



Municipality of Brockton Planning Report

Application: Minor Variance
File Number: A-17-19.31
Date: April 23, 2019

To: Mayor and Council Members, Municipality of Brockton
From: John Ghent, Planner for the Municipality of Brockton
Subject: Minor Variance application from Longman Hill Farms Ltd (Van Ness) File: A-17-19.31

Recommendation:

Subject to the review of submissions arising from the Public Hearing:

that the Committee of Adjustment **Approve** the Minor Variance Application by Longman Hill Farms Ltd (Van Ness) File: A-17-19.31

Reasons for and Nature of the Application:

The subject lands are zoned 'A1 - Agriculture', the lands are actively farmed with a farmstead consisting of a dwelling, pig barn and associated outbuildings. The proposal is to build a second barn for livestock and requires a variance from the required Minimum Distance Separation.

Location:

The subject lands are legally described as Con 16, Lot 3 To 4, Geographic Township of Greenock, Municipality of Brockton. The property is located on the south side of Concession 16. The municipal address is 123 Concession 16.

Site Description:

The total land area is 80.94 ha with frontage of 811.56 m on Concession 16. The majority of the land is cropped with the southerly portion wooded. The farmstead is located in the centre of the property approximately 525 m south of Concession 16. There is an existing pig barn which measures 15.9 m x 151.2 m (2,404.8 m²).

An Ontario Hydro tower line traverses the rear of the property immediately to the north of the wooded area.

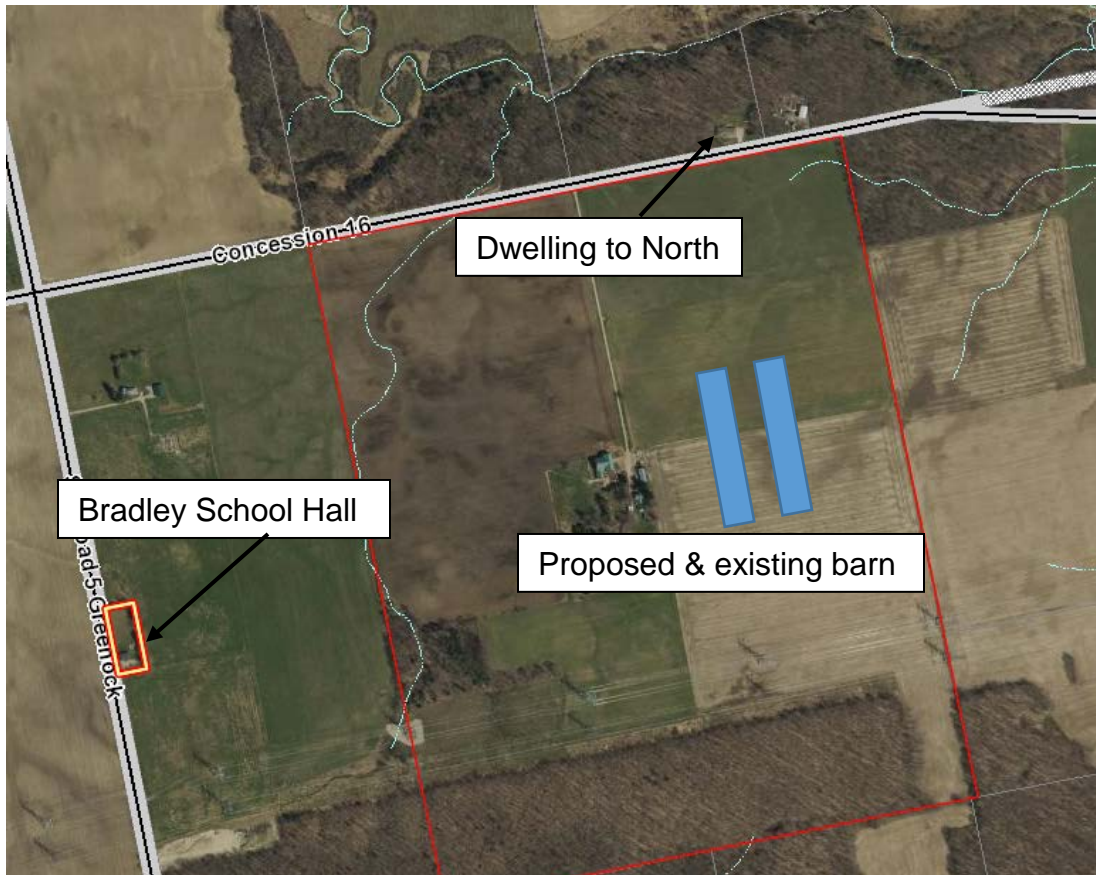
Proposal:

To permit the construction of a second livestock facility the same size as what exists beside the existing barn with variances to the MDS II formula with respect to a dwelling to the north (north side of Concession 16) and the Bradley School Hall to the west (on the east side of Side Road 5).

The proposed barn is located well back from the front lot line. The depth of the farm is 1010 m approximately 710 m to the hydro corridor. The proposed barn is located 559 m back from the road and 194 m from the hydro corridor.

The following chart shows the required setbacks for the proposed livestock facility under the MDS II formula compared to the required setbacks:

	Livestock Facility (Proposed)	
	Required Setback	Proposed Setback
Dwelling to north	575 m	559.6 m
Bradley School Hall	1149 m	1051 m



Agency Circulation:

SVCA - the proposed minor variance is acceptable

Brockton - no comment

Grey Bruce Catholic School Board - no comment

Historic Saugeen Metis - no objection or opposition

SVCA - the proposed minor variance is acceptable

Public Comments:

The public have been notified of the Public Meeting scheduled for April 23, 2019. At the time of preparation of this report, no comments had been received from the Public.

Planning Comment

Background:

In 1976 The Agricultural Code of Practice was established, and this code introduced the concept of a sliding scale for separation distances from livestock facilities. Since then, the MDS policy has been updated several times (the most recently version is March 2017) and is referenced in the Provincial Policy Statement (PPS). The Planning Act requires that decisions on land use planning matters be consistent with the PPS. Official Plans and Zoning By-laws were required to be updated to include MDS provisions in compliance with the PPS.

The MDS setbacks are intended as a tool to deal with nuisance issues relating to odour generated from livestock facilities. It is acknowledged that the MDS setbacks will not eliminate all potential odour complaints, nor will they address other possible irritants related to farming (noise, dust, lights, flies, slow vehicles on the road).

The variables that are factored into the calculation of the separation distances under the MDS separation formulae relate to type of livestock, number of nutrient units, the degree of expansion proposed, type of manure system, and the type of adjacent land use that may be affected. The OMAFRA experience is that when there is sufficient distance between differing rural land uses, there have been fewer odour complaints.

The OMAFRA publication that deals with MDS (Publication 853) recognizes that there are various circumstances where a proposed use may not comply with the precise setbacks required by the MDS formulae, but the use would meet the intent of the document. This leads to Planning Act applications (in this case, a minor variance). It is stated that generally, OMAFRA does not support or encourage reductions to MDS setbacks - it should be approached with caution. The tests that the MDS publication outlines are the same as what are outlined in the Planning Act for minor variances.

Under Section 3(5) of the *Planning Act*, the Municipality "shall be consistent with" matters of provincial interest as set out in the **Provincial Policy Statements (PPS)**. The PPS seeks to protect and promote agricultural activity of all sizes and intensities in prime agricultural areas. New and expanding livestock facilities shall comply with the minimum distance separation formulae (2.3.3.3).

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 satisfies the four tests. If the Committee is not satisfied on all four tests, then the minor variance should not be approved. The application has been assessed against the four tests.

1. Does the variance maintain the intent and purpose of the Bruce County Official?

The Bruce County Official Plan designates the land 'Agriculture'. Under the Agricultural policies, the farm use is permitted and requires compliance with the MDS formula in the event of enlargements to livestock facilities. The Plan contemplates variances will be required and outlines tests - generally the same four tests as what the Planning Act uses in the evaluation of Minor Variances.

Staff are satisfied that the proposal maintains the intent and purpose of the Plan.

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

The land is zoned A1-Agriculture and the zoning permits livestock facilities. The proposed new barn needs relief from the separation distance under the MDS II formulae with respect to an existing dwelling located on the north side of Concession 16 and with respect to an

institutional building located to the west on Side Road 5. The farm is an existing operation and an expansion of the facility is part of normal farming activity. Also, it should be noted that the proposed expansion involves the construction of a pig barn and that the manure storage facility will be in a pit under the floor resulting in the lowest odour factor for this type of storage.

Staff are satisfied that the proposal maintains the intent and purpose of the Zoning By-law.

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

The general character of the immediate area is agriculture. The proposal will ensure the agricultural use of the land will be promoted.

Staff are satisfied that the proposal is desirable development for the area.

4. Is the variance minor in nature?

The meaning of 'minor' is not based on a specific number, where a difference of a number determines whether or not the development is acceptable. It is more appropriate to base this test on whether there could be any significant adverse the impact on the surrounding area.

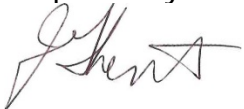
It is expected that the proposed reduction in the MDS II formula will have minimal adverse impact on the adjacent uses.

Conclusion:

The proposal is consistent with the policy of the PPS. The construction of the livestock facility on the 80 ha farm will facilitate farming activity and conforms with the Bruce County Official Plan.

Planning Staff are of the opinion that the application satisfies the four tests, constitutes good land use planning, and should be approved.

Respectfully submitted,

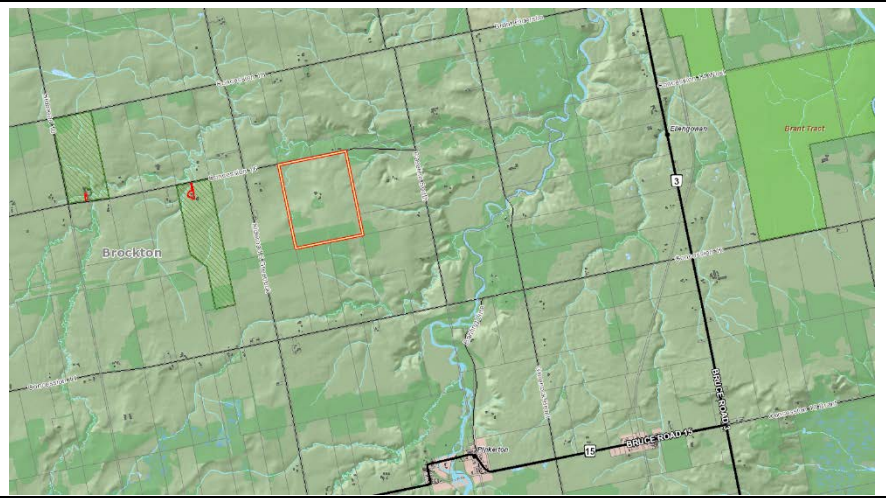


John Ghent, RPP
Planner - Municipality of Brockton
County of Bruce, Planning & Economic Development

Appendix 1 - Context

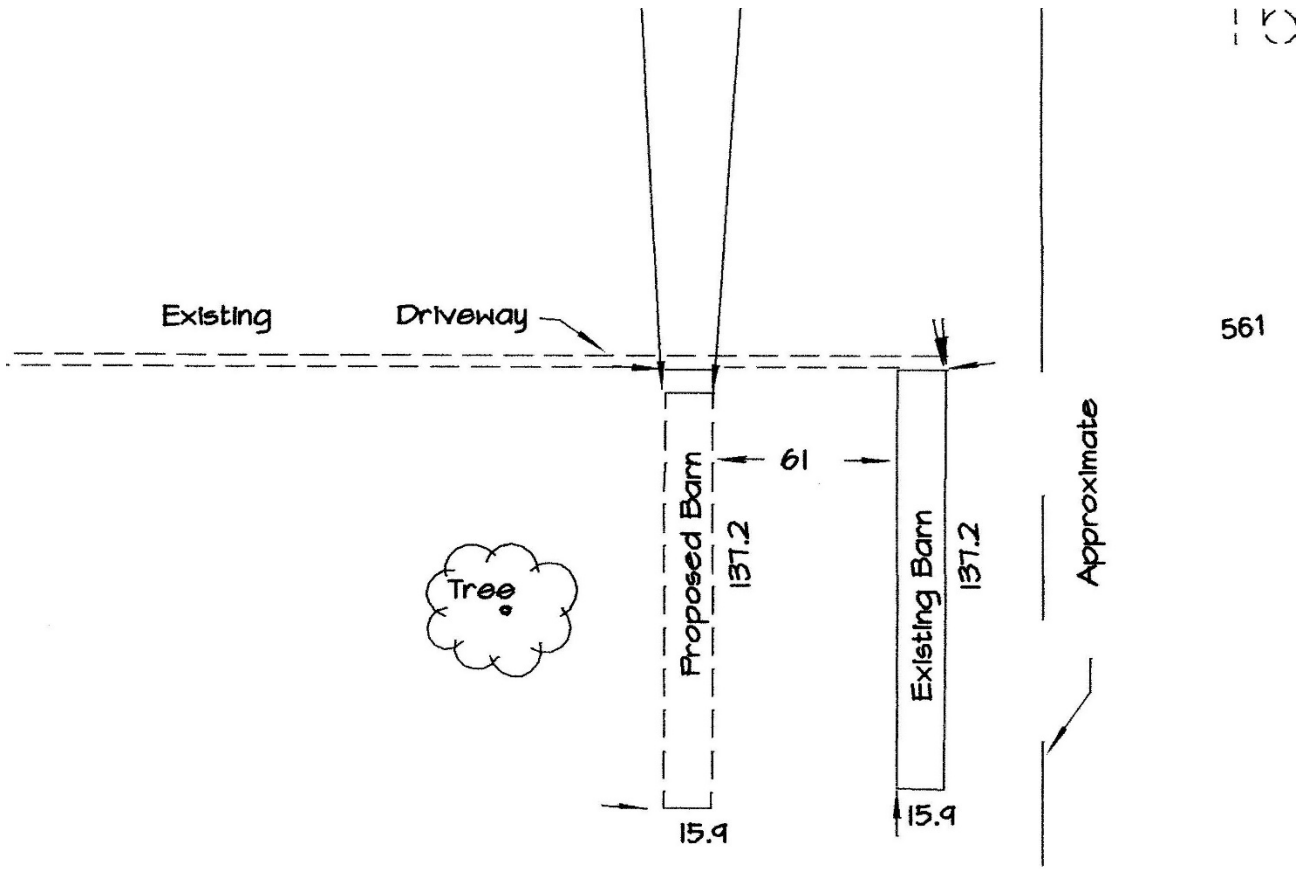
File Number:	A-17-19.31
Development Proposal	<p>The Minor Variance is requested to reduce the required Minimum Distance Separation (MDS) to facilitate the construction of a second barn on the property.</p> <ul style="list-style-type: none"> • 1149 m separation required from Bradly School Hall to the West; 1051 m proposed • 575 m separation required from dwelling on North Side of Concession 16; 559.6 m proposed <p>The applicant's Survey Sketch and other information can be obtained on-line at https://brucecounty.on.ca/living/land-use by Municipality and File Number.</p>
Related File(s)	None
Owner	Longman Hill Farms Ltd c/o Kevin Van Nes
Legal Description	CON 16 LOT 3 TO 4, Geographic Township of Greenock, Municipality of Brockton
Municipal Address	123 Concession 16
Lot	Dimensions
Lot Frontage	+/- 811.56 m (2,662.60 ft)
Lot Width	+/- 1009.43 m (3,311.78 ft)
Lot Depth	+/- 1009.43 m (3,311.78 ft)
Lot Area	+/- 80.94 ha (200 ac)
Uses Existing	Agriculture
Uses Proposed	Agriculture
Structures Existing	Dwelling, Barn, and outbuildings
Structures Proposed	New Barn
Access	Concession 16, a Year Round Municipal Road
Servicing	Private Water and Septic
County Official Plan	Agricultural Areas and Hazard Land Areas
Zoning By-law	'General Agriculture (A1)'
Surrounding Land Uses	Agricultural uses surround the property

Subject Lands



Appendix 2
Provincial Policy Statement 2014

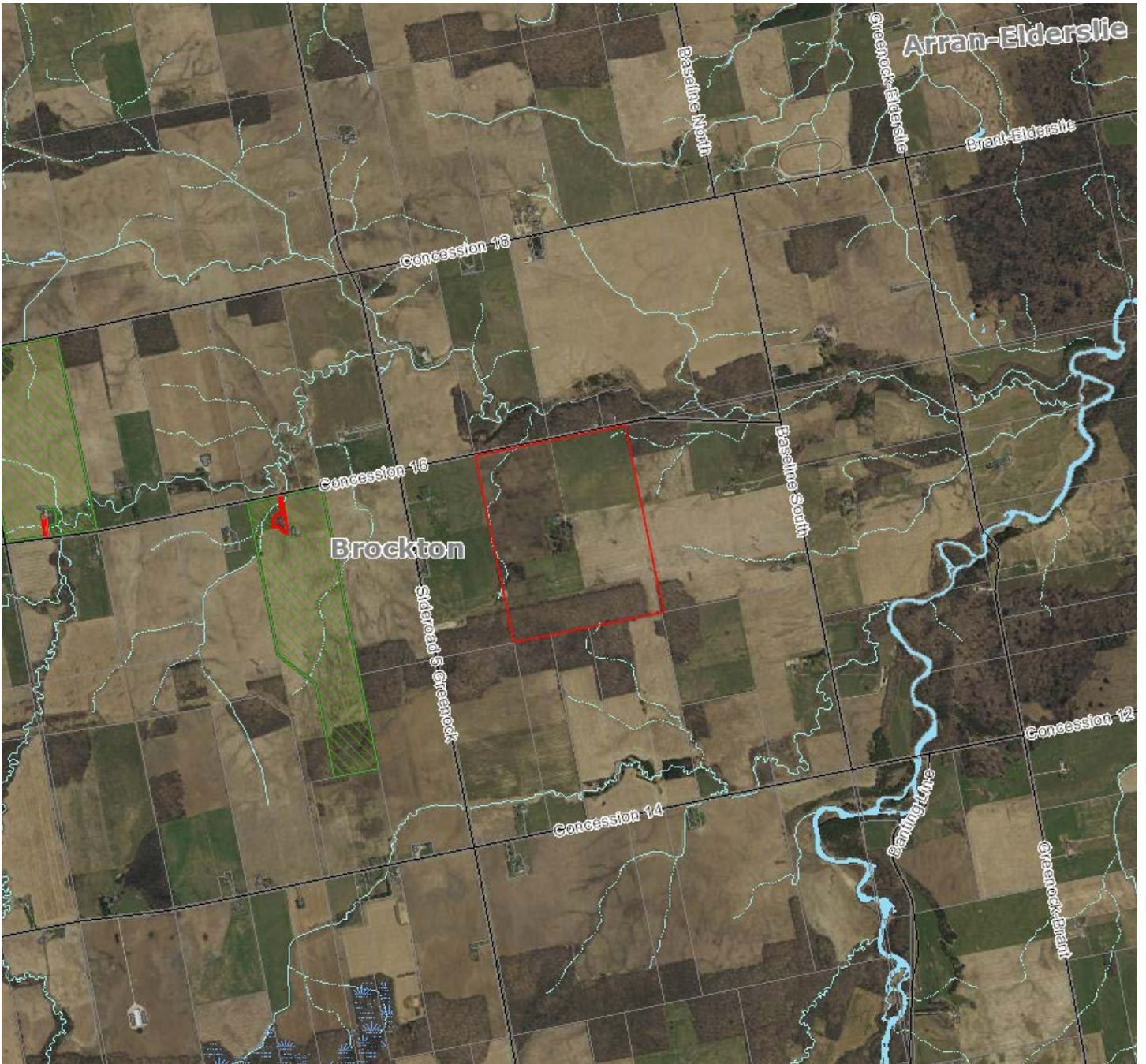
Does it Apply?	Policy Area
	1.0 Building Strong Communities
	1.1 Managing and Directing Land Use
	1.1.3 Settlement Areas
x	1.1.4 Rural Areas in Municipalities
x	1.1.5 Rural Lands in Municipalities
	1.1.6 Territory Without Municipal Organization
	1.2 Coordination
	1.2.6 Land Use Compatibility
	1.3 Employment
	1.3.2 Employment Areas
	1.4 Housing
	1.5 Public Spaces, Recreation, Parks, Trails and Open Space
	1.6 Infrastructure and Public Service Facilities
	1.6.6 Sewage, Water and Stormwater
	1.6.7 Transportation Systems
	1.6.8 Transportation and Infrastructure Corridors
	1.6.9 Airports, Rail and Marine Facilities
	1.6.10 Waste Management
	1.6.11 Energy Supply
	1.7 Long-Term Economic Prosperity
	1.8 Energy Conservation, Air Quality and Climate Change
	2.0 Wise Use and Management of Resources
	2.1 Natural Heritage
	2.2 Water
x	2.3 Agriculture
x	2.3.3 Permitted Uses
	2.3.4 Lot Creation and Lot Adjustments
	2.3.5 Removal of Land from Prime Agricultural Areas
	2.3.6 Non-Agricultural Uses in Prime Agricultural Areas
	2.4 Minerals and Petroleum
	2.4.2 Protection of Long-Term Resource Supply
	2.4.3 Rehabilitation
	2.4.4 Extraction in Prime Agricultural Areas
	2.5 Mineral Aggregate Resources
	2.5.2 Protection of Long-Term Resource Supply
	2.5.3 Rehabilitation
	2.5.4 Extraction in Prime Agricultural Areas
	2.5.5 Wayside Pits and Quarries, Portable Asphalt Plants and Portable Concrete Plants
	2.6 Cultural Heritage and Archaeology
	3.0 Protecting Public Health and Safety
x	3.1 Natural Hazards
	3.2 Human-made Hazards



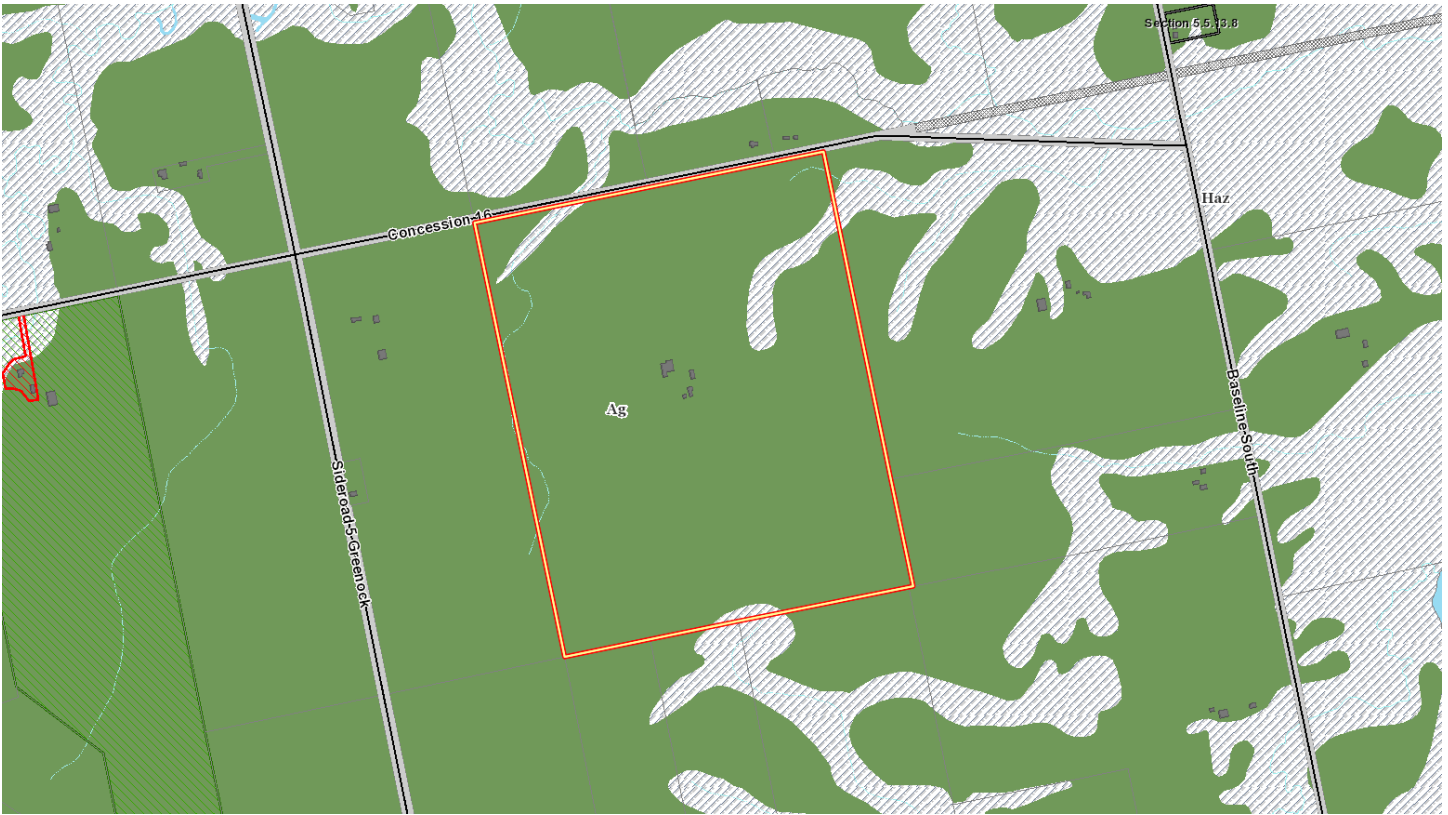
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Appendix 4 – Air Photo



Appendix 5 - Official Plan



Appendix 6 - Current Zoning



**Committee Of Adjustment for The
Corporation of the Municipality of Brockton
Decision Sheet**

Application No. A-17-19.31
Date of Hearing: April 23, 2019
Owner: Longman Hill Farms Ltd (K Van Ness)
Legal Description: Con 16 Lot 3 TO 4, Geographic Township of Greenock, Municipality of Brockton
Municipal Address: 123 Concession 16

Lot Dimensions:
Frontage +/- 811 m
Area +/- 80.94 ha

In the matter of Section 45(1) of The Planning Act R.S.O 1990, the Municipality of Brockton Comprehensive Zoning By-law 2013-26, and an application for **minor variance**.

The application requests the following variances to reduce the required MDS 2 setback as follows:

	Livestock Facility (Proposed)	
	Required Setback	Proposed Setback
Dwelling to north	575 m	559.6 m
Bradley School Hall	1149 m	1051 m

The application is hereby () refused or (x) **granted** subject to the following conditions:

1. Notwithstanding Section 3.34.4 (Minimum Distance Separation Guidelines), where separation distances of 575 m to the north and 1149 m to the west is required, an new livestock facility of (15.9 m x 151.2 m) 2405 m² (25,879 sq ft) shall be permitted with separation distances of 560 m to the west and 1051 m to the west.
2. That the Decision applies to the development that is accord with the proposal outlined in Schedule 1 attached to this decision.

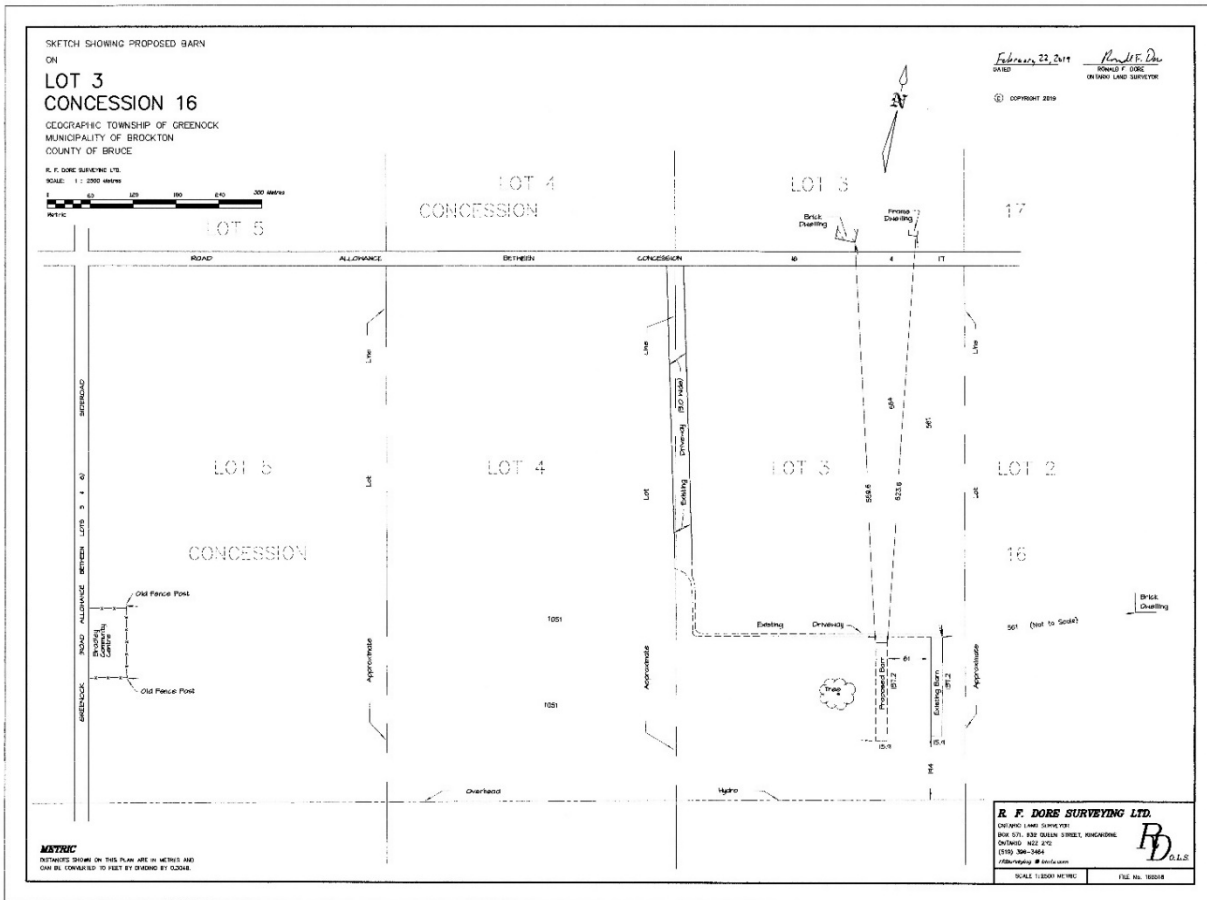
Reasons:

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.

WE, the undersigned, concur in the decision and reasons given for the decision of the Committee of Adjustment for The Corporation of The Municipality of Brockton made on the 23rd day of April, 2019.

	Present	Absent
(Chris Peabody)	()	()
(Dan Gieruszak)	()	()
(Steve Adams)	()	()
(Kym Hutcheon)	()	()
(James Lang)	()	()
(Dean Leifso)	()	()
(Chris Oberle)	()	()

Schedule 1



***** Certification Of Committee's Decision *****

I, _____ being the Secretary-Treasurer of the Committee of Adjustment for the Corporation of the Municipality of Brockton, certify that this is a true copy of the Committee's Decision dated 23rd Day of April, 2019.

Secretary-Treasurer

Date

***** Notice Of Last Date Of Appeal *****

Notice is hereby given that
the last date for appealing this decision
to the local planning appeal tribunal (lpat)
is the ____ day of May, 2019
(See information on reverse of this form)

***** Notice That No Appeals Have Been Received *****

This is to certify that no appeals have been received.

Secretary-Treasurer

Date

Appeal Information

The applicant, the Minister or any other person or public body who has an interest in the matter may not later than **April 29th, 2019** appeal to the Local Planning Appeal Tribunal (LPAT) against the decision of the Committee by filing with the Secretary-Treasurer of the Committee a notice of appeal (in accordance with LPAT guidelines, forms and fees (payable to the Minister of Finance) available from the Local Planning Appeal Tribunal website at www.elfto.gov.on.ca) The appeal must set out the objection to the decision and the reasons in support of the objection.

Submit Notice of Appeal to:

Secretary-Treasurer of the Committee of Adjustment
for the Municipality of Brockton

Fiona Hamilton, Clerk
100 Scott Street, P.O. Box 68
Walkerton, Ontario N0G 2V0

LPAT may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under the Planning Act, Section 45(17) [Dismissal without hearing].

If within such 20 days no notice of appeal is given, the decision of the Committee is final and binding.

For more information about this file, contact the **Inland Hub (Walkerton) Planning Office, 30 Park Street, P. O. Box 848, Walkerton, On N0G 2V0; Phone (519) 881-1782; and Fax (519) 507-3030**, from 8:30 to 4:30 Monday to Friday; or from the Bruce County website at www.brucecounty.on.ca under 'Living Here', 'Housing and Property', 'Land Use Planning' by Municipality and File Number; or e-mail the Planning Office at bcplwa@brucecounty.on.ca.

Mark Paoli
Planner
Bruce County Planning and Development