

FILE NO: B02/2024W

NOTICE OF DECISION

In the matter of the *Planning Act*, R.S.O. 1990, c. P. 13, s. 53, as amended, and;
In the matter of an application for consent on behalf of:

Jared Marcus (Arcadis) on behalf of Mario Rapino
11629 Lakeshore Road
Concession 1 Part Lots 15 and 16 and Part of the Road Allowance

Type of Transaction for which application for consent is being made:

Conveyance Mortgage or Charge Partial Discharge of Mortgage Other

Details of the application:

The subject property is located on the south side of Lakeshore Road, west of Belleview Beach Road. The subject property is zoned Rural – A4-2, with a special provision excluding intensive animal operations as a permitted use.

Application is made for the consent to:

- Sever Parcel 1 (0.4 ha) for continued residential use;
- Retain Parcel 2 (6.27 ha) for future residential use.

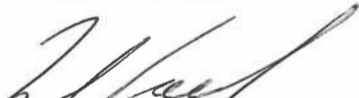
DECISION: GRANTED REFUSED

Prior to making the decision, the Committee of Adjustment considered all written and verbal comments from the public and responding Township Departments and external agencies. The above decision was made for the reasons and is subject to the conditions outlined in Schedule "A", attached hereto.

Last date to fulfil conditions of provisional consent: **May 15, 2026**



Chair D. Chase



Member M. Feduck

Member R. Leone

Member G. Balicki



Member S. McMillan

Date of Decision: May 15, 2024

Date of Notice: May 16, 2024

I, David Scott, Secretary-Treasurer of the Committee of Adjustment for the Township of Wainfleet, hereby certify that the above is a true copy of the decision of the Committee of Adjustment for the Township of Wainfleet in the Regional Municipality of Niagara and this decision was concurred in by the majority of the members who heard the application.



David Scott, Secretary-Treasurer

Last date of filing an appeal to the Ontario Land Tribunal: **June 4, 2024**

PROCEDURE FOR APPEAL

The *Planning Act*, R.S.O. 1990, c. P. 13 Section 53, Subsection 19 states that "the applicant, the Minister, a specified person or any public body may, not later than 20 days after the giving of notice under subsection (17) is completed, appeal the decision or any condition imposed by the council or the Minister or appeal both the decision and any condition to the Tribunal by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee charged by the Tribunal". Parties, other than the applicant, the Minister, a specified person or public body, are no longer eligible to file appeals for this application.

Information regarding the Ontario Land Tribunal appeals process, forms and prescribed fees can be found at <https://olt.gov.on.ca/>.

SCHEDULE A – FILE B02/2024W

This is Schedule A, appended to and forming part of the Notice of Decision for Application for Consent B02/2024W.

The above decision was made for the following reasons:

1. This decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O. 1990, as amended.
2. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Township Official Plan.

The above decision is subject to the following conditions of provisional consent:

1. That minor variance application A07/2024W be approved.
2. That the applicant provide sufficient information to the Township demonstrating that the existing barn (to be retained on Parcel 2) is no longer capable of housing livestock and is intended to be used as an accessory building, accessory to a future single detached dwelling. This includes a Declaration of Use for the barn.
3. That the applicant obtain either a demolition permit or relocation permit for the detached garage that is currently located on the proposed lot line between Parcel 1 and Parcel 2.
4. That the applicant either obtain a building permit for or remove any sea containers 15m² or larger located on Parcel 2.
5. That the applicant provide an addendum to the Preliminary Hydrogeological Assessment prepared by Landtek Limited (dated February 14, 2024) showing the new septic system for Parcel 1 and its dilution area as well as confirm whether there are any septic design and water source requirements for the future dwelling on Parcel 2.
6. That the applicant provide sufficient information to the Township demonstrating that the recommendations of the Preliminary Hydrogeological Assessment prepared by Landtek Limited (dated February 14, 2024), and any addendums, have been complied with for Parcel 1, including but not limited to, a cistern being installed as a water supply and a 50% denitrification system being installed for the septic system.
7. That the applicant enter into a Development Agreement with the Township of Wainfleet, to be registered against the title of Parcel 2, which requires:
 - a. That the owner agrees to implement the recommendations of the Preliminary Hydrogeological Assessment prepared by Landtek Limited (dated February 14, 2024), and any addendums, as they pertain to Parcel 2.
 - b. That the owner agrees to implement the recommendations of the Aircraft Noise Study prepared by dBA Acoustical Consultants Inc. (dated October 2023), including but not limited to specific window, door and wall construction, minimum of R16 insulation in the attic and that a qualified acoustical consultant certify the proposed construction plans prior to permit issuance and certify that the control measures have been properly installed prior to occupancy.
 - c. That the owner agrees to include the following archaeological warning clause in any offers and agreement of purchase and sale:

"Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, the Archaeology Programs Unit of the Ministry of Citizenship and Multiculturalism (MCM) (416-212-8886) must be notified, and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists."

In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MCM should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.”

- d. That the owner agrees to include the following noise warning clause in any offers and agreements of purchase and sale:

“This dwelling unit has been designed with the provision for adding central air conditioning at the occupant’s discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Municipality and the Ministry of the Environment.”

8. That the Secretary-Treasurer be provided with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, for use in the issuance of the Certificate of Consent.
9. That a final certification fee, payable to the Treasurer of the Township of Wainfleet, be submitted to the Secretary-Treasurer.
10. That all conditions of consent be fulfilled within a period of two years after notice has been given under Section 53(17) or 53(24), as per Section 53(41) of the Planning Act, R.S.O. 1990.