



Report Committee of Adjustment

Filing Date: February 29, 2024

Hearing Date: June 18, 2024

File: A-2024-0065

**Owner/
Applicant:** **Kafco Homes Ltd.
Sandy Acchione**

Address: **2776 Embleton Road**

Ward: 6

Contact: Megan Fernandes, Assistant Development Planner

Recommendations:

That application A-2024-0065 is supportable, subject to the following conditions being imposed:

1. That the extent of the variances be limited to that shown on the sketch attached to the Notice of Decision;
 2. That variance 1 be approved for a temporary period of three (3) years;
 3. That the outside storage of vehicles and equipment shall be limited to those related to the tree service business and must be confined to the area depicted on the sketch attached to the Notice of Decision.
 4. That the applicant obtain Site Plan Approval for the shed/greenhouse structure located on site the subject lands within 90 days of Committee's decision for an extended period of time at the discretion of the Director of Development Services;
 5. That the applicant obtain a building permit for the shed/greenhouse structure located on site the subject lands within 180 days of Committee's decision for an extended period of time at the discretion of the Chief Building Official;
 6. That the retail establishment (record sales) remain as a home occupation use and accessory to the residential dwelling;
 7. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.
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Background:Existing Zoning:

The property is zoned 'Agricultural (A)', according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit the parking and storage of Tree Service vehicles and equipment on the property, whereas the by-law does not permit the storage of vehicles and equipment; and
2. To permit a retail establishment (record sales) as a home occupation, whereas the by-law does not permit a retail sales establishment as a home occupation.

Current Situation:**1. Maintains the General Intent and Purpose of the Official Plan**

The subject lands are designated as 'Residential' and 'Corridor Protection Area' within the Official Plan and 'Employment Estates' within the Bram West Secondary Plan (Area 40a).

The "Corridor Protection" is intended to recognize the future higher-order transportation corridor and prohibits development within the area if it is determined that the development proposal may unduly restrict the alternatives for the planning or construction of a north-south higher order transportation facility. A condition of approval is recommended that the Variance 1 to permit the parking and storage of Tree Service vehicles and equipment on the property be approved for a temporary period of three years in order to ensure that the business does not conflict with the planning and future development of the area.

In relation to the 'Residential' designation, section 4.2.1.1 of the Official Plan states Complementary uses, other than Places of Worship, shall be permitted subject to specific Secondary Plan policies or designations, and may include uses permitted in the Commercial and Institutional and Public Uses designations of this plan, such as schools, libraries, parks, community and recreation centres, health centres, day care centres, local retail centre, neighbourhood retail, convenience retail, or highway and service commercial uses. Furthermore section 4.2.1.13 of the Official Plan states the City may permit varying forms of home occupations in single detached dwellings or accessory buildings in appropriate residential or agricultural areas.

The Employment Estates designation permits small scale, "home based" and free standing employment uses, including but not limited to greenhouses, nurseries, garden centres, and specialty agricultural uses. The proposed landscaping business as a home occupation is consistent with the types of free standing, "home based" employment uses permitted by this designation.

Subject to the recommended conditions of approval, variances 1 and 2 maintain the general intent of the Official Plan.

2. Maintains the General Intent and Purpose of the Zoning By-law

The property is zoned 'Agricultural (A)', according to By-law 270-2004, as amended.

Variance 1 is requested to permit the parking and storage of Tree Service vehicles and equipment on the property, whereas the by-law does not permit the storage of vehicles and equipment. The intent of the by-law in regulating permitted uses on a property is to ensure complimentary uses to the area.

The applicant intends to legalize the parking and storage of Tree Service vehicles and equipment on the property which is being used to support a local business. Staff also recommend that the use be permitted on a temporary basis so that the proposed use does not undermine the long-term development potential for the property. Staff's preference is that any temporary use variance does not exceed a period of three years so that it is consistent with Temporary Use By-law Amendment process. In order to limit the scale and impact of the use, a further condition of approval is recommended that the outside storage of vehicles and equipment shall be limited to those related to the tree service business and must be confined to the area depicted on the sketch attached to the Notice of Decision. Subject to the recommended conditions of approval, the variance maintains the general intent and purpose of the Zoning By-law.

Variance 2 is requested to permit a retail establishment (record sales) as a home occupation, whereas the by-law does not permit a retail sales establishment as a home occupation. The intent of the by-law in regulating home occupations is to ensure that the primary function of the dwelling remains residential in nature and that the home occupation is compatible with the adjacent community. In regards to the retail sales establishment (record sales), the applicant has advised that the retail business is operated by the tenant of the residential dwelling and operated primarily online. The vinyl records are stored in one room which occupies approximately 10 square metres of the home (Appendix B), as such there are no additional variances required relating to the size of the home occupation. The home occupation remains as an accessory use within the primary residential function of the dwelling. A condition of approval is recommended that the retail establishment (record sales) remain as a home occupation use and accessory to the residential dwelling. Subject to the recommend conditions of approval, the variance maintains the general intent and purpose of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

The size, location, and character of the property are agricultural in nature. Variance 1 is requested to permit the parking and storage of Tree Service vehicles and equipment on the property is compatible with the surrounding land-uses in the area. Conditions of approval are recommended that the variance only be permitted for a limited temporary period of time so as to not impede the future development of the area. Furthermore, this application was circulated to the Ministry of Transportation (MTO) as this subject property is located within the MTO's Preferred Route and Interchange Locations. The MTO has identified no concerns with this application. Variance 2 is requested to permit use of a retail establishment (vinyl record sales) as a home occupation is complimentary to the agricultural character of the property. Subject to the recommended conditions, the proposed variance is desirable for the appropriate development of the land.

The existing storage shed/greenhouse was constructed without appropriate the appropriate Site Plan Approval and Building Permits. Staff note that the site did contain several greenhouses/sheds which were removed in approximately Spring 2017 (Appendix C) and re-constructed Spring 2023. Furthermore, as the shed is being utilized to store equipment related to the storage of Tree Service vehicles and equipment on the property (Appendix D), a Site Plan Approval is required. A further condition of approval is provided that a Building Permit be obtained within 60 days of Committee's decision of approval or an extended period of time at the discretion of the Chief Building Official.

4. Minor in Nature

The size and agricultural character of the property are appropriate to accommodate the parking and storage of Tree Service vehicles and equipment on the property and a retail establishment (vinyl record store) as a home occupation. A condition of approval is recommended that Variance 1 be approved for a temporary period of three years to ensure that the home occupation does not conflict with future planning of the area. In regards to the retail establishment as a home occupation is compatible with the surrounding land uses in the area. Subject to the recommended conditions of approval, the variances are minor in nature.

Respectfully Submitted,

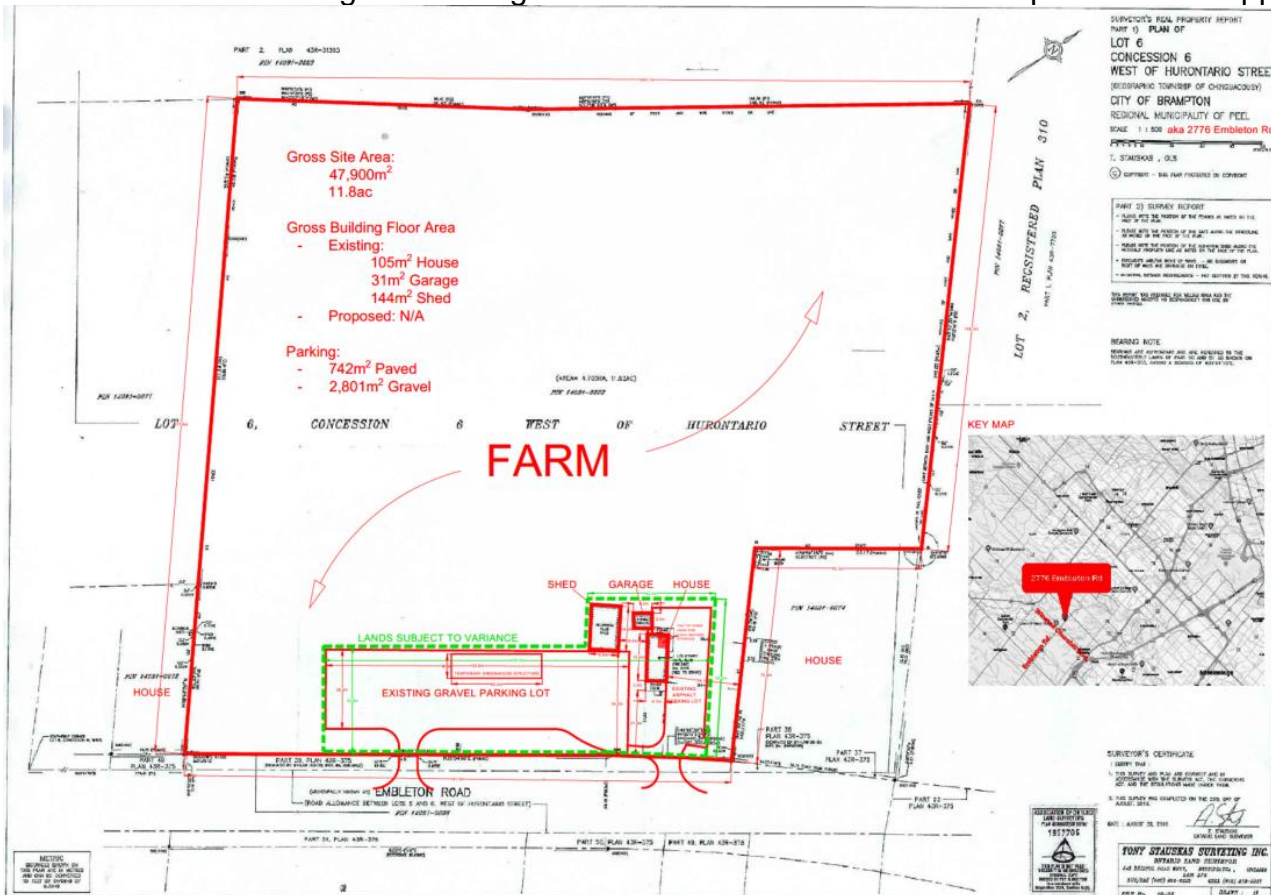
Megan Fernandes

Megan Fernandes, Assistant Development Planner

Site Visit Photos – Appendix A



Revised Site Plan Noting the existing Greenhouse/shed and Home Occupation Use – Appendix B

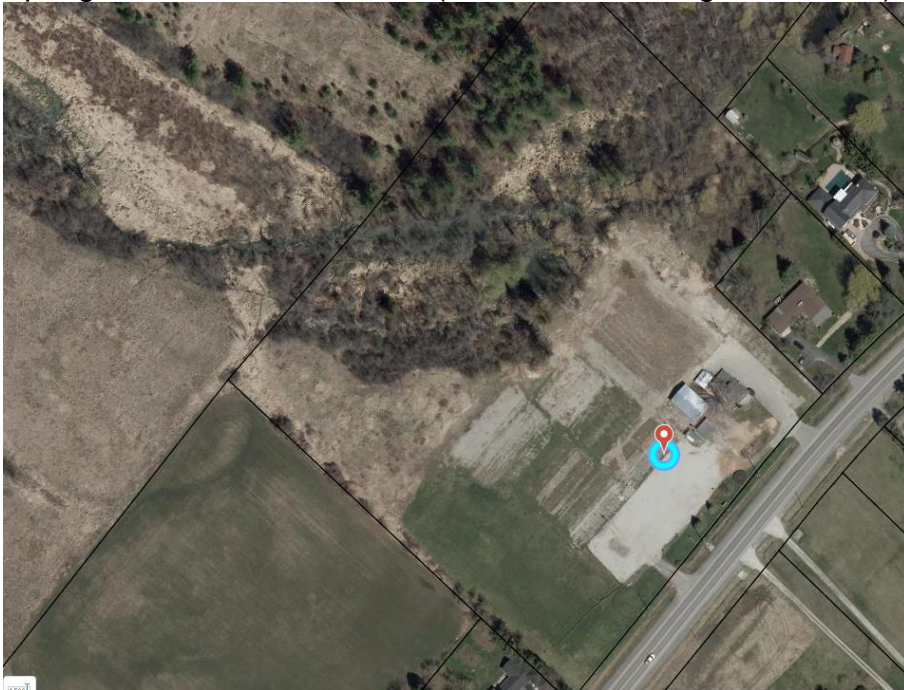


Appendix C – Aerial Imagery

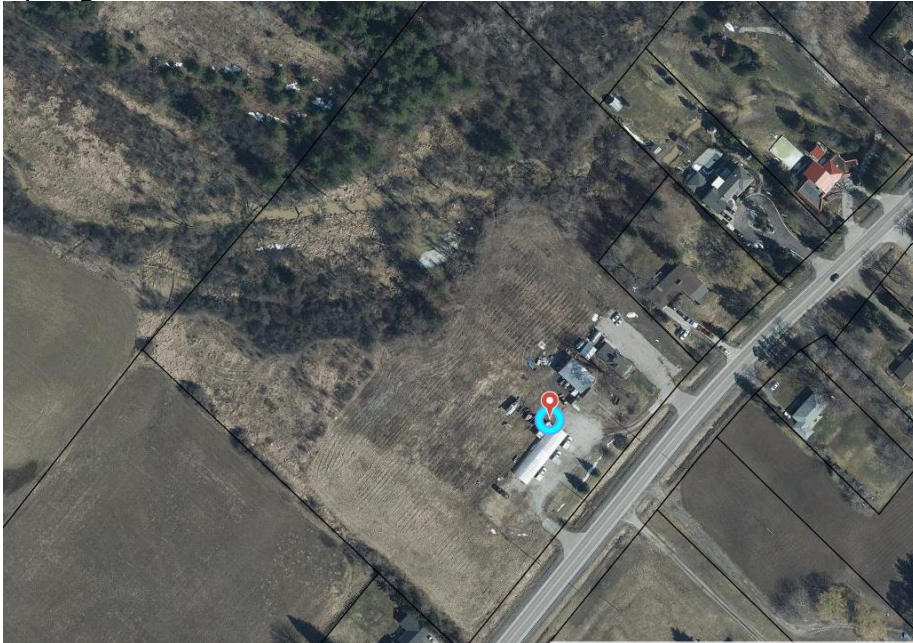
Spring 2007 – Site Conditions



Spring 2017 – Site Conditions (removal of sheds/greenhouses)



Spring 2023 – Site Conditions



Appendix D – Enforcement Photos of Greenhouse/Shed Interior



