

**THE CORPORATION OF THE MUNICIPALITY OF
CHATHAM-KENT**

PLANNING MEETING

COUNCIL CHAMBERS, CHATHAM-KENT CIVIC CENTRE

MARCH 17, 2008

6:00 P.M.

1. CALL TO ORDER

Present were: Mayor Randy Hope, Councillors Brown, Clarke, Crew, Fluker, Gilbert, Herman, King, McGregor, Parsons, Pickard, Pinsonneault, Robbins, Stirling, Sulman, Vercouteren and Weaver

Regrets: Councillor Faas

Acting Chief Administrative Officer – Lucy Brown

Council observed a moment of silence in honour of C.A.O. Joe Pavelka who passed away earlier in the day.

2. APPROVAL OF SUPPLEMENTARY AGENDA

There was no supplementary agenda.

**3. DISCLOSURES OF PECUNIARY INTEREST
(DIRECT OR INDIRECT) AND THE GENERAL NATURE THEREOF**

Councillor McGregor declared a conflict of interest with regard to Items #4(d), (e), (f), (g) and (h) as he has a professional relationship with the applicant.

4. PLANNING SERVICES

The Acting Municipal Clerk reviewed the procedure to be followed during the meeting. Mr. Robert Brown, Storey Samways Planning Ltd. explained for members of the public that if any person or public body that files an appeal of a decision of The Corporation of the Municipality of Chatham-Kent in respect of a proposed planning application does not make any oral submission at the public meeting or any written submission to The Corporation of the Municipality of Chatham-Kent before the proposed Zoning By-law Amendment is approved, the Ontario Municipal Board may dismiss all or part of the appeal.

He also advised that information on Council's actions would be published on the municipal website (www.chatham-kent.ca). All persons receiving notice of this meeting will receive a Notice of the Passing of a By-law, relating to any of the planning applications presented here tonight, if approved, including appeal procedures. Any other person who wishes to receive a Notice of Passing or a Notice of Council's decision must submit a written request to the Municipal Clerk.

- a) Combined Consent (File B-07/08) and
Zoning By-law Amendment (D-28 HO/06/08/L)
Hazel Marion Leatherdale & Jerry, Jason & Duane Deprez
21134 Scane Road
Part of Lot 6, Concession 7
Community of Howard (East Kent)

The Mayor asked if any person from the public had an interest in the application. There were no members from the public noted as being present with an interest in the matter. The applicant was noted as being present at the meeting.

Councillor Pinsonneault moved, Councillor Brown seconded:

“That:

- 1. Council approve consent application B-07/08 concerning Part of Lot 6, Concession 7, in the Community of Howard, to dispose of a surplus dwelling on a 2.54 acre parcel located at 21134 Scane Road, subject to the following conditions:**
 - a) that the zoning by-law be amended to:**
 - i) rezone the surplus dwelling lot to rural residential and recognize the existing height of the accessory buildings;**
 - ii) prohibit future dwellings on the retained farm parcel;**
 - b) that the applicant(s) demonstrate that the septic system on the surplus dwelling lot is functioning in accordance with Municipal Protocol;**
 - c) that the applicant(s) pay \$85 for the cost associated with the apportionment of assessments under the Drainage Act related to the subject lands;**
 - d) that the farmland be conveyed to Jerry, Jason and Duane Deprez as outlined in the Agreement of Purchase and Sale;**
 - e) that the necessary deed, transfers or charges be submitted in triplicate; signed and fully executed (no photo copies) prior to certification.**
- 2. Council approve the zoning amendment application D-28 HO/06/08/L and adopt the by-law to implement the consent.”**

The Mayor put the Motion.

Motion Carried

- b) Zoning By-law Amendment (File D-14 DR/18/07/M)
Millennium Building Systems, Canada Ltd. & Joan Richardson & Don Gibbs
263 & 265 Main St.
Pt. Lots 13, 14, 15, & 16,
Plan 131, Parts 1, 2, 6, & 7, RP 24R 7034
Community of Dresden (North Kent)**

The Mayor asked if any person from the public had an interest in the application. There were no members from the public noted as being present with an interest in the matter. The applicant was noted as being present at the meeting.

Councillor Stirling moved, Councillor Crew seconded:

“That Council approve zoning amendment application D-14 DR/18/07/M located at 263 & 265 Main St., in the Community of Dresden, to rezone the subject land to “R4-3, Residential” and adopt the implementing by-law.”

The Mayor put the Motion.

Motion Carried

- c) Combined Consent (File B-03/07) and
Zoning By-law Amendment (File D-28 CH/02/08/K)
Hatem Kobrossy and Thames Van Farms Ltd.
595 Gregory Drive East,
Part of Lot 4, Concession 3
Community of Chatham Township (North Kent)

The Mayor asked if any person from the public had an interest in the application. There were no members from the public noted as being present with an interest in the matter. The applicant was noted as not being present at the meeting.

Councillor Crew moved, Councillor Robbins seconded:

“That:

- 1. Council approve consent application B-03/08 concerning Part of Lot 4, Concession 3, in the Community of Chatham (Township) to dispose of a surplus dwelling (595 Gregory Drive East), subject to the following conditions:**
 - a) that the zoning by-law be amended to:**
 - i) rezone the surplus dwelling lot to recognize the non-farm use and recognize the reduced front yard of the dwelling;**
 - ii) prohibit future dwellings on the retained farm parcel.**
 - b) that the applicant(s) pay \$85 for the cost associated with the apportionment of assessments under the Drainage Act related to the subject lands;**
 - c) that the applicant(s) demonstrate that the septic system is functioning in accordance with Municipal Protocol;**
 - d) that the applicant(s) demonstrate that the septic system is functioning in accordance with Municipal Protocol;**
 - e) that the subject parcel be conveyed to Thames Van Farms Ltd. as outlined in the Agreement of Purchase and Sale;**
 - f) that the applicant obtain an access permit for the installation of a new farm access, all improvements associated with the installation of said access shall be at the applicant’s expense;**
 - g) that the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies) prior to certification.**
- 2. Council approve the zoning amendment application D-28 CH/02/08/K and adopt the by-law to implement the consent.”**

The Mayor put the Motion.

Motion Carried

- d) Combined Consent (File B-125/07) and
Zoning By-law Amendment (File D-28 CH/94/07/V)
Von Neuberg Farms Ltd.
25274 Caledonia Road
Part of Lot 9, Concession 8
Community of Chatham Township (North Kent)

The Mayor asked if any person from the public had an interest in the application. There were no members from the public noted as being present with an interest in the matter. The applicant was noted as not being present at the meeting.

Councillor McGregor declared a conflict of interest and removed himself from the remainder of the meeting.

Councillor Vercooterren moved, Councillor Stirling seconded:

“That:

1. **Council approve consent application B-125/07 concerning Part of Lot 9, Concession 8, in the Community of Chatham (Township) to dispose of a surplus dwelling (25274 Caledonia Road), subject to the following conditions:**
 - a) **that the zoning by-law be amended to:**
 - i) **rezone the surplus dwelling lot to recognize the non-farm use;**
 - ii) **prohibit future dwellings on the retained farm parcel.**
 - b) **that the applicant(s) pay \$85 for the cost associated with the apportionment of assessments under the Drainage Act related to the subject lands;**
 - c) **that the applicant(s) demonstrate that the septic system is functioning in accordance with Municipal Protocol;**
 - d) **that the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies) prior to certification.**
2. **Council approve the zoning amendment application D-28 CH/94/07/V and adopt the by-law to implement the consent.”**

The Mayor put the Motion.

Motion Carried

- e) Combined Consent (File B-124/07) and
Zoning By-law Amendment (File D-28 CH/93/07/V)
Von Neuberg Farms Ltd.
595 McNaughton Ave. E.
Part of Lot 4, Concession 2
Community of Chatham Township (North Kent)

The Mayor asked if any person from the public had an interest in the application. There were no members from the public noted as being present with an interest in the matter. The applicant was noted as not being present at the meeting.

Councillor McGregor declared a conflict of interest regarding this application and was not present during discussion and voting.

Councillor Crew moved, Councillor Robbins seconded:

“That:

- 1. Council approve consent application B-124/07 concerning Part of Lot 4, Concession 2, in the Community of Chatham (Township) to dispose of a surplus dwelling (595 McNaughton Ave., East), together with a 25 ft. wide right-of-way in favour of the retained parcel for access to the farmland, subject to the following conditions:**
 - a) that the zoning by-law be amended to:**
 - i) rezone the surplus dwelling lot to recognize the non-farm use;**
 - ii) prohibit future dwellings on the retained farm parcel.**
 - b) that the applicant(s) pay \$85 for the cost associated with the apportionment of assessments under the Drainage Act related to the subject lands;**
 - c) that the applicant(s) demonstrate that the septic system is functioning in accordance with Municipal Protocol;**
 - d) that the applicant(s) convey a 10 ft. wide road widening along the entire frontage of the severed and retained parcel to the Municipality free of charge and clear of all encumbrances;**
 - e) that the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies) prior to certification.**
- 2. Council approve the zoning amendment application D-28 CH/93/07/V and adopt the by-law to implement the consent.”**

The Mayor put the Motion.

Motion Carried

- f) Combined Consent (File B-123/07) and
Zoning By-law Amendment (D-28 CH/91/07/V)
Von Neuberg Farms Ltd.
8299 McCreary Line
Part of Lot 23, Concession 3
Community of Chatham Township (North Kent)

The Mayor asked if any person from the public had an interest in the application. There were no members from the public noted as being present with an interest in the matter. The applicant was noted as not being present at the meeting.

Councillor McGregor declared a conflict of interest regarding this presentation and was not present for discussion and voting.

Councillor Stirling moved, Councillor Weaver seconded:

“That:

1. **Council approve consent application B-123/07 concerning Part of Lot 23, Concession 3, in the Community of Chatham (Township) to dispose of a surplus dwelling (8299 McCreary Line), together with a 24 ft. wide right-of-way in favour of the retained parcel for access to the farmland, subject to the following conditions:**
 - a) **that the zoning by-law be amended to:**
 - i) **rezone the surplus dwelling lot to recognize the non-farm use;**
 - ii) **prohibit future dwellings on the retained farm parcel.**
 - b) **that the applicant(s) pay \$85 for the cost associated with the apportionment of assessments under the Drainage Act related to the subject lands;**
 - c) **that the applicant(s) demonstrate that the septic system is functioning in accordance with Municipal Protocol;**
 - d) **that the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies) prior to certification.**
2. **Council approve the zoning amendment application D-28 CH/92/07/V and adopt the by-law to implement the consent.”**

The Mayor put the Motion.

Motion Carried

- g) Combined Consent (File B-122/07) and
Zoning By-law Amendment (File D-28 CH/19/07/V)
Von Neuberg Farms Ltd.
6015 Stewart Line
Part of Lot 4, Concession 3 (Gore)
Community of Chatham Township (North Kent)

The Mayor asked if any person from the public had an interest in the application. There were no members from the public noted as being present with an interest in the matter. The applicant was noted as not being present at the meeting.

Councillor McGregor declared a conflict of interest regarding this application and was not present during discussion and voting.

Councillor Weaver moved, Councillor Parsons seconded:

“That:

1. **Council approve consent application B-122/07 concerning Part of Lot 4, Concession 3, in the Community of Chatham (Township) to dispose of a**

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surplus dwelling (6015 Stewart Line), subject to the following conditions:

- a) that the zoning by-law be amended to:**
 - i) rezone the surplus dwelling lot to recognize the non-farm use;**
 - ii) prohibit future dwellings on the retained farm parcel.**
- b) that the applicant(s) pay \$85 for the cost associated with the apportionment of assessments under the Drainage Act related to the subject lands;**
- c) that the applicant(s) demonstrate that the septic system is functioning in accordance with Municipal Protocol;**
- d) that the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies) prior to certification.**

2. Council approve the zoning amendment application D-28 CH/91/07/V and adopt the by-law to implement the consent.”

The Mayor put the Motion.

Motion Carried

- h) Combined Consent (File B-120/07) and
Zoning By-law Amendment (File D-28 DO/90/07/V)
Von Neuberg Farms Ltd.
8480 Wren Line
Part of Lot 5, Concession 18
Community of Dover (North Kent)

The Mayor asked if any person from the public had an interest in the application. There were no members from the public noted as being present with an interest in the matter. The applicant was noted as not being present at the meeting.

Councillor McGregor declared a conflict of interest and was not present during discussion and voting.

Councillor Vercoouteren moved, Councillor Crew seconded:

“That:

- 1. Council approve consent application B-120/07 concerning Part of Lot 5, Concession 18, in the Community of Dover to dispose of a surplus dwelling (8480 Wren Line), subject to the following conditions:**
 - a) that the zoning by-law be amended to:**
 - i) rezone the surplus dwelling lot to rural residential and recognize the reduced front yard, side yard and existing height of the outbuilding;**
 - ii) prohibit future dwellings on the retained farm parcel, limit the**

number of dwellings to one and recognize the reduced frontage.

- b) that the applicant(s) pay \$85 for the cost associated with the apportionment of assessment under the Drainage Act related to the subject lands;
- c) that the applicant demonstrate that the septic system on the severed parcel is functioning in accordance with Municipal Protocol;
- d) that the necessary deed(s), transfer or charges be submitted in triplicate; signed and fully executed (no photo copies) prior to certification.

2. Council approve the zoning amendment application D-28 DO/90/07/V and adopt the by-law to implement the consent.”

The Mayor put the Motion.

Motion Carried

- i) Minor Variance (File A-04/08)
Wouter & Jose Van Leeuwen
13582 Spence Line
Part of Lots 16 & 17, Concession 7
Community of Howard (East Kent)

The Mayor asked if any person from the public had an interest in the application. There were members from the public noted as being present with an interest in the matter. The applicant was noted as being present at the meeting.

In response to a number of objections raised by the neighbours, Mr. Brown prepared the following summary:

- a) The applicant has applied for a variance from the MDS II requirements because he can't meet the MDS II setback for the expansion. MTO was circulated on this matter and had no comment. I am not aware of any additional lands being purchased by MTO for the proposed expansion in this area as such the reduction will have no impact.
- b) A water table study is not something that you would be able to require as part of a minor variance. If the applicant didn't require a variance to expand this would not be a requirement. No new use is being proposed just an expansion of an existing permitted use. Building Services only requires the provision of a potable water supply. It is up to the property owner to ensure that the water supply is adequate for his needs.
- c) There is a requirement for a nutrient management plan or strategy on the operation at present and this plan would be required to be updated as part of the regulations under the Nutrient Management Act. The following is an applicable section under the Nutrient Management Act:

“5. Recent amendments to the Building Code require the Chief Building Official to ensure the approval of a NMS before any construction of livestock housing or manure storages.

A building permit cannot be issued for the construction of a building to house farm animals or store nutrients if a farm operation generates more than 5 Nutrient Units (NU)³, unless a NMS has first been approved by OMAFRA.

The Province will provide the farm operator with a Record of Approval for the NMS, and this approval will then be submitted to the municipality.”

- d) Again this will be addressed as part of the revisions to the existing Nutrient Management Plan. The applicant has other farm holdings in addition to the 57 acre subject site including his home parcel of 95 acres and has an agreement with a neighbouring land owner who farms in excess of 400 acres.
- e) This has been addressed in part in the report to Council however additional discussion with the applicant has provided additional details. The ventilation of the new facility will utilize chimney vents rather than wall fans which help to direct smell up rather than along the ground. The applicants purchased a new manure spreading unit last year that utilizes injection rather surface spreading greatly reducing smell at spreading time. I must however concede that loading operations during manure disposal do generate unavoidable odour. The increase in size of the facility may extent this by one or two days but most hog operations limit manure spreading to twice a year or less to avoid excessive generation of odours.
- f) Dead stock disposal is something that would fall under normal farm practice and would have to be done in an appropriate manner. I understand that the applicant composts dead stock and is going to be constructing a new area as part of the expansion. Dead stock disposal is also regulated by the Dead Animal Disposal Act which has been in place since 1990. This Act permits on-site composting and has established guidelines which the applicant is following.
- g) This is a farming community and the protection of agriculture is one of the key principles in PPS. The raising of livestock is a permitted use. Previous variances have been supported as long as the expansion is not moving closer to the nearest neighbour which is the case here. The MDS By-law approved by Council contains provision for individuals to apply for a variance from the setback requirement and has established evaluation criteria which are outlined in the Council report.
- h) The home farm is zoned to prohibit further expansion due to the severance of a dwelling several years ago which makes expansion at this site impossible.
- i) The increase is 82% I don't know where the 40% came from.
- j) There is no reason to believe that smell will be increased significantly because of the increase in size. The new manure storage is under the barn and of a significantly decreased odour generating factor than that of the current open tanks. As noted earlier the barn is also to be designed with chimney ventilation which is an improved design for less odour travelling to neighbouring properties.
- k) A nutrient management plan is in place to address manure management including a spill action plan. Dead Stock must be disposed of in accordance with the Dead Animal Disposal Act (2006). The applicant currently is contracted to produce hogs which are feed with feeds free of animal by products and no antibiotics are permit to be used on the animals. There are few if any farming operations that are 100% environmental friendly. However as agricultural research continues and technologies improve in the areas of manure management, ventilation and chemical use farming continues to improve its relationship with the environment.

Mr. Brown informed Council that a letter was just received from Albert and Deborah Schmitchen who reside across the road from the applicants at 20817 Victoria Road.

They stated that the applicants have owned and operated their farm operation since 2001, and they have not experienced any problems or diminished property values due to their business. The letter went on to say that the applicants have invested much time, money and energy into improving their day-to-day operation of the hog barns. The property is kept impeccably clean and they have even noticed a reduction in odour due to improved ventilation in the barns, as well as new manure spreading equipment. It is their understanding that the reason the applicants wish to expand is for the streamlining of the existing operation. They further commented that with the economy hurting in the area, it is encouraging to see local farmers moving ahead with optimism. In conclusion, based on their experience with the applicants as neighbours, as well as how they have complied with Ministry guidelines, they have no reservations regarding the proposed expansion.

Councillor Brown questioned whether there was an alternate site on the subject lands that would put more distance between the expansion and the residents. Mr. Brown responded that if relocated, it would put the expansion closer to other residents in the area. Councillor Brown questioned whether a response was received from the MTO. Mr. Brown confirmed that they did not respond. Councillor Brown commented that considering a meeting concerning Spence Line was held recently, he was surprised that MTO did not submit any response. In regards to dead stock regulations, Councillor Brown asked if there was an actual dead stock person that inspected the process. Mr. Brown explained that the process was similar to the Building Department process, whereas an inspection would be initiated if a complaint was received. He said that it was a combination between the Municipal Building Department and OMAFRA. Councillor Brown questioned when agreements are accepted, and a part of the agreement is for the disposal of manure on leased lands, and not on owned lands, what happens in the future if the agreements are not carried through. Mr. Brown explained that this issue is addressed through the Nutrient Management Strategy. There has to be some permanence and the Strategy has to be renewed every five years. It would also have to indicate whether it is leased or owned. Councillor Brown further questioned whether a request for a variance over five hundred feet was "minor". Mr. Brown explained that in analyzing a minor variance, the Ontario Municipal Board states that numerical value is not to be the sole determining factor. It is the impact to the surrounding area, and whether these impacts can be mitigated, which constitutes "minor". Councillor Brown questioned whether there was a maximum number of hogs allowed on any particular acre. Mr. Brown advised that each application is dealt with on an individual basis. The unwritten rule of one nutrient unit is six feeder hogs per acre.

Councillor Fluker questioned how long the present 1700 hog operation has been impacting the neighbours. Mr. Brown explained that the hog operation has been there for over twenty-five years. He further commented that the existing facility is in compliance with the MDS, whereas the expansion to 3100 hogs would require a greater distance.

Councillor King questioned the rationale of the MDS formula. He commented that this operation is proposed to double in size, and a 34% reduction does not seem to be "minor". He questioned the statement that there would be no impact on odour. Mr. Brown explained that with the covered manure storage vs. open manure pit and open ventilation, any odour increases would be minimal. He did concede that it would take an extra day or two to dispose of the manure from the site.

Councillor Vercouteren questioned whether the property is being leased, and asked which direction the prevailing winds were on the affected homes.

Councillor Stirling commented that he is struggling with the definition of "minor". He further questioned the availability of water and water quality. Since the population of the pigs is intended to double, under the Source Water Protection Act, he questioned

whether a water study would be required under the Nutrient Management Plan, or a condition that the Municipality can impose on the approval of the application. Mr. Brown responded that he is not aware of any condition that can be applied to the approval. In terms of water quality, ground or surface water around the operation, this is one of the top five reasons why the Nutrient Management Act was put into place. Regardless of the size of an operation, it ensures that nutrients are properly managed and that controls are put in place to protect the ground water. Mr. Brown explained that the Ministry of Environment is responsible in part, as well as the property owner themselves as good stewards. It is in their best interests to do it properly or else it is the responsibility of the surrounding residents to register a complaint.

Councillor Crew questioned why this application would be considered “minor”. Mr. Brown explained the MDS guidelines.

Councillor Parsons questioned whether the existing hog operation complied in its present state. Mr. Brown confirmed that at present the operation complies. Councillor Parsons expressed concern with regard to the neighbouring wells. He questioned how the neighbours protect themselves should the operation be allowed to expand. Mr. Brown commented that a mechanism is in place for the residents to contact OMAFRA, the Municipal Building Department, or the Public Health Unit. Councillor Parsons further questioned why Mr. Brown read the letter of support submitted by the Schmitchens, whereas he summarized the letter submitted by the objecting neighbours. Mr. Brown explained that the Schmitchen’s letter was just received, and out of courtesy, he wanted to provide Council with the contents.

Councillor Pinsonneault questioned how the expansion of the hog operation could result in no increase in odour. Mr. Brown suggested that the applicant could address the height of the chimney which is intended to take away the odour. Councillor Pinsonneault commented that extensive work has gone into the MDS and NMS. He felt that the neighbours are being impacted and that the proposal is not minor.

Councillor Pickard stated that if 6 hogs per acre is the unwritten rule, then 350 should be the unwritten amount of hogs, rather than the 3,000 which are proposed. Mr. Brown commented that this is not used as evaluation criteria as to whether an application is “minor” or not. Councillor Pickard felt that the MDS formula is being ignored, and did not agree that the neighbours will get used to the smell. Whether or not the operation has been existing for a number of years, he felt that the fact that the neighbours have never been put into the MDS distance, but now are being put into it 40% has to be addressed.

Councillor Gilbert advised that she took a tour of the area and noticed large hog operations on both sides of Highway 401. She noted that there were no smells, and that the operations looked like factories. She further noticed a tub marked dead stock and again, there was no smell. She felt that the day-to-day operation appeared to have little impact on anyone close to the operation.

Councillor Fluker recalled going through the Nutrient Management process five years ago and questioned whether the Federation of Agriculture responded as to what they consider to be “minor”. Mr. Brown responded that they did address “minor” back when the by-law was developed. He commented that the main issue is where the manure pit is located, not the barn itself. In this case, the barn is being built on top of the manure pit which would mitigate the odour tremendously.

Janice and Glenn Anderson - 13670 Spence Line, east of hog operation proposal

Mrs. Anderson advised that she and her husband were both raised on farms. They own 100 acres of cash crop and she is a seed sales agent. She stated that their objections

are concrete and factual. She noted that the applicant owns 95 and 57 acre parcels and questioned the term “considerable” amount of land for manure disposal. She felt that this definition is not clear and does not provide a concrete answer. She further stated that the MDS guidelines on manure storage and odours are being ignored. The letter of support from the Schmitchens refers to property located on Highway 21, and not Spence Line. She went on to say that she has worked for Farm Credit, one of the largest agricultural lenders of Canada, appraising properties for financing. Currently the applicant has 1700 hogs and the expansion is proposed for ten times the recommended number by the Nutrient Management guidelines. She also felt that contracts do not hold a lot of weight and questioned the amount of owned land vs. contract land for the disposal of manure. She questioned how MDS guidelines can be ignored with two houses and Highway 401 within the MDS requirements. She also questioned the proposal to double the size of the hog operation and felt that it is not minor. She felt there is no proof that the water table would support the houses and wells in the area. She further questioned the grandfathering of the hog expansion as the applicants are not the original owners of the property. She noted that just because the use was allowed 50 years ago, it should not be allowed to continue. Current guidelines cannot be ignored. The applicants purchased the lands after MDS was put into place. She further advised Council that in 1996 the subject lands were renovated and put through as a renovation, instead of a new barn. A loophole was found to allow the existing foundation in order to build a new hog barn. In conclusion, their objections are not because of the hog expansion, but because the MDS guidelines for acceptable distances are clearly being violated and she questioned whether the water table in the area can support the expansion.

Councillor Parsons questioned the location of Mrs. Anderson’s well. She indicated that it is located beside the house to the east of the property, approximately 450 metres away from the property line.

Doug and Evelyn Charon – 13537 Spence Line

Mrs. Charon advised Council that they purchased their lot in 1999. She expressed concern with the dead stock that is found on her lawn. She expressed further concern with the increased odour and water issue. She stated that the well has never run dry in the past 31 years, however, with the operation expected to double, she is fearful that they could run out of water. She confirmed that they purchased a rural residential lot however, they do not farm.

Art Delanghe – 13725 Spence Line

Mr. Delanghe advised that he has lived and farmed in this area all his life. He commented that a Nutrient Management Plan is in place, so why not obey the rules. He noted that every time manure is removed from the subject lands there is spilled manure on the road. It does not get reported, the neighbours just get use to it. He therefore questioned the applicant’s good farming practices.

Kathy Delanghe – 13725 Spence Line

Mrs. Delanghe stated that “minor” is a judgment call, especially for someone that does not live in the area. She stressed that this expansion will have a huge adverse effect on the residents in the area. She also mentioned that there was one farmer within the radius that was not even aware of the subject proposal, as well as other farmers that do not actually live on their lands who did not receive notice. She went on to explain that this is not a case of town people complaining. The MDS was put into place because the Province and the Municipality believe this is the minimum distance separation, and no one appears to be listening. She warned that if this proposal goes through, it could set a precedent for future expansions. She has also driven down the road over spilled

manure and has had to clean off her tires. She noted that their well is located by the road.

Councillor Vercooterren asked Mr. Brown if everyone in the area was notified. Mr. Brown confirmed that every person within the 60 metre requirement was notified to the best of his knowledge.

Councillor Robbins stated that he does not believe the proposal is a “minor” variance, and none of the four residents in the area believe that it is minor. He confirmed that it is a minimum distance, not an average distance.

Councillor Pickard stated that he was in shock with regard to the standard notice criteria. He felt that neighbours in the area should be notified, regardless of the standard distance. Mr. Brown commented that if Council wants to revise the notification criteria, they need to establish the boundaries and criteria. The present notification distance is the standard which is cited in the Planning Act for a minor variance. Councillor Pickard stated that Council should review it at some point in the future.

Rick Faber – Consultant for the Applicant

Mr. Faber advised Council that the applicant’s wish to expand their livestock operation is for the following reasons:

1. They are unable to expand at their home location due to a no building clause that was put on the farm before they purchased it. The home farm is also located in an area that has a much higher density of houses and is on a main road leading to the Town of Ridgetown from the 401. The receiving of additional feed stuffs and additional manure removal would be far more dangerous due to the larger amount of traffic on the highway.
2. They purchased the farm on the Spence Line to be able to make the operation a viable size in the current economic environment. Economics are still changing and they are looking at the next step in becoming a farrow to finish unit with total control over all the inputs.
3. They added feed stuff storage and milling equipment at the Spence line location to be able to become more efficient.
4. They have invested a large amount of dollars in upgrading current facilities and equipment. Last year a new manure spreader was purchased with the latest style injectors spreading the nutrients on the field with considerably less odor, if not non existing. The nutrients that cannot be used for our own locations are being transferred by contract to a local cash crop farmer who has adequate acres to handle all of those nutrients on fields that are located within a reasonable distance from the generating facility.
5. They have looked forward in their marketing of the hogs and are currently producing hogs for a special Antibiotic free and no animal by-products market. Last year they secured a contract with a major Ontario hog packing plant to supply hogs for this market in major Ontario supermarkets. This did require several new regulations be put into place which are currently being followed.
6. Feed has to be made on the farm with CFIA approved feed ingredients for this program and with on farm milling equipment. The farm had to be audited by an independent auditor.

7. The hogs are being shipped to the packer at a certain day of the week and segregated in the food chain for this use. (Trucking and logistics to draw from many different locations are a problem.)
8. The operators are allowing more space per pig under the current more environmentally friendly production system as before. Before the VanLeeuwens purchased the operation on Spence Line there were 1950 pigs in the existing facilities. They have cut back to 1700 to increase the space per pig to well above the general guidelines of 1 pig per 8 square feet. The additional space per pig is also calculated for the new addition so the animals will have sufficient space.
9. The new barn will also have new ventilation technology. Most of the improvements they have made at the home farm have come from Europe and were directly imported by them as some of it is not yet available in Canada on a commercial basis. Modern chimney ventilation will be used resulting in fewer odours and also reducing the electricity requirement to keep fresh air in the barn. Another addition that the VanLeeuwens have adopted is the addition of a feed additive that reduced the free ammonia in the air by up to 10% and thus further reducing the odour factor. The use of wet/dry feeders in this barn will reduce the amount of manure being produced by the facility.
10. The manure storage for the new facility will be totally under the barn and capable of holding the required days of storage. The fact that the pit is covered and the nutrients upon removal are being injected into the soil, will give the most economic benefit of the nutrient value of the manure and this process will occur with minimal, if any, odour being released to the air.
11. As a certified Nutrient management consultant having received a certificate and licensed from OMAFRA under the Nutrient Management Act I will be completing a new nutrient management strategy and plan for this operation as required and have it approved by the approvals unit of the Nutrient management branch of OMAFRA. This is also a requirement under the building by-laws of Chatham-Kent. No building permit can be issued unless a record of approval from the Nutrient management branch has been filed with the building inspector. This plan will address the following areas of possible concern. A) Adequate manure storage for 240 days. B) size of the buildings and pits. C) Nutrient removal and where the nutrients are being applied. D) proof that nutrients are not being applied at a rate that is harmful to the environment. E) contingency plan which describes the following possible occurrences. (When more nutrients are generated than planned, when storage capacity is reached sooner than planned i.e broken waterline, unanticipated releases which will include a call to the MEO spill action centre and ways how to avoid, stop and contain a spill, it will also deal with conditions that could prevent planned application of the nutrients like excessive rain fall. This would include a change in timing, possible crop change and or fertilizer application change.)
12. The location of the composter will also change. It will be located further from the Spence Line and access by wild animals will be restricted. Several new designs from the province of Alberta and the University of Iowa are being discussed as to which design would be the most environmentally friendly and best suited for this operation.
13. The addition of the new barn on this operation should not have any negative effects on the environment and keep our agriculture strong. We are currently losing the pork industry in Chatham-Kent at a rate that is much higher than the rest of Ontario and our diversity in agriculture could hurt us in the long run when some of the booms disappear and the busts begin. Diversity is golden and the

opportunity to help a forward looking business minded family farm helps Chatham-Kent agriculture become stronger and should not be held back.

14. The record for this enterprise does not have any blemishes and good stewardship has been practiced on this family run operation all along. This will continue in the future.
15. This is an opportunity to be a larger player in supplying a specialty market. It should not be given to some other area to reap the benefits.

Councillor Stirling asked Mr. Faber to describe how his clients are cooperating with the neighbours in the area. Mr. Faber advised that up until last fall, the manure was being spread with a husky spreader. The applicants now use a new unit with direct injectors that are not airborne. Also, they are using feed additives, have increased the square footage per pig and plan to move the composter and replace it with a new design. Their NMP will follow the best management guidelines and Act. Councillor Stirling asked if the applicants made any effort to share their expansion plans with the neighbours. Mr. Faber commented that his client was unaware of any opposition. He also believes that the well on the property is strong enough to handle the expansion.

Councillor Pinsonneault questioned the additional manure pit under the new barn. Mr. Faber responded that the height requirement is 7 feet 3 inches, however, they plan to build it 8 feet. Because of the ventilation system, the odour should dissipate high in the air. The chimney proposed will be 25 feet in height.

Councillor Brown questioned the actual manure requirements or plans, the dead stock and why there was no design presented. He also expressed concern as to whether the applicants could build if the special clause was removed. Mr. Faber explained that the applicants decided to go this route first before obtaining a NMP. They felt that if they have the minor variance, the government policies would then apply. If the NMP was completed, the application would take a couple of months. He explained that it is an expensive process.

Councillor Parsons questioned whether there was a drilled well on the subject property. Mr. Faber stated that it was 95 to 105 feet in depth.

Councillor Gilbert requested clarification that the property was purchased two and a half years ago, however, it cannot be built on until a NMS is in place which has been approved by OMAFRA.

Councillor Weaver commented that you cannot pollute your neighbour's well, regardless of the size of the operation. He stressed that Council should be focusing on the minor variance itself and not let other issues deter their judgment.

Councillor Pinsonneault questioned how the system works when dealing with private wells. Mr. Brown explained that there are mechanisms in place through MOE and public health. He commented that the neighbours would have to prove that the contamination is coming from a certain well.

Councillor Pickard agreed that Council should be dealing with the issue before them which is the MDS.

The Mayor commented that he is aware that hog operations are having tough times and that someone investing these days has deep pockets or a good banker. He questioned why preliminary work such as storage tank, liners to prevent contamination, and numbers in the area were not considered ahead of time to simplify the process. He commented that they need this knowledge in order to support the community and

Council's decision. Mr. Faber responded that he and his client discussed which way to go in considerable length and had to make a choice. He said it was a judgment call and since both involved costs, it did not make any difference which way they went first.

Councillor Fluker commented that when he chaired the nutrient management meetings years ago, the by-law was developed specifically so that Council would not have to read numerous plans. The MDS allows for a minor variance, however, perhaps it was time that by-law be reviewed.

Councillor Fluker moved, Councillor Vercooterren seconded:

“That the application be deferred in order to seek input from the Federation of Agriculture on what they think the guidelines are for minor variances; input on how far the notification area should be; should there be a water table investigation; and should the NMP include owned land or contracted land.”

The Mayor put the Motion to defer

Motion defeated.

Mr. Brown provided clarification that the MDS by-law was not ignored and that the distances of the MDS have been satisfied. He stated that any further criteria would have to be analyzed on a case by case basis.

Councillor Weaver moved, Councillor Gilbert seconded:

“That

- 1. Council approve minor variance (File A-04/08) to grant relief from Schedule “Y” of the MDS Zoning By-law (171-2004) to reduce the minimum distance separation as calculated by MDS II between an expanding livestock building/manure storage and the nearest neighbours dwelling:**
 - a) from 458 metres to 294 metres for an expanding livestock facility located at 13582 Spence Line, in Part of Lots 16 & 17, Concession 7, in the Community of Howard, and;**
 - b) to reduce the required setback from a road allowance from 92 metres to 80 metres, subject to the following condition:**
 - i) that the total number of nutrient units for the subject facility is limited to 517 or less.”**

Councillor Weaver stated that he does not believe that there will be any greater challenges to the neighbours in the area and that there is a need for investment in the agricultural sector which should not be discouraged.

Councillor Pinsonneault commented that the regulations were put there for a reason, and he requested that the vote be recorded.

Councillor Brown questioned the distance to the closest drain and ditch and the regulations for setbacks from open drains. Mr. Brown responded that it is 50 metres. The property is partially tiled. Also, it was confirmed that the distance to the second dwelling is slightly inside.

The Mayor put the Motion

CHATHAM-KENT COUNCIL 2008

DATE: March 17, 2008

SUBJECT: Wouter and Jose Van Leeuwen

	<u>YES</u>	<u>NO</u>		<u>YES</u>	<u>NO</u>
BROWN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	PARSONS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CLARKE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	PICKARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CREW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	PINSONNEAULT	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FAAS	Absent		ROBBINS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FLUKER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	STIRLING	<input type="checkbox"/>	<input checked="" type="checkbox"/>
GILBERT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SULMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HERMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	VERCOUTEREN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
KING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WEAVER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
McGREGOR	Absent		MAYOR HOPE	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Yes: 4
 No: 12
 Absent: 2 (Councillors Faas and McGregor)

Motion Defeated

- j) Combined Applications for Amendment to Draft Plan of Subdivision (36T-90001) Official Plan Amendment (OPA 91) & Zoning By-law Amendment (D-28 C/88/06/J) Jodamar Properties Ltd. Part of Lots 21 & 22, Concession 2, E.B. Community of Chatham (City)

The Mayor asked if any person from the public had an interest in the application. There were members from the public noted as being present with an interest in the matter. The applicant was noted as being present at the meeting.

Mr. Brown explained that a draft plan of subdivision was approved in October of 2007, except for Block 79 which is the subject of this application.

Councillor Sulman questioned what the buffer area would be to the east. Mr. Brown explained that the lands are actually buffered by the subject property, one more single family dwelling lot and a number of single family dwellings. This property would be subject to site plan approval which could require additional setbacks. Councillor Sulman suggested that something could be done with the circular parcel in regards to buffering. He questioned what the current status was of Block 80 which was proposed for semis and townhouses. Mr. Brown suggested that the applicant could better address this issue.

Frank Capek – 1 Cambridge Crescent, Chatham

Mr. Capek advised that he lives in Birkshire Estates and has concerns regarding the Chatham-Kent Council from its meeting held on March 17, 2008

application for 2.2 acres of land, being Block 79 within the approved plan, located on Tweedsmuir Avenue West, close to the northwest entrance to Braemar Boulevard. He is concerned that the original application was intended for single family dwellings only consisting of seven lots per acre. The proposed Block 79 walkup apartments could consist of 30 units per acre, which is High Density for the area. He feels that this would devalue the homes in the Tweedsmuir Avenue area, as well as the Birkshire Estates. He further understands that the property north of proposed Block 79 is designated for a new public school which will require crosswalks from the new development. The curve in the road proposed to create Block 79 could create traffic problems with the additional 30 to 60 unit walkup apartment building, generating more cars, as well as posing a danger to small children walking to school. Since Jodamar Properties is already proposing an office building in Block 88 on the west side of Keil Drive South, and Neighbourhood Commercial in Block 87, in his opinion it would be more appropriate to build multi-units or apartments in Block 86.

Kazuo Yamaji - 399 Tweedsmuir Avenue West

Mr. Yamaji advised Council that in regards to the lower housing values, Block 79 is the most isolated unit in Jodamar's subdivision. It is located across the street from the main subdivision and shares the same block as existing homes on Sherwood and Tweedsmuir Avenue. The potential construction of the least valued housing, fourplex and row apartment buildings, so close to our homes will make their homes less desirable to home buyers. Mr. O'Neill suggested at the last meeting that if his proposed changes to Block 79 are not approved, it would jeopardize the economics of building this subdivision. This is to say, if he had to relocate the fourplex, or row housing apartments to the main subdivision, duplex and single unit housing, it would lower the value of these homes and make the subdivision uneconomical. Jodamar would prefer to transfer the economic losses to the present residents by building these less desirable housing units in Block 79. Secondly, in regards to the adverse effect on quality of life from the proposed multi-unit housing on Block 79, Block 79 abuts on lands designated for a future public school and is adjacent to the Christian school. Construction of row housing or 3-storey high apartments will significantly affect the quality of life for residents and students as it will reduce sun exposure, block off view and impart a claustrophobic atmosphere to the recreational area next to Block 79. In addition, it would create a safety issue regarding the curvature of Tweedsmuir Avenue at Block 79. Although the curvature may slow some motorists down, most would not noticeably slow down (ie. Bristol). The driver's attention is focused on the curve and the intersection at Block 79. The line of sight is drastically reduced by the curvature and since this is potentially a pedestrian crossing zone for students, a stop sign is a minimum requirement. Since the curvature was claimed by Jodamar to slow traffic down at the information meeting, it would seem to be redundant if a stop sign is installed. The curvature could be eliminated and reduce road construction costs. If Council maintains Block 79 for single unit housing, the road curvature problem would correct itself. In summary, lower value housing, such as row housing apartment buildings should be integrated into the main subdivision as proposed by the Ontario government. Home shoppers for the new subdivision will purchase housing with the full knowledge that row housing apartment buildings are part of their subdivision. By approving Jodamar's proposals for Block 79, the existing homes will be devalued for residents that bought their homes based on the single unit housing plan for the Municipality. The residents of Sherwood-Tweedsmuir ask Council for support by denying the subject application.

Richard Zelinka, agent for the applicant

Mr. Zelinka advised Council that the proposed lot is well located on a major collector roadway. He explained that it is difficult to find a site which is well separated from the existing development. A separation of necessity exists to the east and Jodamar is to the south. In describing the 3-storey buildings, the permitted height is only four feet

higher than an RL1 zone. The building is intended to be a type of transitional building to be located in residential areas, consistent with Provincial and Municipal policies, resulting in good planning for the area. When they will be connected, they will be a major entry to the Jodamar subdivision. He commented that the largest stakeholder will be Jodamar.

Councillor Gilbert questioned whether there are going to be small apartments, large apartments, or geared to income, or higher, upscale apartment buildings. Mr. Zelinka responded that it is impossible to say exactly what the nature of the apartments will be at this point. He stated that there is no intention of geared to income apartments. The intent at present is to provide a range of uses which would provide some diversity of type of apartments. The quality of what goes on is very important to Jodamar. There is no intention of putting something in that would be less than enhancing. He referred to the Prestancia area to the north which is zoned for a wide range of RM uses, whereas quite low intensity uses resulted.

Councillor Pinsonneault questioned whether the small triangular piece of land to the north could be built upon. Mr. Zelinka explained that it is intended to be used for landscape purposes only.

Councillor Pickard commented that there is a need for smaller homes as well as larger homes in the community.

Councillor Sulman questioned whether there will be onsite parking. Mr. Brown confirmed that parking is intended to be onsite. Mr. Zelinka explained that arterial and primarily collector roadways are designed to carry traffic. It is ideal for having accesses of this nature. The traffic study did not identify the curve in the road as it was not identified as problematic for a collector roadway. Mr. Zelinka stated that the other plan was indeed proceeding, however, the subject proposal is an important piece of the overall approval. No decisions have been made until all the elements of the plan were adopted and put in place.

Councillor Parsons mentioned that he found difficulty orienting himself with the map because the north arrow was pointing in the wrong direction, and requested the Consultant to be more careful in the future.

The Mayor commented that the O'Neill family has done a lot of good work and the mix is being incorporated into a good blend of uses, allowing an option for the design to move forward. He stated that this plan is preferable over the original plan, and that the housing market will dictate what will be built.

Councillor Stirling moved, Councillor Robbins seconded:

“That:

- 1. Council approve official plan amendment application D-28 C/88/06/J, in part, being OPA No. 91 in the Community of Chatham (City) to redesignate Block 79, Draft Plan 36T-90001 from Low Density Residential to Medium Density Residential.**
- 2. Council approve zoning by-law amendment application D-28 C/88/06/J, in part, as it pertains to Block 79, Draft Plan 36T-90001 and adopt the implementing by-law which will change the zoning category from “RL1” and RL1-2” to “RM2-14” permitting the following:**
 - i) double duplex dwelling**
 - ii) fourplex dwelling**

- iii) row dwelling
- iv) apartment dwelling

and adopt the implementing by-law.”

The Mayor put the Motion.

Motion Carried

5. BY-LAWS

(a) FIRST READING

Councillor King moved, Councillor Robbins seconded:

“That the By-laws be taken as read for the first time.”

The Mayor put the Motion.

Motion Carried

(b) SECOND READING

Councillor King moved, Councillor Robbins seconded:

“That the By-laws be taken as read for the second time.”

The Mayor put the Motion.

Motion Carried

(c) COUNCIL TO GO INTO COMMITTEE, IF REQUIRED, TO DISCUSS BY-LAWS

(d) RESUMPTION OF COUNCIL

(e) THIRD AND FINAL READING

- i. By-law to amend Zoning By-law No. 86-65, as amended, of the former Township of Howard (Hazel Marion Leatherdale & Jerry, Jason & Duane Deprez) (Hansen #4441)
- ii. By-law to amend Zoning By-law No. 1196, as amended, of the former Town of Dresden (Millennium Building Systems, Canada Ltd. & Joan Richardson & Don Gibbs) (Hansen #4394)
- iii. By-law to amend Zoning By-law No. 92-50, as amended, of the former Township of Chatham (Hatem Kobrossy & Thames Van Farms Ltd.) (Hansen #4433)
- iv. By-law to amend Zoning By-law No. 92-50, as amended, of the former Township of Chatham (Von Neuberg Farms Ltd.) (Hansen #4407)
- v. By-law to amend Zoning By-law No. 92-50, as amended, of the former Township of Chatham (Von Neuberg Farms Ltd.) (Hansen #4406)
- vi. By-law to amend Zoning By-law No. 92-50, as amended, of the former Township of Chatham (Von Neuberg Farms Ltd.) (Hansen #4405)
- vii. By-law to amend Zoning By-law No. 92-50, as amended, of the former

Township of Chatham (Von Neuberg Farms Ltd.) (Hansen #4404)

- viii. By-law to amend Zoning By-law No. 90-40, as amended, of the former Township of Dover (Von Neuberg Farms Ltd.) (Hansen #4403)
- ix. By-law to amend By-law No. 9317 of the former City of Chatham – By-law to amend the existing zoning of a 2.6 acre vacant parcel of land located at the end of Keil Drive South, known as Lots 21 and 22, Concession 2, E.B. in the former City of Chatham (Jodamar Properties Ltd) (Hansen #3374)
- x. By-law to adopt Amendment No. 91 to the Official Plan for the Municipality of Chatham-Kent (Chatham – City)
- xi. By-law to confirm proceedings of the Council of the Corporation of the Municipality of Chatham-Kent at its meeting held on the 17th day of March 2008

Councillor King moved, Councillor Herman seconded:

“That the By-laws be taken as read for the third time and finally passed.”

The Mayor put the Motion.

Motion Carried

6. RESOLUTION RE: IN-CLOSED SESSION & ADJOURNMENT

Moved by Councillor Robbins, seconded by Councillor Pinsonneault:

“That Chatham-Kent Council adjourn to its next Meeting to be held at 6:00 p.m. on Tuesday, March 25, 2008 and that Chatham-Kent Council authorize itself to meet in closed session prior to such Meeting to discuss any matters permitted by The Municipal Act.”

The Mayor put the Motion.

Motion Carried

The meeting adjourned at 9:23 p.m.

Mayor – Randy Hope

Clerk – Elinor Mifflin

:jl