

Municipality of Lakeshore – Report to Council

Growth and Sustainability

Planning Services



To: Mayor & Members of Council
From: Jonathan Derworiz, Planning Consultant
Date: May 30, 2024
Subject: Zoning By-law Amendment - ZBA-03-2021 – 1356 County Rd. 46

Recommendation

Refuse Zoning By-law Amendment Application ZBA-03-2021 to amend Zoning By-law 2-2012 (as amended) to amend the zoning of the lands located at 1356 County Road 46 and legally described as Part of the North Half of Lot 17, Concession North of Middle Road; Part of the South Half of Lot 17, Concession North of Middle Road; Maidstone, designated as Part 1 on Plan 12R9966; Lakeshore, save and except Part 1 on Plan 12R21483, being all of the Property Identifier Number 75025-0106(LT), to permit an event venue on a portion of the existing farm and in the existing on-site farm structure as a home industry, as the proposal is not consistent with the on-farm diversified policies of the Provincial Policy Statement, 2020, as presented at the June 11, 2024 Regular Council meeting.

Summary

Due to the length of the report, a summary of the key points has been included in this section.

An application to amend the Lakeshore Zoning By-law has been submitted by Pilon Abbs Inc. on behalf of the property owner to permit a wedding venue as an on-farm diversified use on the subject lands. The Municipality of Lakeshore Official Plan designates the subject lands as Agricultural and the subject lands are zoned Agricultural (A) under the Lakeshore Zoning By-law. Administration have reviewed the application and supporting materials and are of the opinion that the proposed wedding venue does not adequately meet criteria to be deemed an on-farm diversified use. For reasons explained in the report, the application does not conform to the Provincial Policy Statement, the County of Essex Official Plan or the Lakeshore Official Plan.

Strategic Objectives

This does not relate to a Strategic Objective however it is a core service of the Municipality.

Background

The requested Zoning By-law Amendment is proposing to keep the subject lands located at 1356 County Road 46 in the “Agricultural (A)” zone while adding an event venue as an additional permitted use on site (Appendix A, Key Map).

The applicant is proposing to convert the existing 464.51m² (5,000 ft²) barn on-site for an event venue site. The building has been utilized for many years as a barn for hay storage and equipment storage and is now deemed surplus to the farming operation. The Building Division has no building permit on record for this structure. It is proposed to be converted to include the main dining space and dance floor, venue servery, washroom facilities, bridal suite, bar space and office space. (Appendix B, Concept Plan).

The subject site also contains a 377.65 m² (4,065 ft²) animal barn; a 41.8 m² (450 ft²) shed; and, a 235.51 m² (2,535 ft²) barn. Thus, the 464.51m² (5,000 ft²) barn has been rendered surplus to the owner’s needs.

A grassed portion of the lands, which do not serve the agricultural operation, will be the location for an open-air wedding ceremony site. The Site Plan proposes converting a grassed portion of the lands to a gravel parking lot, with 83 parking spots to serve the venue. The applicant is also proposing a 54.54 m² (587 ft²) addition to the event venue building.

Land and buildings currently used for agricultural purposes will not be impacted.

Administration has reviewed the following materials submitted as part of the Zoning By-law application:

- Planning Rationale Report, dated June 2021;
- Planning Rational Report Addendum, dated March 2024;
- Traffic Report, dated December 2020;
- Site Plan Drawing, dated May 2021;
- Photometric Plan, dated June 2021;
- Windsor Disposal Service Memo, dated October 2020;
- Building Elevations, dated May 2021

Subject Land: (1356 County Road 46)	Lot Area — 19.76 ha (48.8 acre) Existing Use — agriculture Proposed Use – event venue Access — County Road 46 Services — private septic and municipal water
Neighbouring Land Uses:	A mix of agricultural and rural residential uses
Official Plan:	Agricultural
Existing Zoning:	Agricultural

The barn where the events occur is referred to under the Building Code as a Quonset Hut due to the cloth/fiber type of material used for the walls and roof. As part of the supporting information submitted, the proponent’s architect (engineering firm) has

indicated that they believe that the building can be changed to comply with the Building Code requirements for an Assembly Hall (Appendix C). The Building Division's response to this letter is contained in Appendix D. It is noted that the Building Division will need to review the structure for compliance with the Building Code which includes fire safety requirements. The Fire Department's comments regarding installation of a fire hydrant are contained in Appendix E.

Comments

Provincial Policy Statement (2020) ("PPS")

The following policies apply to the proposed re-development of the subject lands:

Section 1.5.4 notes that development compatible with the rural landscape and sustained by rural service levels should be promoted. The proposed use will alter a significant portion of the site for the event venue, parking, and associated amenities/servicing. Apart from the Traffic Impact Study, no technical studies were provided regarding site servicing for the proposed use.

Section 1.1.5.7 of the PPS states opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses.

Comment: An event venue does not help promote agricultural protection or resource-related uses. Placing an event venue on prime agricultural land undermines the role of such land in sustaining local food production and ecosystem health. A significant portion of the Subject Lands are required for the event venue's operations. Repurposing prime agricultural lands for non-related development reduces the availability of agricultural lands and raises potential land-use conflicts.

Section 2.3 of the PPS states that prime agricultural areas shall be protected for long-term agricultural use. In prime agricultural areas, the PPS permits on-farm diversified uses, defined as uses that are secondary to the principal agricultural use of the property and are limited in area. They include, but are not limited to, home occupations, home industries, Agri-tourism uses, and uses that produce value-added agricultural products. The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) published Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas (2016) to help interpret the policies in the PPS, specifically with reference to agricultural, agricultural-related and on-farm diversified uses described in Policy 2.3.3. The Guidelines on Permitted Uses (Publication 851) is referenced in this Report for context on Policy 2.3.3.

A wide variety of uses may qualify as on-farm diversified uses based on the PPS definition as long as they meet the following criteria described in the Guidelines on Permitted Uses:

1. Located on a Farm. (from the label "on-farm" diversified uses and from the definition's requirement that the use be secondary to the principal "agricultural use" of the property)

On-farm diversified uses must be located on a farm property that is actively in agricultural use. Agricultural uses, as described in the PPS definition, comprise the farmland that produces agricultural products. On-farm buildings and structures that are used for agricultural purposes and are integral to the farm operation are agricultural uses.

The Subject Lands measure 48.8 acres and is currently being utilized for agricultural purposes for profit, namely the cultivation of cash crops. The Applicant resides on the lands in the existing dwelling.

2. Secondary to the Principal Agricultural Use of the Property. (from the PPS Definition of On-Farm Diversified Uses)

On-farm diversified uses must be secondary to the principal agricultural use of the property. Agricultural use must remain the dominant use of the property. This is measured in spatial and temporal terms. Spatial considerations are addressed below under the “Limited in Area” criteria. Temporal considerations are in reference to uses, such as events, which are temporary or intermittent. It is noted that even temporary uses must meet all criteria for on-farm diversified uses. Acceptable uses must be compatible with and able to coexist with surrounding agricultural operations, permanently displace little-to-no agricultural land, and meet compatibility requirements.

As per the Planning Rationale Report, the Applicant will operate the proposed event venue and all accessory facilities (parking and outdoor ceremony area) permanently. Furthermore, an area of the property that is currently grassed is proposed to be converted to a gravel parking lot for 83 parking spots. It is proposed that the existing 464.51 m² (5,000 ft²) barn be renovated to include a dining space and dance floor, venue servery, three (3) washroom facilities, a bridal suite, a bar space, and an office space. Lastly, the Applicant proposes a 54.53 m² (587 ft²) addition to the event venue building.

Administration is of the opinion that the proposed event venue does not meet compatibility requirements. The proposed use will require significant water and wastewater servicing and increase noise and traffic levels in the area. Provided that the site uses municipal water and septic, staff believe that a 150-person event venue is inappropriate in terms of size and resource demands. Furthermore, while the grassed area proposed for parking is not currently used for agricultural operations, the property is in a Prime Agricultural Area, and the conversion of over 3,500 m² (37,000 ft²) of grassed land for a gravel parking lot could adversely impact the soil quality and fertility should the current or a future property owner desire to resume agricultural use. Hence, although not presently used for agricultural purposes, such a large parking lot would displace prime agricultural land.

3. Limited in Area. (from the PPS Definition of On-Farm Diversified Uses)

While PPS policies enable a wide variety of on-farm economic opportunities, the PPS also requires those uses to be limited in area. This criterion is intended to:

- minimize the amount of land taken out of agricultural production, if any
- ensure agriculture remains the main land use in prime agricultural areas;

- limit off-site impacts (e.g., traffic, changes to the agricultural-rural character) to ensure compatibility with surrounding agricultural operations.

The Guidelines recommend that the area of existing buildings used for on-farm diversified uses be discounted at an appropriate rate (e.g. 50%). Notably, 100% of the area for new laneways, parking and outdoor storage should be included. The Guidelines also recommend that the standard for the acceptable area occupied by the on-farm diversified use is up to 2% of a farm parcel to a maximum of one (1) hectare.

Comment: The Planning Rationale Report notes that the venue will occupy the rural residential area of the farm parcel with an area designated of less than 1.8% with 0.04% lot coverage of the building dedicated to the venue. The Planning Rationale Report does not consider the proposed use’s total footprint, including the area of all new buildings, structures, setbacks, outdoor storage, landscaped areas, berms, laneways, and parking, at 100%.

As per the Guidelines on Permitted Uses (Publication 851), the “limited in area” should consider the total footprint of the uses, on a lot coverage ratio basis. The area calculation should account for all aspects of an on-farm diversified use such as buildings, outdoor storage, landscaped areas, berms, well and septic systems, parking and new access roads. The lot coverage ratio should be based on the size of the individual parcel of land where the use is located, not the total area of a farm operation, which could include several parcels.

In calculating total lot coverage, Publication 851 allows some relief when an on-farm diversified use utilizes existing buildings or structures. Specifically, Publication 851 offers consideration for calculating existing structures at 50% of their actual lot coverage. In this case, the applicants are proposing to utilize an existing 485 m² structure. For the purposes of calculating lot coverage, Administration is considering this structure at 50%. The following table describes the approximate total lot coverage of the proposed on-farm diversified use:

	Lot Coverage (m²)
Re-purposed Main Venue	242.71
Concrete parking area, gravel parking lot, laneway/emergency fire route and garbage area	4,292.93
Proposed open space ceremony area	195.81
Proposed outdoor venue area	219.27
Proposed addition to main venue	54.55
Proposed septic location	100.00
Proposed stormwater management pond	3,548.27
Total:	8,653.54

Comment: As per the submitted Site Plan, the affected area represents 8,653.54 m² or 0.87 hectares of the Subject Lands which equates to greater than 4% of lot coverage. This is double the standard for the acceptable area occupied by an on-farm diversified use as described by Publication 851. As such, Administration does not believe the proposed use is limited in area.

4. Includes, but is not limited to, home occupations, home industries, agri-tourism uses and uses that produce value-added agricultural products. (from the PPS Definition of On-Farm Diversified Uses)

The PPS definition provides several examples of on-farm diversified uses. Beyond these examples, other uses may also be suitable, subject to meeting all PPS criteria.

The PPS language related to uses that are not related to agriculture (i.e., home occupations, home industries) suggests that in prime agricultural areas, these operations must be at a reasonable scale, as discussed under the “secondary to...” and “limited in area” criteria.

Comment: The Applicant has proposed that the event venue be a home industry. Administration is not of the opinion that the scale of the proposed use is reasonable, as explained in the “Limited in Area” criteria section. Further, as mentioned below, the proposal does not meet the criteria of home occupation or home industry in the County of Essex Official Plan, the Lakeshore Official Plan or the Lakeshore Zoning By-law.

5. Shall be compatible with, and shall not hinder, surrounding agricultural operations. (from PPS Policy 2.3.3.1)

Per the Guidelines on Permitted Uses (Publication 851), some uses that meet other on-farm diversified uses criteria may not meet the compatibility criterion. For example, uses that attract large numbers of people onto the farm for non-farm events or recreational purposes could result in soil compaction on the farm itself, excessive noise and trespass issues that may be incompatible with surrounding agricultural operations. Commercial or industrial uses that have many employees or attract a large number of customers may also not be compatible in the prime agricultural area. In addition, some uses may be better suited to settlement areas where municipal services are available (PPS Policy 1.6.6). Notably, Section 2.3.3 of Publication 851 uses full-scale restaurants and banquet halls as an example of a use that would typically not be an on-farm diversified use because they do not meet PPS definitions and criteria.

Comment: Administration believes that an event venue with a 150-person capacity and over 80 parking spaces is considered a large number of people for a non-farm event. Further, the use is not a “one-time” or an annual occurrence but is proposed to occur on a regular and ongoing basis. The proposed event venue may be better suited to a settlement area where municipal services are available (PPS Policy 1.6.6). Event venues typically have high water and sewage needs and generate significant traffic. Thus, the proposed use may adversely impact surrounding agricultural uses. Apart from the Traffic Study, the Applicant has not provided Technical Studies to validate that the use is

appropriate to available rural services, such as municipal water and septic tank usage. Finally, the proposed use of an event venue can be considered a banquet hall. In keeping with Section 2.3.3 of Publication 851, full-scale restaurants and banquet halls are an example of a use that would typically not be an on-farm diversified use because they do not meet PPS definitions and criteria.

The proposed Zoning By-law Amendment is not consistent with the 2020 PPS, as the proposed use does not fulfill the criteria for on-farm diversified uses based on the PPS definition and the Guidelines on Permitted Uses.

County of Essex Official Plan and Lakeshore Official Plan

County of Essex Official Plan

Section 3.3 of the County of Essex Official Plan includes the general directive, goals, and policies for lands designated “Agricultural”. In particular, the Goals (Section 3.3.2) for Agricultural lands are important:

- a) To protect prime agricultural areas for agricultural purposes to ensure the continued long-term availability of this resource.
- b) To promote and protect agricultural uses and normal farm practices on lands within the “Agricultural” designation.
- c) To allow and encourage farm operators to engage in a wide range of agricultural activities.
- d) To restrict the type and amount of non-farm development in the “Agricultural” designation by encouraging non-farm uses to locate in the existing “Settlement Areas” identified on Schedule “A1”.

Comment: The use of prime agricultural lands for an event venue does not promote or protect agricultural lands. The proposed development will convert existing agricultural land and an excess barn into an event venue and supporting facilities including an open-air ceremony space, and a gravel parking lot with a capacity of over 80 cars; while currently deemed excess to the farm’s operations the land will not be available for agricultural uses and normal farm practices.

The County of Essex Official Plan allows secondary uses in “Agricultural” lands and sets out Specific Agricultural Policies in Section 3.3.3. The Applicant is proposing that an event venue is a “Home Industry”. Section 3.3.3.2 Secondary Uses, notes that home industry uses are occupations, trades, businesses, professions, or crafts that are secondary to the agricultural use or agriculture-related use or residential use on the property. Adding that, home industry uses shall generally not exceed 90 m²; however, local Official Plans may provide for larger home industry uses subject to the establishment of policies that:

- i) Demonstrate that the increased size of the use is not more appropriately located within a settlement area.
- ii) Ensure compatibility with adjacent or nearby uses by preventing adverse effects.

Comment: The barn that is proposed to be the event venue is approximately 485 m², which is nearly five times the 90 m² set out in the County Official Plan for a home industry use. Administration does not believe there is a strong rationale for the event venue being located on agricultural land and are of the opinion that the proposed use is more appropriately located within a settlement area with municipal servicing.

Lakeshore Official Plan

One of the key policy objectives for the Municipality of Lakeshore as per Section 2.3.3 e) is to protect agricultural-related activities and limit non-agricultural related uses within agricultural areas. Additionally, Section 1.5. c) notes that the County should direct the majority of growth and investment (infrastructure, community services, and facilities) to the County's Primary Settlement Areas. These Primary Settlement Areas will serve as the focal points for civic, commercial, entertainment and cultural activities. Administration is of the opinion that an event venue, given its purpose for commercial, entertainment and cultural activities, is best situated in a non-agricultural area.

Section 3.3.11 sets out policies for the Agricultural Area. Section 3.3.11 e) states impacts from new or expanding non-agricultural uses on surrounding agricultural uses/operations and lands should be mitigated to the extent feasible.

The "Agricultural" designation of the Official Plan permits uses that are secondary to the principal use of the property, including but not limited to: small-scale home occupations, subject to 6.2.1 g), and, small-scale home industries, subject to 6.2.1 h).

Section 6.2.1. g) notes that small-scale home occupations will be permitted, provided the use remains clearly secondary to the farm operation and is conducted by a member of the family owning the property, and may include: i) sales outlets for agricultural products produced on the farm; ii) small home occupations conducted from the main residence and normally limited to the occupants of the property; iii) bed and breakfast establishments; and iv) farm vacation enterprises.

Administration does not consider an event venue with a capacity of 150 people to be a "small-scale" home occupation. Administration does not believe that the proposed use conforms to the land use policies of the County of Essex Official Plan or the Lakeshore Official Plan.

Zoning By-law

The subject lands are zoned "Agricultural" which permits an on-farm diversified use. The following excerpts from the Comprehensive Zoning By-law show the 'Agriculture' zone provisions with a highlight of the special provisions for the proposed redevelopment of the subject lands.

Provision	Regulations	Subject Lands
Permitted Uses	Agriculture	Agriculture, secondary use event venue
Lot Area (Min.)	19 ha	20 ha
Lot Frontage (Min.)	75 m	110 m
Lot Coverage (Max.)	20%	0.70%
Front Yard Setback	15 m	26.8 m
Interior Side Yard	3 m	11.2 m
Rear Yard	15 m	15 m
Parking Spaces	68	83
Bike Parking Spaces	N/A	6

Provisions on Home Industry

Zoning By-law 2-2012 defines ‘Home Industry’ as a gainful occupation which may include an electrical, woodworking, window frame, welding, plumbing or machine shop, or other similar type use, conducted in whole or in part in an accessory building to a single detached dwelling, and is in accordance with the provisions of Section 6.26 of the Zoning By-law.

Administration is of the opinion that the proposed event venue does not conform to the general intent of the Zoning By-law. The event venue requires significant space, infrastructure, and site alterations. The scale of the proposed use, hosting 150 guests and 83 parking spaces is significantly different than that of a traditional “Home Industry” such as electrical, woodworking, or other technical trades. The scale of operations of the proposed use is more appropriately situated in a commercial or institutional space.

Thus, the proposed event venue does not conform with the Comprehensive Zoning By-law 2-2012.

Conclusion

Administration recommends that Council refuse Zoning By-law Amendment ZBA-03-2021 as it does not fulfill the requirements for rezoning for an on-farm diversified use; nor a home occupation or home industry; and, it is not consistent with the Agricultural policies of the Provincial Policy Statement (2020), nor does the proposal conform to the County of Essex Official Plan, Lakeshore Official Plan and Lakeshore Zoning By-law.

Council’s alternatives for making decisions on land use planning applications under the Planning Act are attached in Appendix F.

Others Consulted

Notice was given to agencies and the general public as required under the provisions of the *Planning Act* and regulations. As of the writing of this report, 2 letters of support and 1 letter of opposition were received from residents. A summary of these comments will be provided to Council. Building Division comments are in Appendix D and Fire Department comments are in Appendix E.

Financial Impacts

There are no adverse financial budget impacts resulting from the recommendation.

Attachments

- Appendix A – Key Plan
- Appendix B – Site Plan
- Appendix C – Wedding Venue Building Opinion Letter (from proponent)
- Appendix D – Building Division Comments
- Appendix E – Fire Department Comments
- Appendix F – Council decision alternatives under the Planning Act

Report Approval Details

Document Title:	ZBA-03-2021 - 1356 County Rd. 46 .docx
Attachments:	- Appendix A - Key Map.pdf - Appendix B - Concept Plan.pdf - Appendix C Wedding Venue Building Opinion Letter - dated 03042024.pdf - Appendix D Building Comments 1356 County Road 46.pdf - Appendix E Fire Comments.pdf - Appendix F – Council Decision Alternatives under the Planning Act.docx
Final Approval Date:	Jun 3, 2024

This report and all of its attachments were approved and signed as outlined below:

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Submitted by Ryan Donally and Tammie Ryall

Approved by the Corporate Leadership Team