



Municipality of Brockton Planning Report

To: Municipality of Brockton Committee of Adjustment

From: Julie Steeper, Planner

Date: September 22, 2020

Re: Minor Variance Application - A-2020-029 (Whytock)

Recommendation:

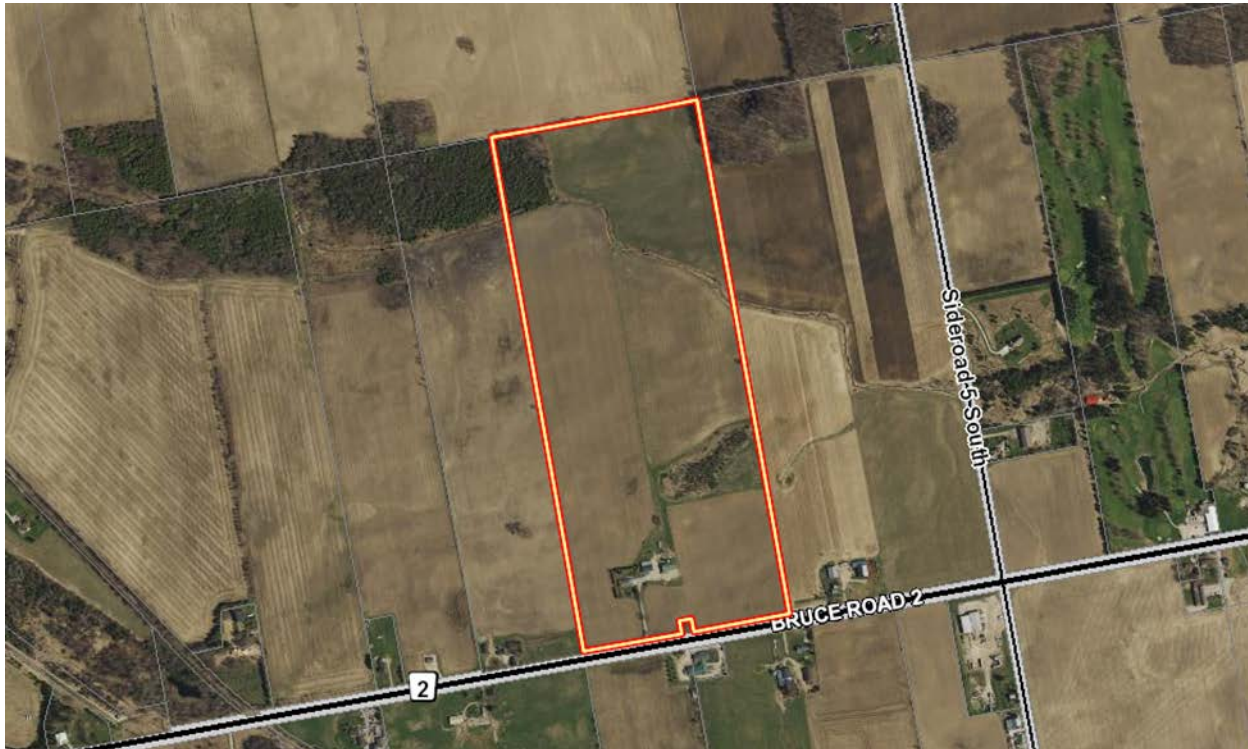
Subject to a review of submissions arising from the public meeting:

That Committee approve Minor Variance A-2020-029 as attached subject to the conditions on the decision sheet.

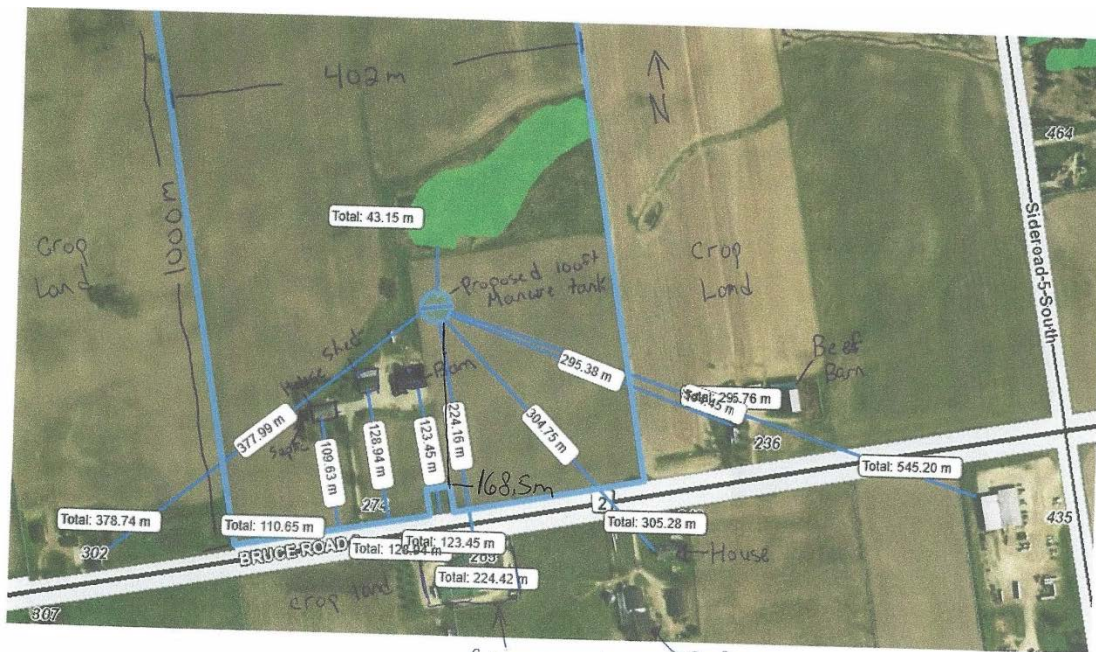
Summary:

The application proposes to seek relief from the Minimum Distance Separation II from a proposed manure tank located at 274 Bruce Road 2, in the Municipality of Brockton. The proposed setback from the neighbouring commercial building is 217 m and the required setback is 433 m. The applicant is requesting relief for 216 m. The proposed setback from the adjacent cemetery is 168.5 m and the required setback is 433 m. The applicant is requesting relief for 264.5 m. The proposal meets the MDS requirements for all other facilities and residences within the area. If approved, the application would facilitate the placement of a liquid manure tank on the existing farm property.

Airphoto



Site Plan



House - 40' x 80'
 Shed - 40' x 60'
 Barn - 66' x 88'
 Proposed liquid manure tank - 1000'

Commercial Building
 ↳ Pitt Produce

Beef Barn

Received
 August 31, 2020
 Bruce County
 Planning

Planning Analysis

The following section provides an overview of the planning considerations that were factored into the staff recommendation for this application, including relevant agency comments (attached) and planning policy sections.

Four Tests of a 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.

The Provincial Policy Statement directs that new land uses, including the creation of new lots, and new or expanding livestock facilities shall comply with the Minimum Distance Separation (MDS) Formulae. The MDS Formulae are land use planning tools that determine setback distances between livestock barns, manure storages or anaerobic digesters and surrounding land uses. The objective of the MDS is to minimize land use conflicts and complaints related to odour.

Does the variance maintain the intent and purpose of the Official Plan?

The subject lands are designated as Agricultural Areas, Rural Areas and Hazard Land Areas in the Bruce County Official Plan. A variety of agricultural and livestock uses are permitted in those areas. The current barn is used for beef cows and dry manure. The applicant is looking to convert the barn for dairy use and for liquid manure. The applicant is requesting the relief due to the change in the type of livestock. The Bruce County Official plan directs that Municipal Comprehensive Zoning By-Laws shall incorporate the Provincial MDS Formulae, as may be amended from time to time. A Minor Variance or Zoning Amendment to allow for a reduction in the Provincial MDS requirements shall consider the following:

- (i) does the reduction have regard for the intent of the Official Plan;
- (ii) does the reduction have regard for the intent of the Zoning By-Law;
- (iii) is the reduction minor in nature;
- (iv) is the reduction desirable and appropriate for the area; and
- (v) can any potential environmental impacts be appropriately mitigated.

In this regard, the application does maintain the intent and purpose of the Official Plan as further detailed below.

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

In Section 3.34.4 of the Municipality of Brockton Zoning By-law, it states that "Notwithstanding any other provisions of this By-law to the contrary, a first or expanding livestock facility permitted in any Agricultural Zone, will not contravene the MDS II formula."

The MDS II reduction is needed to the Municipal cemetery, McLean's Cemetery, which is adjacent to the subject property. The MDS states that cemeteries could be treated as Type A land uses if they are closed, there are low levels of visitation and there is no place of worship. The Municipality of Brockton has not clearly identified the cemetery as closed but the cemetery is considered abandoned and the last burial is unknown. There is also no place of worship at this location and so it is reasonable to consider this a Type A land use. In this instance, a reduction of the MDS II to the cemetery is appropriate given the limited use of the property.

The MDS II reduction is also needed to the Commercial Building (Ralph Pitt Produce) which is located across the road from the subject property at 263 Bruce Road 2. The applicant has noted that the manure tank will not be visible from the neighbouring commercial property. There is an existing adjacent beef barn closer in proximity to the commercial property than the proposed manure tank. The property is located within an area of existing agricultural uses. The applicant has also noted that if the tank were to be located at a greater distance from the barn, it would be inefficient for use.

The proposal meets the MDS requirements for all other facilities and residences within the area. The proposed placement of the manure tank is also outside the area zoned as EP-Environmental Protection in the Zoning By-law. There are no anticipated environmental impacts.

The variance does maintain the intent and purpose of the Zoning By-law.

[Is the application desirable for the appropriate development of the land, building or structure?](#)

Over time it can be expected that a farmer will change the type of livestock that will allow them to maximize the value and use of the property. The variance does represent an appropriate form of development for the use of the land.

[Is the application minor in nature?](#)

The surrounding uses are agricultural and there are no anticipated negative impacts on surrounding properties, the environment, or municipal functions. Whether a variance is minor is evaluated in terms of the impact the proposed development is expected to have on the surrounding neighbourhood. It is not expected that permitting the variance will have any impact on the character of the area or impact the ability of adjacent property owners to use their property for permitted uses. The variance is minor.

[Appendices](#)

- County Official Plan Map
- Local Zoning Map
- Agency Comments

County Official Plan Map



Bruce County Official Plan - Designated Agricultural Areas, Rural Areas and Hazard Land Areas

Local Zoning Map



Municipality of Brockton Zoning By-law - General Agriculture (A1) and Environmental Protection (EP)

Agency Comments

Municipality of Brockton: The MDS reductions need to be addressed, and there are no concerns regarding the proposed reductions.

Historic Saugeen Metis: No concerns.

Saugeen Valley Conservation Authority: No concerns and provided in full below.

Bruce County Transportation Services: No comment.