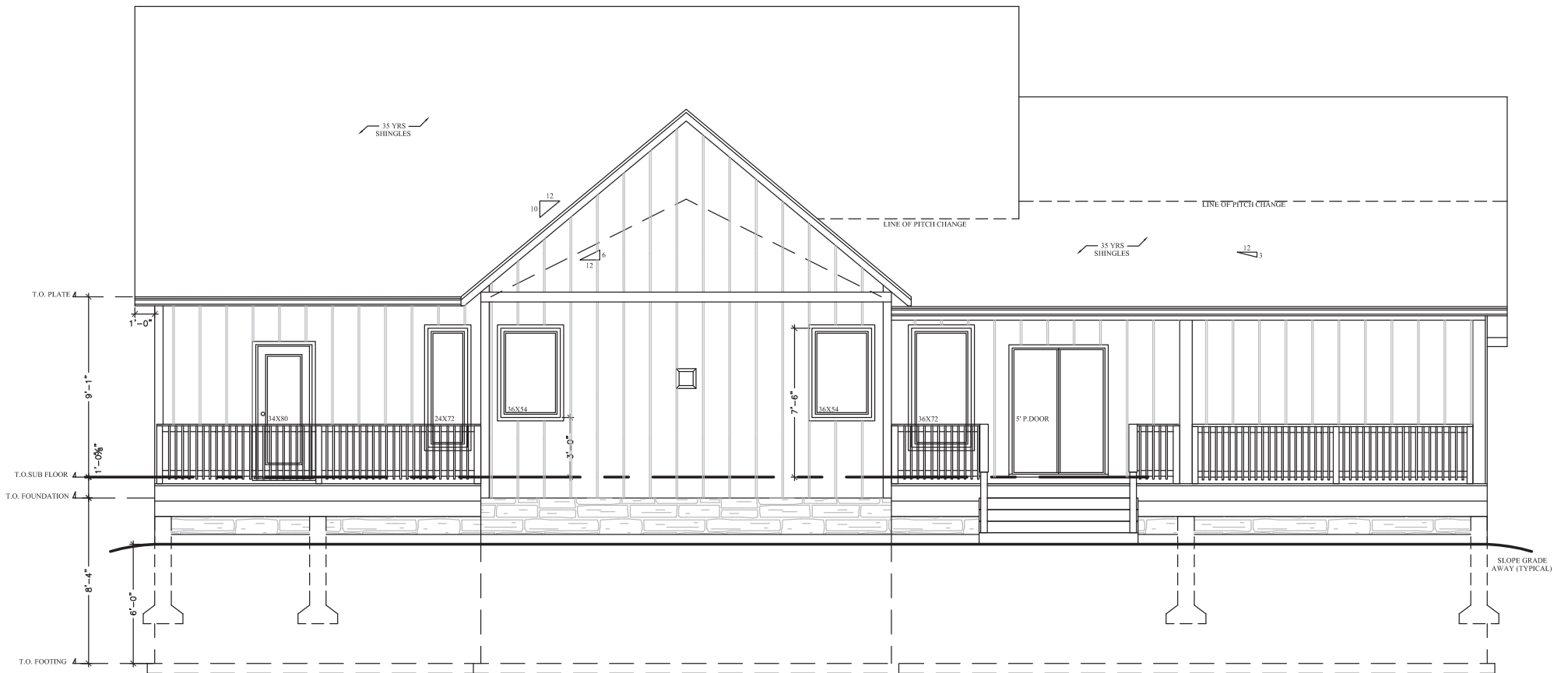
REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS



REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS



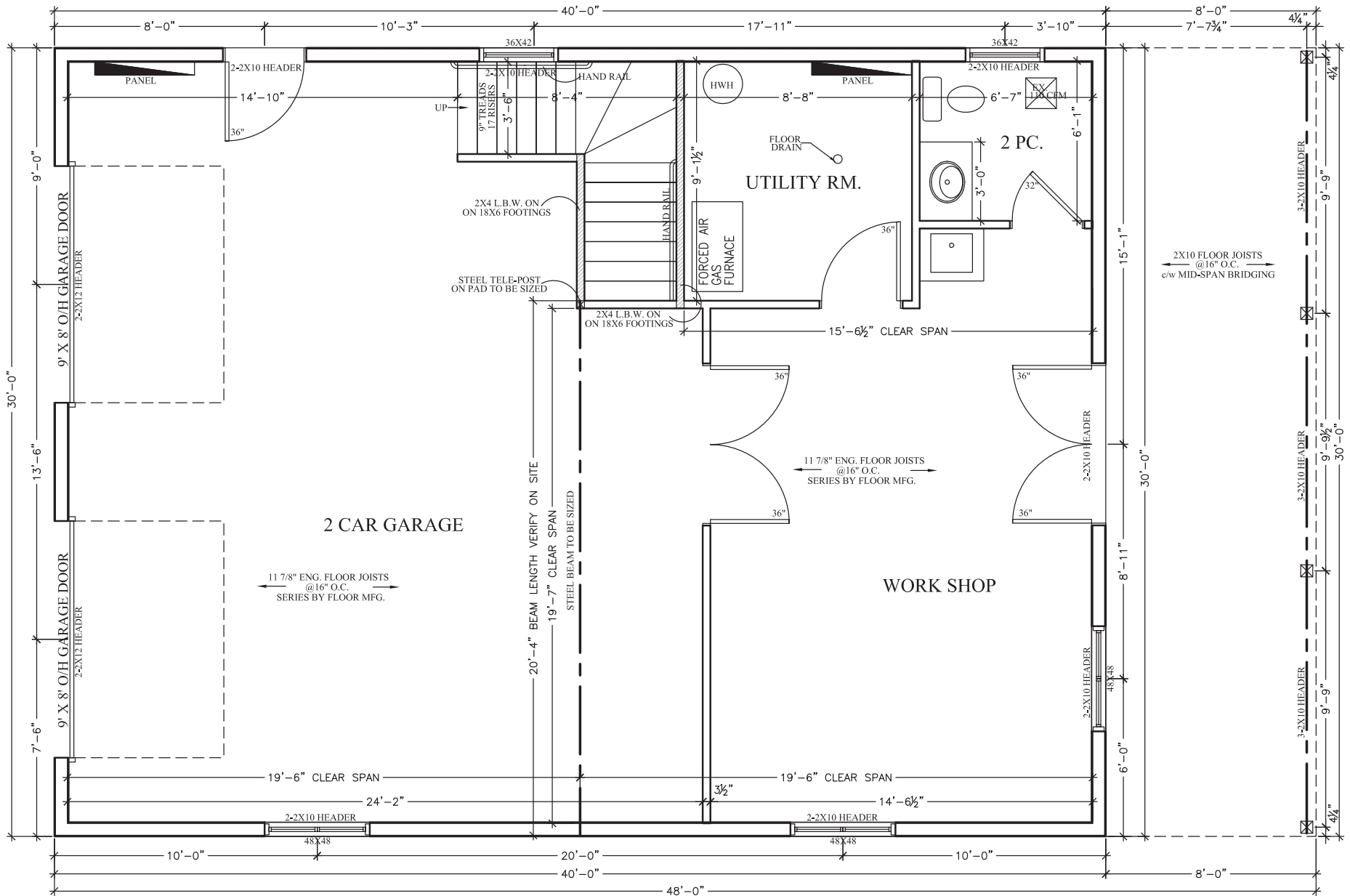
REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS



REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS



REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS



REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS



REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS



REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS



REPORT PLA 2021-24
APPENDIX ONE: MV 2021-06 DRAWINGS

