



MUNICIPALITY OF THAMES CENTRE

PLANNING & DEVELOPMENT SERVICES

REPORT NO: PDS-01-24

FILE: Z10-22

TO: Mayor and Members of Council

FROM: Marc Bancroft, Director of Planning and Development Services

MEETING DATE: January 29, 2024

RE: APPLICATION FOR ZONING BY-LAW AMENDMENT

RASHA NASSER (APPLICANT)

FINDLATER & ASSOCIATES INC. (AGENT)

4074 & 4086 ELGIN ROAD, MOSSLEY

1. PURPOSE

The purpose and effect of this application is to rezone the subject lands from the Hamlet (HR) Zone to a site-specific Hamlet Residential (HR-13) Zone to permit a “sign shop establishment” as a permitted use in addition to the other permitted uses in the HR Zone.

The subject application was heard at a public meeting of Municipal Council on June 27, 2022. Attached is Report No. PDS-039-22 which includes an evaluation of the proposal including a summary of the issues identified through the public and agency consultation process.

This report includes the file chronology, Council meeting excerpts and options for Council’s consideration with related implications.

2. BACKGROUND

The subject property is located on the east side of Elgin Road (County Road 73) and south of Mossley Drive in the Hamlet of Mossley. The lands have a frontage of 53.3 metres (174.9 ft) along Elgin Road (County Road 73) and an area of 0.3 hectares (0.74 ac). The lands contain a single detached dwelling known municipally as 4074 Elgin Road and a metal clad building known municipally as 4086 Elgin Road. The subject lands are serviced by a private well and septic system. Although there are two municipal addresses assigned and two separate driveways with one used to access the residential use and the other used to access the metal clad building which contains a sign shop. The lands are designated Hamlet and zoned Hamlet Residential (HR). Surrounding land uses are residential in nature in the form of single detached dwellings.

Through the subject application, the applicant is requesting that the existing sign shop be allowed to operate from the existing building located at 4086 Elgin Road, which is otherwise not permitted. A sign shop establishment would be defined as “a business engaged in storing, maintaining, repairing, and preparing for the sale and/or rental of portable (mobile) signs used for the promotion of household, institutional and business purposes.”

At the time of the filing of the subject application, it was determined that no permit was issued to allow the existing septic system to be shared between the existing single detached dwelling and the metal clad building. It was also determined that there was no change of permit issued to allow the conversion of the metal clad building to accommodate the sign shop business. In both cases, permits are required to ensure conformity with the Ontario Building Code. Permits also cannot be issued until applicable law is met under the Ontario Building Code which includes zoning and site plan approval.

2.1 Public Meeting of June 27/22 – minute excerpts

The Director of Planning presented Report No. PDS-036-22.

The Director of Planning advised that comments received from circulated agencies and staff at the time of the writing of the report have been summarized in the planning report.

The Director of Planning advised that the following members of the public have submitted written comments:

- Jack Brand
- Stephen Cornish
- Judy Daniel
- Patricia & Frank Dietz
- Susan Fraser
- Laurie Gall
- Jim Heaton
- Steve Peterson
- Tom Symon
- David & Beth Wilker
- Joyce Woldenberg & Jerry Taylor
- Michael & Sharon Wright
- Joint submission authored by Mr. Wright including several neighbours already mentioned, plus Jan & Dan Childs and Shawn Norton

Al Nasser, Applicant, and Stewart Findlater, Agent, were in attendance remotely and submitted additional information.

The following members of the public were in attendance remotely and made oral submissions:

- Chantel Crockett representing herself, Rob Notta and residents of Mossley in opposition of this application
- David Wilker
- Scott Deslauriers

Patricia Dietz, member of the public, was in attendance remotely and had no additional information to provide.

Council had no questions.

Resolution: 168-2022

Moved by: P. Hunter

Seconded by: K. Elliott

THAT Report No. PDS-36-22 dated June 27, 2022 related to Application for Zoning By-law Amendment (Z10-22) submitted by Rasha Nasser for lands legally described as Part of Lot 12, Concession 3 SRT (geographic Township of North Dorchester) and designated as Part 1 on Reference Plan 33R-5967 and Part 1 on reference Plan 33R-1719, Municipality of Thames Centre, be received;

AND THAT the Director of Planning and Development Services provide a subsequent report evaluating the said Application taking into account all public and agency comments received with a recommendation for Council's consideration at a future meeting.

Carried.

2.2 Regular Meeting of Council – July 11/22

The following resolution was passed by Council:

Resolution: 185-2022

Moved by: P. Hunter

Seconded by: K. Elliott

THAT Application for Zoning By-law Amendment (Z10-22) submitted by Rasha Nasser for lands legally described as Part of Lot 12, Concession 3, SRT (geographic Township of North Dorchester) and designated as Part 1 on Reference Plan 33R-5967 and Part 1 on reference Plan 33R-1719, Municipality of Thames Centre, be approved in principle and the implementing by-law be forwarded to the next regular meeting of Council limited to two readings with third and final reading provide once:

- a. That the applicant be required to obtain any applicable permit to ensure private servicing for the metal clad building located at 4086 Elgin Road, which is to be wholly contained on one property to the satisfaction of the Chief Building Official.

b. That site plan approval be required given the commercial use of the lands at 4086 Elgin Road and to ensure consistency with the Municipality's Site Plan Area By-law.

Carried.

2.3 File Chronology

Based on the lengthy delays on the part of the applicant to satisfy outstanding requirements as outlined below, the implementing by-law has not received two readings to date.

The applicant filed a Application for Site Plan Approval (File No. SP-08-2022) on October 19, 2022. Although comments were provided to the first submission on November 7, 2022, a revised plan was not forthcoming which resulted in the Municipality issuing a formal notice on March 10, 2023 requesting how zoning and building code violations were going to be addressed to avoid the laying of charges.

The applicant responded with a building permit application to legitimize the existing septic system to which our Interim Chief Building Official (at the time) was satisfied with the justification provided on May 1, 2023. The applicant also provided a second site plan submission in May 2023 and with a plan finally approved in principle on October 24, 2023. A site plan agreement has been prepared and recently signed by the applicant along with the submission of a security deposit to ensure the undertaking of the required site works. Furthermore, the applicant has also applied for the change of use permit to legitimize the shop building conversion. The issuance of site plan approval and building permits related to the building conversion and septic system have been deferred until zoning approval has been obtained.

3. ANALYSIS

An analysis has been prepared in attached Report No. PDS-039-22 which includes an evaluation of the proposal and a summary of the issues identified through the public and agency consultation process. Based on that analysis, the subject application is consistent with the Provincial Policy Statement and in conformity with the County and Thames Centre Official Plans.

3.1 Options for Council's consideration

Option	Implications
Approve	Site plan approval can then be issued and consideration of the issuance of permits to legitimize the septic system and the shop building conversion.
Deny	The applicant has the right of appeal to the Ontario Land Tribunal. If appealed, Council would need to retain legal representation and an outside Registered Professional Planner to defend their decision at the Tribunal since the Director of Planning and Development Services is recommending approval of the zoning by-law amendment. Under such circumstance, it would be typical for the Director to be summoned by the appellant's legal counsel to provide evidence in support of their appeal.
Defer	The applicant has the right of appeal to the Ontario Land Tribunal for Council's failure to render a decision within 90 days after receipt of application. If appealed, the Municipality would have legal and planning representation following the recommendation of the Director of Planning and Development Services.

It should also be noted that any person who submitted comments in writing or provided oral submissions before the passing of the Zoning By-law Amendment has the right of appeal to the Ontario Land Tribunal.

4. RECOMMENDATION

THAT Application for Zoning By-law Amendment (Z10-22) submitted by Rasha Nasser for lands legally described as Part of Lot 12, Concession 3, SRT (geographic Township of North Dorchester) and designated as Part 1 on Plan 33R-5967 and Part 1 on Plan 33R-1719, Municipality of Thames Centre, and known municipally as 4074 & 4086 Elgin Road be approved and that the implementing by-law be passed.

Prepared by: Marc Bancroft, Director of Planning & Development Services

Reviewed by: David Barrick, Chief Administrative Officer