

Springwater Official Plan

Section 28 – Consent Policies

[This entire section was appealed by Mayer and withdrawn on Apr. 7/98]

28.1. Objectives

- 28.1.1. To provide policies for the Committee of Adjustment who shall be guided by the general intent and specific policies of this Plan and the regulations of the implementing Zoning By-law in considering applications for the severance of land pursuant to the Planning Act.
- 28.1.2. To restrict the number of severances in the Township by permitting only those severances which conform with the policies of this Section, all other policies of this Plan and the provisions of the Planning Act.

28.2. Policies

- 28.2.1. For the purposes of this Plan, severances shall be classified as either farm-related or non-farm severances and the granting of severances shall be subject to the policies contained in this Section.
- 28.2.2. In general the Committee of Adjustment, when considering an application for consent, shall have regard for all other applicable policies of this Official Plan and the following criteria.
 - 28.2.2.1. The land use policies in this Official Plan shall be followed when considering severance applications in order to ensure satisfactory compatibility between the proposed land use and existing land uses.
 - 28.2.2.2. Scattered development throughout the Township shall be discouraged wherever possible.
 - 28.2.2.3. Ribbon or strip development shall be prevented. This shall not include infilling situations as described in Section 28.6.
 - 28.2.2.4. Direct access from arterial and collector roads shall be restricted and lots should, wherever possible, have access only from local roads.
 - 28.2.2.5. A consent may be granted only when it has been established that soil and drainage conditions are suitable to permit the proper siting of the buildings, and to permit the installation of an adequate means of sewage disposal, where necessary.

- 28.2.2.6. A consent shall not be given if the land does not front on an existing public road which is maintained year-round and is of a reasonable standard of construction as may be defined by the Township.
- 28.2.2.7. A consent shall not be given if the result of the consent is to land lock adjacent property so that the adjacent property will no longer front on an existing public road which is maintained year-round and is of a reasonable standard of construction as may be defined by the Township.
- 28.2.2.8. A consent shall not be granted for land adjacent to a road from which access is to be obtained where a traffic hazard would be created because of limited sight lines on curves or grades.
- 28.2.2.9. A municipal report shall be obtained regarding the suitability of the proposed driveway, access to the property and the ability of the Township to provide reasonable access to the property at all times of the year.
- 28.2.2.10. The size of any parcel of land created by such consent shall be appropriate for the use proposed and in no case shall any parcel be created which does not conform to the provisions of the implementing Zoning By-law. The size of any lot created by consent should be consistent with lot sizes in the vicinity of said lot unless other agencies or regulations require a larger lot size.
- 28.2.2.11. A consent shall not be granted for a parcel of land which is subject to flooding or erosion, or other physical hazards, when the intended use of the parcel which is subject to the above noted hazards is for the erection of a permanent building. This policy does not apply in the case of buildings or structures used for the purpose of flood or erosion control.
- 28.2.2.12. The use for which the lot is proposed shall be in conformity with the policies of this Plan.
- 28.2.2.13. Good agricultural land shall be preserved for agricultural purposes in accordance with the relevant policies of this plan.
- 28.2.2.14. Consents to sever individual parcels of land shall only be granted if it is apparent that no development could result which would lead to significant expense by the Township for additional public works and that the cost of the provision/installation of all required services are borne by the owner and/or developer.
- 28.2.2.15. All severance applications shall be circulated to Council or its designate, relevant local agencies, Township departments for comment and to those land owners within a distance of the subject property as specified by Council in the appropriate by-law.

- 28.2.2.16. Consents in areas where the extension of services would be required, may be granted only with the approval of the authority providing this service.
- 28.2.3. Consents may be granted for public uses or public utility uses as permitted in accordance with the relevant policies of this Plan. Wherever possible the development of any public use or public utility shall be located so that the impact of such a use on productive or potentially productive agricultural land shall be minimized and that the consumption or sterilization of productive or potentially productive agricultural land shall be restricted as much as possible.
- 28.2.4. Where a parcel of land had more than one dwelling in existence in the former Township of Vespra on August 31, 1983, in the former Township of Flos on May 31, 1976, and in the former Township of Medonte on February 8, 1980, the severance of the parcel of land for each additional dwelling may be allowed subject to all other pertinent policies of this Plan. No severance shall be allowed from a parcel of land where additional dwellings were constructed after these dates.
- 28.2.5. Approval by the Committee of Adjustment for applications for consent, which are intended to create more than five residential lots, shall be subject to the successful preparation of a Stormwater Management (SWM) Report. The SWM Report shall be prepared in concert with the policies of Section 23 of this Plan to the satisfaction of the Township, Conservation Authority or the appropriate government agency having jurisdiction.

28.3. Provincial Minimum Distance Separation

- 28.3.1. The **Provincial Minimum Distance Separation [Mod. #66 - Jan.28/98]** shall be used as a guide for the control of intensive agricultural uses and for the control of land development and severances in the vicinity of intensive agricultural operations. **[Appealed by French and withdrawn on Sept.18/98]**
- 28.3.2. Applications for severance for any intensive agricultural operation shall conform to the minimum separation requirements of the **Provincial Minimum Distance Separation. [Mod. #66 - Jan.28/98][Appealed by French and withdrawn on Sept.18/98]**
- 28.3.3. In addition to the above, consideration shall be given to the proximity of the proposed residential consents to any adjoining or nearby agricultural crop or pasture lands. A minimum separation distance of 150 metres (490 feet) shall be required between the crop or pasture lands and the proposed residential lot. Where the current method of fertilization of the adjacent farmlands involves animal waste, the distance separation shall be

increased to 305 metres (1000 feet). Consideration may be given to the relocation of the proposed new building lot to an alternate location where any interaction between the two noted uses would be minimized. No consent for a new residential building lot may be permitted either within the separation distance derived under the **Provincial Minimum Distance Separation [Mod. #66 - Jan.28/98]** or within 305 metres (1000 feet) whichever is greater, of an existing agriculturally related barn, feedlot, livestock pen or similar use. The distance separation requirements shall also apply in regard to farm related structures such as corn driers, where due to noise, dust, odour or hours of operation, it is reasonable to believe that a conflict between the farm use and the proposed residential use could develop. Careful consideration shall also be given to any future development or redevelopment plans of any adjacent agricultural uses involving livestock, and where it can be reasonably demonstrated that such development is probable, the distance separation requirements shall be applied from the area where the proposed agricultural use is to be located.

[Section 28.4 was replaced by OPA No. 39 by OMB on Nov. 4, 2009]

28.4. Farm Related Severances

- 28.4.1. Farm related severances are those occurring in areas designated as "Agricultural" or otherwise identified as having good agricultural land by the policies of this Official Plan. The policies in this subsection apply to such severances in addition to the general policies and objectives of this section. For the purposes of this section, good agricultural land means prime agricultural land as defined in the PPS 2005.
- 28.4.2. The following policies and procedures apply to an application for a consent to sever a surplus farm dwelling. A bona fide farmer living in the Township or within close proximity to the Township, may have enlarged, or be in the course of enlarging, his farm holdings by acquiring additional farm land which may include a farm dwelling or dwellings surplus to the need of the farmer. The farmer may be allowed consent to sever the surplus farm dwelling or dwellings if the policies and requirements of this subsection are met.
- 28.4.2.1. The minimum lot size for the severed surplus farm dwelling property shall be 0.4 hectares (1 acre).
- 28.4.2.2. The maximum lot size for the severed surplus farm dwelling property shall be 2 hectares (4.9 acres).
- 28.4.2.3. In cases of a farm dwelling made surplus as a result of consolidating farm parcels that do not abut, applications for severance of the surplus dwelling shall comply with the following conditions:

- a) The owner and operator of the proposed consolidated farm owns land which he is actively farming and his holding and home farm are within a reasonable distance from the farm to be consolidated, and, generally, has a minimum area of 35 hectares (86 acres);
- b) The farm lands to be retained in the proposed severance consent application (which shall be adjoining the severed surplus farm house) shall generally be not less than 35 hectares (86 acres). However, in the case of farms in Concession 11 of the former Township of Flos, the farm lands to be retained may be as small as 30 hectares;
- c) The area occupied by the residential unit and accessory buildings, as may be the case, shall remain in an agricultural zone as shown in the implementing Zoning By-law. A requirement for a zoning by-law amendment may be imposed so as to permit the size of existing accessory buildings, but which may restrict their use from the keeping of livestock.
- d) The balance of the acquired farm holding shall be placed in a separate agricultural zone in the implementing Zoning By-law. The separate agricultural zone shall limit the use of the land to agricultural and conservation uses only. Accessory buildings, excluding any residential uses, may be allowed within this separate agricultural zone.

28.4.2.4. Where a consent to sever for a farm consolidation/surplus dwelling application is approved and conditions are imposed restricting/prohibiting residential uses on the retained lands, the Township shall not require payment of cash in lieu of parkland as a condition of such severance.

28.4.2.5. With respect to Section 28.3 (Provincial Minimum Distance Separations):

- a) Those guidelines shall be applied to the separation between the surplus farm dwelling and the farm buildings where it is proposed that the farm buildings be retained by the applicant farmer on the farm lands (the retained lands). In such a case, it is recognized that the configuration of most farm properties in the municipality is such that it will rarely be possible to meet those guidelines, in which event the application should be refused.
- b) Those guidelines shall not be applied to the separation between the surplus farm dwelling and the farm buildings on lands other than the subject lands (the severed lot and the retained lot), as the surplus farm dwelling is an existing use. Similarly, those guidelines shall not

be applied to the separation between the farm' buildings on the retained lands and existing farm dwellings on lands other than the severed land, as the buildings are all existing uses.

Explanatory Note: The MDS guidelines do not apply to the separation between the surplus farm dwelling and the former agricultural buildings where it is proposed that the former agricultural buildings remain with the surplus farm dwelling on the severed lot as such buildings are on the same property.

- 28.4.2.6. It is the policy of the municipality to encourage the preservation of the stock of existing rural housing, to encourage the preservation of rural houses and farm buildings that may be of historical or architectural significance and to preserve the traditional rural landscape and the farmscapes which are an integral part of it. It is not the policy of the Township to require the destruction or demolition of existing farm buildings as a condition of granting severances related to farm consolidation and/or surplus farm dwellings.

However, if it is shown that there are concerns relating to health and safety in connection with any building on the subject lands, the committee of adjustment may draw the attention of the Chief Building Official to the building.

Furthermore, this policy shall not be interpreted by any tribunal or court of competent jurisdiction to affect, constrain, impose upon, etc. the Chief Building Official's discretion to issue orders under the Building Code Act concerning unsafe buildings and/or to order demolition of such buildings pursuant to the Building Code Act.

28.5. Minimum Lot Size – Farm Related Severances

- 28.5.1. Any new agricultural use or farm unit other than intensive or certain specialized agricultural uses shall have an approximate minimum lot size of 35 hectares (86 acres).
- 28.5.2. Intensive or other specialized agricultural operations such as market gardening, and nurseries may be permitted on lots of less than 35 hectares (86 acres), but the creation of new lots for such purposes shall not be permitted. The implementing Zoning By-law shall establish minimum lot sizes for such permitted uses.
- 28.5.3. Severances in designations other than Agricultural and Rural may be permitted subject to the relevant policies of this plan and the requirements of the implementing Zoning By-Law.

28.5.4. Consents in urban settlement areas as defined in the Official Plan are permitted provided that the following criteria are met:

28.5.4.1. Where applicable, municipal water and sewer capacity is available;

28.5.4.2. Any extension and/or improvements to public services required to service the lot to be conveyed and/or upgrade services to the retained lot shall be wholly the responsibility of the landowner;

28.5.4.3. The consent constitutes infilling as defined herein.

28.6. Rural Consents

28.6.1. There are minor concentrations of housing resulting from severances and small plans of subdivision granted over the past several decades located in various areas of the Township. The policies of this section are limited to these existing residential areas found within the Rural designation on the Land Use Schedules. Consents may be granted in these areas provided that they meet all the following criteria defining a “cluster”.

28.6.1.1. Existing dwelling units which are found on an open public road maintained year round as determined by the Township.

28.6.1.2. The existing residential land pattern comprises small parcel sizes that maintain a tight compact form which shall not be elongated or compromised by any new consent proposal which would create strip or ribbon development.

28.6.1.3. Consents for infilling purposes within a cluster shall only occur where two existing residentially used lots on the same side of the road are found within a maximum of 75 metres (246 feet). A residential lot is defined as a parcel containing a dwelling and having an area no larger than a hectare.

28.6.1.4. Where there is more residential development, consistent with 1.1, 1.2 and 1.3 above, on one side of the road than the other, no further consents shall be permitted on the ends of the strip development which would further elongate the development; however, additional development of new lots on the other side of the road may be considered. This policy is not intended to permit the mirror development of extensive existing residential lots where on the opposite side of the road the land is vacant or occupied by only one or two residential uses. It is intended that the additional development of new lots on the opposite side of the road is only to square off the cluster as long as a compact community form is maintained or enhanced. Furthermore it is intended that the primary employment of this policy will be in conjunction with the squaring off of existing development at road intersections. In the absence of an intersection, yet where compact

abutting development exists on the opposite side of the road, any additional development permitted by this policy must represent the extension of existing development and not be development of a leap frog nature, be limited to no more than 5 lots in any geographic location and will be deemed to represent the ultimate extension of development at this location. It is envisioned that any new development which may occur under this policy would not exceed the creation of more than 5 lots. Notwithstanding any other policies of this Plan to the contrary, development of this nature may or may not occur in conjunction with areas designated Rural Residential.

28.7. Boundary Adjustments

- 28.7.1. Consents may be granted for technical or legal reasons which may include boundary adjustments where one land owner is deeding part of his property to an adjacent land owner, not resulting in the creation of a separate lot, provided that boundary adjustments which are not merely for the purposes of correcting title deficiencies or errors shall be governed by the following policies.
 - 28.7.1.1. The area and frontage of the land remaining in the land holding from which the property is being transferred shall comply with the minimum and maximum area and frontage requirements of the Zoning By-law; and
 - 28.7.1.2. The area and frontage of the land holding proposed to be created shall comply with the minimum and maximum area and frontage requirements of the Zoning By-law provided however, where the requirements set out in Sections 28.7.1 and 28.7.1.1, or both of them, are not met by the application, the consent may nevertheless be given where it is determined that the effect of the severance is to promote the policies of the Official Plan and to bring the area and/or the frontage of the land holding proposed to be created closer to compliance with the minimum and maximum area and frontage requirements of the Zoning By-law.