



## MUNICIPALITY OF THAMES CENTRE

**REPORT NO.** PDS-004-025

**FILE NO.** A11-24

**TO:** Mayor and Members of Council

**FROM:** A. Kertesz, Planner

**MEETING DATE:** January 27, 2025

**SUBJECT:** **Application for Minor Variance (A11-24); Kilbyrne Estates Ltd. (Applicant); Stephen Carneiro Fernandes (Agent); 22697 & 22649 Nissouri Road**

### RECOMMENDATION:

**THAT** Minor Variance Application A11-24 requested by Kilbyrne Estates Ltd. to permit a reduced minimum lot area of 0.43 hectares (1.2 ac) and a minimum lot frontage of 74 metres (242.78 ft) in the Agricultural (A) Zone as well as a reduced setback of 31.3 metres (102.69 ft) from the centreline of construction of County Road 27 to satisfy a condition of Consent Application B7-2024 for lands legally described as Part of Lot 23, Concession 2 (geographic Township of West Nissouri), and designated as Part of Part 1 on Reference Plan 33R-5733, Municipality of Thames Centre, and known municipally as 22697 & 22649 Nissouri Road be **DENIED**.

### REASONS

- The variances are not considered minor in nature.
- The variances are not appropriate use of the land.
- The variances do not maintain the intent of Thames Centre's Official Plan.
- The variances do not maintain the intent of Thames Centre's Zoning By-law.

### PURPOSE:

The purpose and effect of this Application is to seek relief from the Thames Centre Comprehensive Zoning By-law as it relates to the minimum lot area and minimum frontage requirements of the Agricultural (A) Zone and the minimum setback requirements from the centreline of constriction of a county road, being County Road 27 (Nissouri Road) to fulfill a condition of consent related to Consent Application B7-2024.

### BACKGROUND:



The subject property is a 75 hectare (185 ac) farm situated on the west of Nissouri Road (County Road 27), south of Plover Mills Road (County Road 16) and backing onto the Thames River. The farm contains a single detached dwelling (serviced by a private septic system and well), a horse stable, and office. The Waugh Award Drain and the Pister Drain are also located on the property. The lands are used for field crop cultivation and as a horse farm except for the portions of the property towards the back which contain woodlots. According to the Thames Centre Official Plan, the lands are designated Agricultural, Protection Area, and Environmental Area. The lands are zoned Agricultural (A) and Environmental Protection (EP) according to the Thames Centre Comprehensive Zoning By-law. The property contains natural heritage features including significant woodlands as identified by the Middlesex Natural Heritage Systems Study (MNHSS, 2014) and contains lands regulated by the Upper Thames River Conservation Authority (UTRCA) given the proximity of the Thames River and the Waugh Award Drain.

As the Committee may recall, this property is subject to Consent Application B7-2024 which was conditionally approved by Council on June 24<sup>th</sup>, 2024. The application sought to sever a vacant parcel municipally known as 22649 Nissouri Road (County Road 27) since the severed lands and retained lands municipally known as 22697 Nissouri Road (County Road 27) merged on title in 2012 due to common ownership. The severed lands have a frontage of approximately 74 metres (242.78 ft) along Nissouri Road (County Road 27) and an area of approximately 0.43 acres (1.2 ac). It is intended that a dwelling is to be constructed on the severed lands.

As a condition of Consent Application B7-2024, the applicants are required to obtain a minor variance to address any lot deficiencies for the severed lot. Without all conditions of consent being fulfilled, the consent cannot be finalized. Considering the severed lot does not meet the minimum frontage and minimum lot area requirements of the Agricultural (A) Zone and based on the location of the proposed dwelling on the severed lands, the dwelling would not meet the minimum setback from the centreline of County Road 27, the applicants are seeking relief from these requirements. A summary of the requested variances is outlined in the table below.

<b>Zoning By-law Regulation for the Agricultural (A) Zone</b>	
<b>Minimum Lot Area</b>	
<b>Required Lot Area</b>	<b>Requested Lot Area</b>
40 hectares (98.84 ac)	0.43 hectares (1.2 ac)
<b>Minimum Lot Frontage</b>	
<b>Required Lot Frontage</b>	<b>Requested Lot Frontage</b>
150 metres (492.13 ft)	74 metres (242.78 ft)
<b>Zoning By-law Regulation for Setbacks for Selected Roads</b>	
<b>Minimum Setback Requirement from County Road 27</b>	
<b>Required Setback (from centreline)</b>	<b>Requested Setback (from centreline)</b>
38 metres (124.67 ft)	31.3 metres (102.69 ft)

## ANALYSIS:

Section 45 of the *Planning Act* allows the Committee of Adjustment to grant relief from zoning by-law requirements subject to four tests as follows:

- ***Are the variances considered minor in nature? NO***

Staff believe the reduced setback of 31.3 metres (102.69 ft) from the centreline of a county road would not create adverse impacts on agricultural activities as the proposed dwelling would be at least 31.3 metres (102.69 ft) from the centreline of County Road 27. However, the requested reduced lot area of 0.43 hectares (1.2 ac) and lot frontage of 74 metres (242.78 ft) would create adverse impacts on agricultural activities as the lands would not remain suitable for agricultural use. The effects of the variances are not considered minor in nature.

- ***Are the variances appropriate use of the land? NO***

Since residential lot creation in the prime agricultural area is not permitted, the lot created through Application for Consent B7-2024 falls under the agricultural policies of the PPS and County and Thames Centre Official Plans. While the reduced setback from the centreline of County Road 27 may be supportable, the requested reduced lot area and lot frontage for the severed lands are insufficient to operate as an independent agricultural lot and therefore the variances do not represent an appropriate use of the land.

- ***Do the variances maintain the intent of the Official Plan? NO***

The Thames Centre Official Plan provides policy direction to allow the creation of farm parcels provided the lots are of a size appropriate for the type of agriculture common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agriculture and to avoid the unwarranted fragmentation of farmland. Specifically, new farm parcels shall generally be 40 hectares (98.84 acres) in size as noted in the Official Plan. Given that the severed parcel would have an area of 0.43 hectares (1.2 ac) being significantly less than 40 hectares (99 ac) and would have a frontage of 74 metres (242.78 ft), the requested reduced lot area and lot frontage would not be suitable for agriculture, therefore, staff is of the opinion that the intent of the Official Plan is not maintained.

- ***Do the variances maintain the intent of the Zoning By-law? NO***

The intent of the minimum lot area and frontage requirements for the Agricultural (A) Zone is to ensure that new agricultural parcels are a size that is suitable to facilitate the type of agriculture common in the Municipality, being predominantly cash crop operations as well as livestock operations. The intent of the minimum setback requirement from the centreline of construction of a county road is to ensure there is a safe distance between structures and the county road. The county road setback also provides for additional space if the right-of-way is widened in the future. Although staff believe the proposed setback of 31.3 metres (102.69 ft) would continue to ensure a safe distance between the

dwelling and the road, considering the lot area for the severed lot will be 0.43 hectares (1.2 ac) with a frontage of 74 metres (242.78 ft), staff is of the opinion that the intent of the zoning by-law would not be maintained as the size of the lot together with the frontage is not be suitable for agriculture.

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Should the Committee of Adjustment wish to approve the subject application, staff offers the following for consideration:

**THAT** Minor Variance Application A11-24 requested by Kilbyrne Estates Ltd. to permit a reduced minimum lot area of 0.43 hectares (1.2 ac) and a minimum lot frontage of 74 metres (242.78 ft) in the Agricultural (A) Zone as well as a reduced setback of 31.3 metres (102.69 ft) from the centreline of construction of County Road 27 to satisfy a condition of Consent Application B7-2024 for lands legally described as Part of Lot 23, Concession 2 (geographic Township of West Nissouri), and designated as Part of Part 1 on Reference Plan 33R-5733, Municipality of Thames Centre, and known municipally as 22697 & 22649 Nissouri Road be **APPROVED**.

## **REASONS**

- The variances are considered minor in nature.
- The variances are appropriate use of the land.
- The variances maintain the intent of Thames Centre's Official Plan.
- The variances maintain the intent of Thames Centre's Zoning By-law.

## **CONSULTATION**

In the circulation of the notice of public hearing to prescribed agencies, the following comments were received:

Director of Public Works:

No comments or concerns.

Drainage Superintendent:

No comment.

Chief Building Official

No comment.

In the circulation of the notice of public hearing to surrounding property owners, no responses have been received from the public as of the date of this report.

## **FINANCIAL IMPLICATIONS:**

**None.**

## STRATEGIC PLAN LINK

**Pillar:** *Smart Planning*

**Goal:** *Make smart planning decisions to grow the community , while maintaining a "hometown feel"*

## ATTACHMENTS:

Location Map

Prepared by: A. Kertesz, Planner

Reviewed by: A. Storrey, Director of Planning and Development Services

Reviewed by: D. Barrick, Chief Administrative Officer