



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information ☐	Recommendation ☒	Decision Request ☐	Councillor Activity ☐
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To: Mayor Zebian and Members of West Hants Regional Municipal Council

Submitted by: _____
Doug MacInnis, Development Officer

Chris Burns, Development Officer

Date: 2024-07-23

Subject: Appeal for Refusal of a Variance: 111 Stark Road, Newport Station, PID 45015385

LEGISLATIVE AUTHORITY

Municipal Government Act, Section 235 (3) allows for a variance not to be granted where the variance violates the intent of the land-use by-law and difficulty experienced is general to properties in the area.

Municipal Government Act, Section 237 (1) allows Council to hear an appeal from the granting or refusal of a variance, and for Council to make any decision that the Development Officer could have made.

RECOMMENDATION or DECISION REQUEST

Staff recommend that Council uphold the decision of the Development Officer to refuse the variance request by approving the following motion:

...that Council upholds the decision of the Development Officer with regard to the refusal for a variance to reduce a side yard setback distance to property lines for a livestock enclosure and to reduce a separation distance for an enclosure of manure storage at 111 Stark Road in Newport Station (PID 45015385).

BACKGROUND

Property ☒	Public Opinion ☐	Environment ☐	Social ☐	Economic ☐	Councillor Activity ☐
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During the summer of 2023, a complaint was received by the Development Officer from a resident on Stark Road of noises from roosters crowing throughout the night from the property at 111 Stark Road. The Development Officer investigated the complaint. The property owner was found not to be in violation of the household livestock provisions within the West Hants Land Use By-law regarding the number and type of animals permitted on the property. The Development Officer reached out to the property owner to inform him that although roosters are permitted and noise is not regulated by the Municipality, removing the rooster from the lot would rectify the noise concerns from the neighbours.

No further complaints were received until June 13, 2024, regarding the noise of the roosters from 111 Stark Road. The Development Officer again investigated the complaint and followed up with the property owner. The property owner was found not to be in violation with the number and type of animals, however, the enclosure of household livestock and storage of manure did not meet the required setback and separation distances to property lines within the West Hants Land Use By-law. The property owner was given 30 days from June 13, 2024, to comply with the West Hants Land Use By-law by removing the structure housing household livestock and the manure pile.

On June 19, 2024, the Development Officer received an application for a variance from the property owner at 111 Stark Road to reduce the side yard setback required for the enclosure housing the household livestock and reduce the separation distance required for manure storage. The application for a variance was refused by the Development Officer, as the application for a variance violates the intent of the Land Use By-law and with the difficulty experienced in general to properties in the surrounding area.

DISCUSSION

The subject lot (Figure 1) is designated Hamlet and located within the Hamlet of Newport Station on the Generalized Future Land Use Map of the West Hants Municipal Planning Strategy and is zoned Rural Residential (R-4) on the zoning map of the West Hants Land Use By-law. The property is approximately 1 acre in size and has approximately 100 ft. of frontage on Stark Road.

Within the West Hants Land Use By-law, household livestock is permitted in any residential or resource zone subject to the land use regulations under Section 5.17 (Attachment A). These regulations determine the number and type of animals to animal units as permitted household livestock, depending on the size and location of a given property. Animal units determine the number of animals within the animal unit. For example, 1 animal unit includes 2 hogs or 25 chickens, or a combination thereof. Animal units can include a combination of rabbits, turkeys,

sheep, hogs, and chickens (including Roosters, Broilers and Laying Hens). The subject lot is approximately 1 acre in size which allows up to 1 animal unit.

Section 5.17 also determines the location of any enclosure housing the household livestock and manure storage under Sections 18.6 and 18.7 (Attachment A). Sections 18.6 and 18.7 require a building or structure for the livestock operation to be at least 50 feet from an adjoining property; and requires the storage of manure to be 100 feet from an adjoining property which may be reduced to 50 feet if the manure is contained in a concrete or wooden enclosure. The side yard setback for the enclosure may be varied by the Development Officer in accordance with the West Hants Land Use By-law and Municipal Government Act, as variances for setbacks apply to a structure, however, the storage of manure is a separation distance which cannot be varied. Given that the separation distance cannot be varied, the limited width of this property being 100 feet, and the difficulty experienced to the surrounding neighbours, the application of a variance was refused by the Development Officer.

NEXT STEPS

In response to this appeal, Council may decide to:

- approve the motion to uphold the decision of the Development Officer; or
- approve the variance as requested by the applicant and direct the Development Officer to issue a development permit for which the variance has been granted.

FINANCIAL IMPLICATIONS

There are no financial implications in relation to the filing of this report.

ALTERNATIVES

None.

ATTACHMENTS

A: West Hants Land Use By-law Sections 5.17, 18.6, and 18.7.

Figure 1: Orthophoto of the subject lot.

CHIEF ADMINISTRATIVE OFFICER REVIEW

I support the position of the development officer.

Report Prepared by: _____
Chris Burns, Development Officer

Report Reviewed by: _____
Doug MacInnis, Development Officer

Sara Poirier, Director of Planning and Development

Report Approved by:  _____
Mark Phillips, Chief Administrative Officer

Land Use By-law

- (xiii) instruction in music, dance or arts and crafts;
 - (xiv) hobby kennels, subject to requirements of Section 5.20 of this By-law; and
 - (xv) pet grooming.
- (c) A home-based business shall not include the following types of uses:
- (i) convenience stores;
 - (ii) grocery stores;
 - (iii) snack bars;
 - (iv) service shops;
 - (v) auto body or automobile repair shops;
 - (vi) veterinary clinics;
 - (vii) restaurants;
 - (viii) transport depots;
 - (ix) commercial kennels;
 - (x) salvage yards; and
 - (xi) retail sales of any products which cannot fall within the activities in Section 5.16 (a)
- (d) The following special provisions shall apply to bed and breakfasts:
- (i) bed and breakfasts shall not be subject to the size restrictions specified in subsections (a) (iv) and (v);
 - (ii) in addition to the sign permitted in subsection (a) (vii), one ground sign not exceeding 12 ft² (1.11 m²) in area and 5 ft (1.52 m) in height shall be permitted; and
 - (iii) in addition to the normal parking requirements for the dwelling, one parking space shall be provided for each bedroom used for rental purposes:

Household Livestock

- 5.17 Household livestock operations shall be permitted in any residential or resource zone subject to the following:
- (a) the requirements for non-intensive livestock operations as contained in Section 18.6 and 18.7 of this By-law;
 - (b) for purposes of this section, a lot may include multiple abutting properties held by the same owner;
 - (c) the slaughtering of household livestock shall be permitted on the lot;
 - (d) livestock shall not be permitted on lots less than one (1) acre in Growth Centres
 - (e) the number of animals permitted on a lot less than one (1) acre shall be limited to:
 - (i) Lots less than ¼ an acre (10,890 sq. feet)
 - a combination of rabbits and chickens (including Roosters, Broilers and Laying Hens) to a total of five (5) animals.
 - (ii) Lots ¼ acre (10,890 sq. feet) up to and including ½ an acre (21,780 sq. feet)
 - a combination of rabbits, turkeys and chickens (including Roosters, Broilers and Laying Hens) to a total of ten animals.
 - (iii) Lots over ½ an acre (21,780 sq. feet) to one (1) acre (43,560 sq. feet)

Land Use By-law

- a combination of rabbits, turkeys, sheep, hogs, and chickens (including Roosters, Broilers and Laying Hens) to a total of fifteen animals with no more than two (2) sheep or one (1) hog.
- (f) the maximum number of animal units permitted on a lot larger than one (1) acre shall be limited to one (1) animal unit for the first full acre and one (1) additional animal unit for each additional full half acre to a maximum of eight (8) animal units;
- (g) household livestock shall be contained within the limits of the property by means of fencing, enclosures or buildings;

(Amendment 17-01 WHLUB Effective April 3, 2019)

Illumination

- 5.18 No person shall erect a sign with lights external to the sign itself or illuminate an area outside any building or structure unless the illumination is directed away from adjoining properties and any adjacent street.

Indoor Storage Facility

- 5.19 Where indoor storage facilities are permitted as an accessory use to agricultural uses, an indoor storage facility shall:
- (a) not require a development permit if the use is within an existing building used for agriculture purposes;
 - (b) be clearly subordinate to the principal agricultural use of the lot; and
 - (c) require approval from the Municipal Fire Inspector / Building Official for use of the building for an indoor storage facility.

(Amendment 18-03 Effective December 25, 2018)

Kennels

- 5.20 Where kennels are permitted by this by-law, the following special provisions shall apply:
- (a) no kennel building or structures, including outdoor exercise runs, shall be located closer than:
 - (i) 100 ft (30.48 m) from the front lot line, except in the Highway Commercial (HC) zone where the standard front yard requirement shall apply;
 - (ii) 100 ft (30.48 m) from all water wells and watercourses;
 - (iii) 50 ft (15.24 m) from the rear and side lot lines; and
 - (iv) 300 ft (91.44 m) from a dwelling on an adjacent property;

adequate for the current and proposed size and type of operation, and contaminated runoff is eliminated or properly contained; and

- (c) following construction, the applicant provides a certificate from a professional engineer which shows that construction has been completed in accordance with the plans submitted under subsection (b).

Non-Intensive Livestock Operations

18.6 No building or structure housing a non-intensive livestock operation on a lot greater than one (1) acre shall be located within:

- (a) 50 ft (15.24 m) of an adjoining property in the Growth Centre, Village or Hamlet designations;
- (b) 40 ft (12.19 m) of an adjoining property in a resource designation;
- (c) 40 ft (12.19 m) of a public street or private road; and
- (d) 100 ft (30.48 m) of a water well or watercourse

(Amendment 17-01 WHLUB Effective April 3, 2019)

18.7 Manure storage for a non-intensive livestock operation on a lot greater than one (1) acre shall not be located within:

- (a) 100 ft (30.48 m) of an adjoining residential, commercial or institutional property unless contained in a concrete or wooden enclosure a minimum of 5 ft (1.52 m) in height and built on a concrete pad, in which case the separation distance may be reduced to 50 ft (15.24 m);
- (b) 40 ft (12.19 m) of an adjoining resource property; and
- (c) 100 ft (30.48 m) of a water well or watercourse.

(Amendment 17-01 WHLUB Effective April 3, 2019)

18.8 Any structure containing livestock on a lot less than one (1) acre shall be considered an accessory building and shall meet the requirements of Section 5.1 of this By-law.

(Amendment 17-01 WHLUB Effective April 3, 2019)

Main Buildings

18.9 More than one building may be permitted on a lot in an agricultural zone except where the main building is a residential dwelling.

Land Use By-law

- accessory farm sales outlet;
- (d) the process at a farm necessary to prepare a farm product for farm distribution including cleaning, grading, storage and packaging;
 - (e) the clearing, draining, leveling, irrigating or cultivating of land;
 - (f) the application of fertilizers, soil conditioners, pest control products or other agricultural inputs;
 - (g) the storage, disposal or use of compost and livestock-generated waste for farm purposes (but does not include biosolids); and
 - (h) the operation of agricultural machinery and equipment; and

For further clarification, agricultural use shall not include an abattoir or commercial slaughter house.

Type of Livestock	Number of Livestock Equal to One Animal Unit	
	Intensive and non-intensive livestock operations	Household livestock operations
Dairy Cows	1.5	1
Dairy Heifers	2	1
Beef Cows	2	1
Beef Feeders (150 - 500 kg)	4	2
Veal calves	25	5
Bulls	1	1
Horses and ponies (≥ 225 kg)	1	1
Miniature horses and ponies (<225 kg)	3	2
Sheep	10	4
Sows (Breeding/Gestation)	5	2
Sows (Farrow to Finish)	1	1
Sows (Farrow to Wean)	4	2
Weaners	50	10
Hogs (Feeders)	10	2
Laying Hens (whole year)	500	25
Broiler Chickens	1,000	25

Land Use By-law

Type of Livestock	Number of Livestock Equal to One Animal Unit	
	Intensive and non-intensive livestock operations	Household livestock operations
Turkey Broilers (5 kg)	300	25
Mink (female including young)	200	10
Rabbits (female including young)	40	20
Llamas/Alpacas	8	1
Ostriches/Emus	5	1

Arena means a building, location or premises in which to view or participate in sporting or entertainment events, including but not limited to a rink, floor or ice surface, spectator seating areas, dressing rooms, canteen facilities, lobbies, and hallways;

Arts and Crafts Studio means a building, or part thereof, used for the production of, or the production and sale of, works of art or crafts made by hand;

Auto Body Shop means a building used for the repair of body work, detailing or painting of automobile bodies, or any one or more of these uses;

Automobile Sales Establishment means a building or part of a building or space on a lot used for retail or wholesale sales or rental of motor vehicles and motor vehicle accessories, and includes a public garage and repair shop;

Automobile Service Station means a building or a clearly defined space on a lot used for the sale of lubricating oils and gasoline and may include the sale of automobile accessories, space for the repair of automobiles, a car wash facility and a convenience store;

Automobile Washing Establishment means a building or part thereof used for the operation of automobile washing equipment which is automatic or semi-automatic;

Automotive Use means an automobile service station, a gasoline retail outlet, a motor vehicle repair shop, an automobile sales establishment, an auto body shop or an automobile washing establishment, but shall not include a salvage yard;

Bed and Breakfast means a single unit dwelling in which the resident supplies, for compensation, not more than four bedrooms for the temporary accommodation of the travelling public;

Biosolids means the solid, semi-solid or liquid residue generated during the treatment of sewage and septage sludges, as well as any mixture containing biosolids;

Block means the smallest unit of land which is bound entirely by public streets, rivers, railroads, public parks or any combination thereof;

Figure 1

