

**The Corporation of the Town of Essex**  
**Minutes of Regular Committee of Adjustment Meeting**  
**Tuesday July 21<sup>st</sup>, 2020**

A regular meeting of the Town of Essex Committee of Adjustment was held on Tuesday, July 21<sup>st</sup>, 2020 at 4:00 PM via Virtual Zoom Meeting.

**1. Roll Call:**

Members Present	Percy Dufour, Chair Brian Gray, Vice Chair Phil Pocock Ray Beneteau Dan Boudreau
Also Present	Rita Jabbour, Secretary Treasurer/Manager, Planning Services Corinne Chiasson, Assistant Planner Sarah Aubin, Planning Assistant
Members of the Public	Samantha Lajeunesse Trudy Huber Don Huber Ken Brown Brandon Nascimento Jillian Nascimento Melanie Menard

**2. Declaration of Conflict of Interest**

None

**3. Adoption of Published Agenda**

**3.1** That the published agenda for the July 21<sup>st</sup>, 2020 meeting of the Committee of Adjustment be adopted as circulated.

Moved by: Ray Beneteau

Seconded by: Phil Pocock

**(COA-2020-07-38)** That the published agenda for July 21<sup>st</sup>, 2020 meeting of the Committee of Adjustment be adopted as circulated.

**“Carried”**

**4. Adoption of Minutes**

**4.1** That the minutes of the May 20<sup>th</sup>, 2020 Committee of Adjustment meeting be adopted with amendments.

Moved by: Phil Pocock

Seconded by: Dan Boudreau

**(COA-2020-07-39)** That the Regular Minutes from the Committee of Adjustment Meeting of May 20<sup>th</sup>, 2020 be amended to state that Percy Dufour, Chair broke the tie and moved application A-11-20 on page 20 adopted as amended..

**“Carried”**

## **5. Reports / Applications**

### **5.1 Corinne Chiasson, Assistant Planner RE:**

#### **Application A-12-20 Petar and Caroline Brujic, 90 St James Street (Essex Centre, Ward 1**

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 90 St. James Street in the Essex Centre. The applicant is proposing to build one (1) semi-detached dwelling on the property. The lot width of the subject property is  $\pm 15.231$  metres (50 feet).

The lot width required for the construction of a semi-detached dwelling in Residential District 2.1 (R2.1) is 18 metres (60 feet) under Town of Essex Zoning Bylaw, Bylaw 1037. Therefore, the applicants are requesting a variance of  $\pm 2.769$  metres (10 feet) to accommodate the proposed semi-detached dwelling

#### **5.1.1 Public Presentations (if any)**

#### **Corinne Chiasson, Assistant Planner wrote:**

Official Plan Designation: Residential

Zoning: Residential 2.1 (R2.1) – Medium density housing on urban lots

An application for Minor Variance has been submitted for the lands identified as 90 St. James Street in Essex Centre. The subject property is designated “Residential” under the Town of Essex Official Plan and zoned Residential District 2.1 (R2.1) for medium density residential uses under Town of Essex Zoning Bylaw, Bylaw 1037. The subject property is an *interior lot* defined as a lot other than a corner lot. The subject property fronts on a public road constructed to municipal standards, and has access to municipally owned and operated piped water, sanitary and storm sewers along the St. James Street frontage.

Residential District 2.1 (R2.1) permits a mix of housing options as a main use, specifically, a single detached dwelling, duplex dwelling or a semi-detached dwelling. The applicants are proposing to build one (1) *semi-detached dwelling* on the property. A *semi-detached dwelling* is defined as one (1) dwelling divided vertically into two (2) *dwelling units* by a common interior wall.

The lot width required for the construction of a semi-detached dwelling in Residential District 2.1 is 18 metres (60 feet). The lot width of the subject property is +15.231 metres (50 feet). Therefore, the applicants are requesting a variance of +2.769 metres (10 feet) to accommodate the proposed semi-detached dwelling.

The applicants have proposed a construction layout that satisfies all other lot and building regulations for a semi-detached dwelling in the R2.1 zoning district with respects to front, rear and side yard setbacks and lot coverage.

Note: Town of Essex Zoning Bylaw, Bylaw 1037, permits the addition of a second dwelling unit within each semi-detached dwelling unit. Although not proposed, the allowable density for a lot with a semi-detached dwelling is four (4) dwelling units.

#### Proposal Conformity with Town of Essex Official Plan Policies

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning Bylaw, the Committee of Adjustment should be satisfied that:

- a) The general intent of the Official Plan and the Zoning By-law are maintained:

Two unit dwellings are permitted uses under the Town of Essex Official Plan. The variance would allow for the construction of a semi-detached dwelling (two unit dwelling). A semi-detached dwelling is a permitted use under the R2.1 zoning.

- b) The variance(s) is minor and desirable for the appropriate use of the land:

This subject property is an infill property. The Town of Essex Official Plan encourages a greater variety of housing options and residential infilling within existing developed residential areas.

- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:

The neighbouring lots along St. James Street are developed primarily for *single detached dwellings*. A *single detached dwelling* is defined as a dwelling having one (1) dwelling unit. In contrast, a semi-detached dwelling is comprised of two (2) dwelling units. Although Town of Essex zoning Bylaw, Bylaw 1037, permits the addition of a second dwelling unit within a single detached dwelling, there cannot be any outward indication of the existence of the second dwelling unit except as mandated by the Ontario Building Code (OBC). In contrast, the architectural style of a semi-detached dwelling (i.e. dwelling units divided vertically by a common interior wall) indicates the presence of two (2) dwelling units and provides for the opportunity to separate ownership for each dwelling unit.

The applicants have proposed a continuous hipped roof line to better align with neighbouring architectural styles, and have indicated that they do not wish to separate ownership of the dwelling units. The applicants have also proposed separate

access areas (driveways) and attached garages to serve the parking needs of each dwelling unit. Therefore, parking will be confined to the subject property.

All abutting properties to the West of the subject parcel are accessed via Brien Avenue.

The access area serving the neighbouring lot to the East (94 St. James Street) does not parallel the subject property.

d) The variance deals with circumstances particular to the site and development:

The subject property does not have the required lot width to accommodate the construction of a semi-detached dwelling.

#### Internal Departments and External Agency Comments

Internal departments were circulated. No comments or objections on the proposal were received.

External agencies were circulated. One (1) comment was received from the Essex Region Conservation Authority (ERCA). They had no objections.

#### Public Comment

As a result of the giving of public notice, one (1) letter of objection was received from the owner of the property at 99 St. James Street. The resident states the following:

"I am writing you today to voice my objection to the minor variance proposed for 90 St. James Street. Our neighbourhood is an older and well established area consisting of single dwellings. Cramming in a semi-detached building onto an undersized lot will not be aesthetically pleasing to the street. We work hard to keep up the appearance of our street both financially and with lots of hard work. A semi-detached building will not benefit the area and in fact could cause lower housing values because this building will look out of place and brings to mind a possibility of rental units. I am not sure about this variance process so I will have to seek legal counsel on all my available options to stop the variance. Please advise me on your decision. Thanks for your time."

No further correspondences were received from members of the circulated public as of Thursday July 16, 2020.

Actions:

To be determined by the Committee.

#### **Additional comments resulting from circulation:**

**Fernando Cirino, Resource Planner, Essex Region Conservation Authority (ERCA), wrote**

**DELEGATED RESPONSIBILITY TO REPRESENT PROVINCIAL INTEREST IN NATURAL HAZARDS (PPS) AND REGULATORY RESPONSIBILITIES OF THE CONSERVATION AUTHORITIES ACT**

The following comments reflect our role as representing the provincial interest in natural hazards as outlined by Section 3.1 of the Provincial Policy Statement of the Planning Act as well as our regulatory role as defined by Section 28 of the Conservation Authorities Act.

We have reviewed our floodline mapping for this area and it has been determined this site is **not** located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the Conservation Authorities Act). As a result, a permit is not required from ERCA for issues related to Section 28 of the Conservation Authorities Act, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act, (Ontario Regulation No. 158/06).

#### **WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

The following comments are provided in an advisory capacity as a public commenting body on matters related to watershed management.

#### **SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

Our office has reviewed the proposal and has no concerns relating to stormwater management.

#### **PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS**

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

#### **FINAL RECOMMENDATION**

ERCA has no objection to this application for minor variance.

#### **Discussion:**

Corinne Chiasson, Assistant Planner, explains the nature of the application.

She advises the members that as a result of the giving of public notice, a letter of objection was received on July 20<sup>th</sup> 2020 from the owner of the property at 94 St. James Street. The resident states the following:

"Here are some questions and concerns I have...the space for parking in front of the new build looks to be small which may lead to street parking, which is already a daily issue in front of my home as there are vehicles on a daily basis that are currently parking on our street but reside on other streets in the area. There looks to be a small amount to maybe even no space between my side entrance (which I use daily) and the parking space for the new build. So will I need to step onto their property to get to mine or vis versa, will they need to step on mine? Where the new build will be situated on the property, it will take away from the already limited natural light I get through my window on that side of my home and when I go to look

out that window I will see nothing but a wall? There will be no green space in the front. The space between my fence line and the new build looks to be very minimal. What if I need to do repairs to my fence or yard, will there be enough space for work to get done without interrupting their property or vis versa, what if they need to do repairs? And lastly, what type of tenants will these be rented to? Seniors? Thank you for taking the time to speak with me today!"

Petra Brujic, Applicant, advises that the semi-detached proposal will be built of high end materials. He states that there will be a garage with a single car driveway to allow for parking on the property. He states that the structure will meet the setback requirements for the R2.1 zoning.

Phil Pocock asks the applicant if he will build a two (2) car or 1.5 car driveway to accommodate families who have more than one vehicle. He states this would assist in alleviating concerns with on-street parking.

Petra Brujic advises that the plans are for one (1) single driveway with an attached garage to allow for multiple vehicle parking.

Samantha Lajeunesse, 58 Brien Ave, advises that she has no concerns with the application as the distance from her fence to the proposed development will meet the distance requirements under the zoning.

Moved by: Ray Beneteau

Seconded by: Brian Gray

**(CAO-2020-07-40)** That application A-12-20 be granted to accommodate a variance of +2.769 metres (10 feet) in total lot width to permit the construction of a semi-detached dwelling

**"Carried"**

**Reasons for Decision:** The Application **is** in keeping with the general intent and purpose of the Town of Essex Zoning Bylaw and the prescribed criteria for Minor Variances under subsection 9.8 of the Town of Essex Official Plan:

- a) the general intent of this Plan and the Zoning By-law are maintained;
- b) the variance(s) is minor and desirable for the appropriate use of the land;
- c) the variance is compatible with the established character of the neighbourhood, traffic and parking patterns;
- d) the variance deals with circumstances particular to the site and development

## **5.2 Corinne Chiasson, Assistant Planner RE:**

### **Application A-13-20 Ryan Drouillard & Jillian Sharp, 631 Queen Street (Harrow Centre, Ward 4)**

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 631 Queen Street in the

Harrow Centre. The applicant is proposing to construct a 50.2 square metre (540 square foot) porch addition onto the existing 133 square metre (1440 square foot) accessory structure. As a result, the area of the accessory structure will increase to 184 square metres (1980 square feet). The maximum area for an accessory structure in Residential District 1.1 (R1.1) is 70 square metres (750 square feet) under Town of Essex Zoning Bylaw, Bylaw 1037.

### **5.2.1 Public Presentations (if any)**

#### **Corinne Chiasson, Assistant Planner wrote:**

Official Plan Designation: "Residential"

Zoning: Residential District 1.1 (R1.1) – Low density housing on urban lots.

An application for Minor Variance has been submitted for the lands located at 631 Queen Street in the Harrow Centre. The applicants are proposing to construct a 50.2 square metre (540 square foot) porch addition onto the existing 133 square metre (1440 square foot) accessory structure. As a result, the area of the accessory structure will increase to 184 square metres (1980 square feet). The maximum area for an accessory structure in Residential District 1.1 (R1.1) is 70 square metres (750 square feet) under the Town of Essex Zoning By-law, By-law 1037.

An *accessory structure* is defined as a completely detached building used for an *accessory use*. An *accessory use* is defined as a use that is customarily incidental, subordinate and exclusively devoted to the main use and is carried on with such main use on the same lot.

The subject property is occupied by an existing single detached dwelling (the main use) and the existing 133 square metre accessory structure. The existing accessory structure is a restored agricultural barn constructed in approximately 1928, which once formed part of an agricultural operation. The porch will be an architectural feature that will enhance the amenity area of the property, and compliment the unique features of the existing dwelling and accessory building.

#### Proposal Conformity with Town of Essex Official Plan Policies

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning By-law, the Committee of Adjustment should be satisfied that:

- a) The general intent of this Plan and the Zoning Bylaw are maintained:

The Town of Essex Official Plan permits uses accessory to the main use in areas designated residential. The Town of Essex Zoning Bylaw, Bylaw 1037, permits the construction of any use accessory to the main use.

- b) The variance is minor and desirable for the appropriate use of the land:

The variance will not impact on neighbouring properties. The porch will complement the residential use of the property.

- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns: The existing accessory building is a unique feature to the neighbourhood and compliments the agricultural heritage of the Harrow community. The variance will not result in any disruptions to traffic or parking patterns.
- d) The variance deals with circumstances particular to the site and development: The accessory building is already larger than the maximum permitted Gross Floor Area (GFA) for accessory buildings in Residential District 1.1.

#### Internal and External Agency Comments:

Internal departments were circulated. No comments or objections on the proposal were received.

External agencies were circulated. One (1) comment was received from the Essex Region Conservation Authority (ERCA). They had no objections.

#### Public Comment

As a result of the giving of public notice, no correspondences were received as of July 16, 2020.

Actions: To be determined by the Committee

#### **Additional comments resulting from circulation:**

**Fernando Cirino, Resource Planner, Essex Region Conservation Authority (ERCA), wrote**

#### **DELEGATED RESPONSIBILITY TO REPRESENT PROVINCIAL INTEREST IN NATURAL HAZARDS (PPS) AND REGULATORY RESPONSIBILITIES OF THE CONSERVATION AUTHORITIES ACT**

The following comments reflect our role as representing the provincial interest in natural hazards as outlined by Section 3.1 of the Provincial Policy Statement of the Planning Act as well as our regulatory role as defined by Section 28 of the Conservation Authorities Act.

We have reviewed our floodline mapping for this area and it has been determined this site is not located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the Conservation Authorities Act). As a result, a permit is not required from ERCA for issues related to Section 28 of the Conservation Authorities Act, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservations Authorities Act, (Ontario Regulation No. 158/06).

#### **WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

The following comments are provided in an advisory capacity as a public commenting body on matters related to watershed management.

#### **SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

Our office has reviewed the proposal and has no concerns relating to stormwater management.



## **PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS**

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the

PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

### **FINAL RECOMMENDATION**

ERCA has no objection to this application for Minor Variance.

#### **Discussion:**

Corinne Chiasson, Assistant Planner, explains the nature of the application.

Moved by: Phil Pocock

Seconded by: Brian Gray

**(CAO-2020-07-41)** That application A-13-20 be granted to accommodate a 50.2 square metre (540 square foot) porch addition onto the existing 133 square metre (1440 square foot) accessory structure. As a result, the area of the accessory structure will increase to 184 square metres (1980 square feet)

#### **“Carried”**

**Reasons for Decision:** The Application is in keeping with the general intent and purpose of the Town of Essex Zoning Bylaw and the prescribed criteria for Minor Variances under subsection 9.8 of the Town of Essex Official Plan:

- a) the general intent of this Plan and the Zoning By-law are maintained;
- b) the variance(s) is minor and desirable for the appropriate use of the land;
- c) the variance is compatible with the established character of the neighbourhood, traffic and parking patterns;
- d) the variance deals with circumstances particular to the site and development

### **5.3 Corinne Chiasson, Assistant Planner RE:**

#### **Application A-14-20 Sean MacPhail, 104 Pigeon Beach Rd (Colchester South, Ward 3)**

A application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 104 Pigeon Beach Road in the former township of Colchester South. The applicants are proposing to construct a  $\pm 95.1$  square metre ( $\pm 1024$  square foot) accessory structure with a storey height of 4.2 metres (14 feet).

The maximum Gross Floor Area (GFA) for an accessory structure in Residential District 1.1 (R1.1) is 70 square metres (750 square feet) under Town of Essex Zoning Bylaw, Bylaw 1037. The maximum height of a storey is 4 metres (13 feet). Thus, the applicants are seeking a variance to accommodate a GFA increase of  $\pm 25.1$  square metres ( $\pm 274$  square feet) over the maximum permitted size provision for an accessory structure, and a  $\pm 0.3$  metre ( $\pm 1$  foot) increase in the maximum height of a storey

### **5.3.1 Public Presentations (if any)**

#### **Corinne Chiasson, Assistant Planner wrote:**

Official Plan Designation: "Residential"

Zoning: Residential District 1.1 (R1.1) – Low density housing on urban lots.

An application for minor variance has been submitted for 104 Pigeon Beach Rd in the former township of Colchester South. The subject property is designated "Lakeshore Residential" under the Town of Essex Official Plan and zoned Residential District 1.1 (R1.1) for low density housing on urban lots under Town of Essex Zoning Bylaw, Bylaw 1037.

The applicant is proposing to construct a  $+95.1$  square metre ( $+1024$  square metre) accessory structure with a storey height of 4.2 metres (14 feet). The maximum Gross Floor Area (GFA) for an accessory structure in Residential District 1.1 (R1.1) is 70 square metres (750 square feet) under the Town of Essex Zoning By-law, By-law 1037. The maximum height of a storey is 4 metres (13 feet). Thus, the applicant is seeking a variance to accommodate a GFA increase of  $+25.1$  square metres (274 square feet) over the maximum permitted size provision for an accessory structure, and a  $+0.3$  metre ( $+1$  foot) increase in the maximum height of a storey.

An *accessory structure* is defined as a completely detached building used for an *accessory use*. An *accessory use* is defined as a use that is customarily incidental, subordinate and exclusively devoted to the main use and is carried on with such main use on the same lot. The subject property is occupied by a single detached dwelling (the main use). No accessory structure presently exists on the subject property. The applicant requires the accessory structure for storage of yard maintenance machinery; a tractor, recreational vehicles and a workshop area. Relief from the storey height is required to accommodate the storage of the recreational camping trailer.

#### Proposal Conformity with Town of Essex Official Plan Policies

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning Bylaw, the Committee of Adjustment should be satisfied that:

- a) The general intent of this Plan and the Zoning Bylaw are maintained:

The Town of Essex Official Plan permits uses accessory to the main use in areas designated Residential. The Town of Essex Zoning Bylaw, Bylaw 1037, permits the

construction of any use accessory to the main use. The accessory structure will not exceed one (1) storey in height and will not be utilized as a dwelling unit or to accommodate a home occupation.

- b) The variance(s) is minor and desirable for the appropriate use of the land:

The proposed accessory structure will satisfy all building regulations prescribed in the R1.1 zoning. The subject property is a uniquely large residential property in comparison with lots in the surrounding neighbourhood.

- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:

Neighbouring lots are considerably smaller in scale than the subject property. Although Bylaw 1037 only permits an accessory structure of no greater than 70 square metres (750 square feet), lots within the R1.1 zoning district may have a combination of accessory buildings of no greater than 92 square metres (1000 square feet). The variance will not result in any disruptions to traffic or parking patterns.

- d) The variance deals with circumstances particular to the site and development:

The subject property is considerably larger than the average lot in residential district 1.1, but is subject to the building regulations of that district. Due to the size of the lot, larger equipment for routine yard maintenance is required.

#### Internal and External Agency Comments:

Internal departments were circulated. No comments or objections on the proposal were received.

External agencies were circulated. One (1) comment was received from the Essex Region Conservation Authority (ERCA). They had no objections.

#### Public Comment

As a result of the giving of public notice, no correspondences were received as of July 16, 2020.

Action: To be determined by Committee

#### **Additional comments resulting from circulation:**

**Michael Nelson, Watershed Planner, Essex Region Conservation Authority (ERCA), wrote**

#### **DELEGATED RESPONSIBILITY TO REPRESENT PROVINCIAL INTEREST IN NATURAL HAZARDS (PPS) AND REGULATORY RESPONSIBILITIES OF THE CONSERVATION AUTHORITIES ACT**

The following comments reflect our role as representing the provincial interest in natural hazards as outlined by Section 3.1 of the Provincial Policy Statement of the Planning Act as well as our regulatory role as defined by Section 28 of the Conservation Authorities Act.

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of Lake Erie. The property owner will be required to obtain a Permit from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act. To date, our office has not received an application for permit to review.

#### **WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

The following comments are provided in an advisory capacity as a public commenting body on matters related to watershed management.

#### **SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

Our office has reviewed the proposal and has no concerns relating to stormwater management.

#### **PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS**

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the

PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

#### **FINAL RECOMMENDATION**

ERCA has no objection to the application for minor variance.

#### **Discussion:**

Corinne Chiasson, Assistant Planner, explains the nature of the application.

Moved by: Ray Beneteau

Seconded by: Phil Pocock

**(CAO-2020-07-42)** That application A-14-20 be granted to accommodate a +95.1 square metre (+1024 square foot) accessory structure.

#### **“Carried”**

**Reasons for Decision:** The Application **is** in keeping with the general intent and purpose of the Town of Essex Zoning Bylaw and the prescribed criteria for Minor Variances under subsection 9.8 of the Town of Essex Official Plan:

- a) the general intent of this Plan and the Zoning By-law are maintained;
- b) the variance(s) is minor and desirable for the appropriate use of the land;

c) the variance is compatible with the established character of the neighbourhood, traffic and parking patterns;

d) the variance deals with circumstances particular to the site and development

Moved by: Dan Boudreau

Seconded by: Brian Gray

**(CAO-2020-07-43)** That application A-14-20 be granted to accommodate a 0.3 metre (1 foot) increase in the maximum height of a storey for an accessory structure.

**“Carried”**

**Reasons for Decision:** The Application **is** in keeping with the general intent and purpose of the Town of Essex Zoning Bylaw and the prescribed criteria for Minor Variances under subsection 9.8 of the Town of Essex Official Plan:

a) the general intent of this Plan and the Zoning By-law are maintained;

b) the variance(s) is minor and desirable for the appropriate use of the land;

c) the variance is compatible with the established character of the neighbourhood, traffic and parking patterns;

d) the variance deals with circumstances particular to the site and development

#### **5.4 Corinne Chiasson, Assistant Planner RE:**

##### **Application B-14-20 Susane Kranicz (Agent: Joe Bouzide) 1645 Huffman Road (Colchester North, Ward 2)**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 1645 Huffman Road in the former township of Colchester South. The applicant is proposing to sever a  $\pm 0.37$  acre parcel from the existing  $\pm 59.89$  acre farm lot. The applicant is proposing this consent because the residence is surplus to the needs of the farming operation.

**Note:** An application for minor variance has also been received for the subject lands (File Number: A-15-20).

##### **5.4.1 Public Presentations (if any)**

#### **Corinne Chiasson, Assistant Planner wrote:**

Official Plan Designation: “Agricultural”

Zoning: Agricultural District 1.1 (A1.1) – general agriculture and farm production support activities

An application for Consent and Minor Variance has been received by the Town of Essex Committee of Adjustment for the lands located at 1645 Huffman Road in Colchester South (Ward 1). The subject property is designated “Agricultural” under the Town’s Official Plan and

zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities under the Town of Essex Zoning By-law, By-law 1037.

The applicant is proposing to sever a +0.37 acre parcel from the existing +59.89 acre farm lot. The applicant is proposing this consent because the residence is considered surplus to the needs of the farming operation. The owner's main farming operation is located at 1040 Ridge Road which consists of approximately 41 acres.

The severed parcel has an existing access driveway off Huffman Road. The property has municipal water, and has a private septic system. The owners have submitted a septic system inspection form to the Town of Essex Building Department. In accordance with the information submitted, the installation of a new septic system at 1645 Huffman Road is required.

The retained farmland parcel has an existing farm access located along the most western property line. No new buildings are proposed to be constructed on the severed parcel or retained parcels.

#### Proposal Conformity with Town of Essex Official Plan Policies

In accordance with section 6.4 of the Town of Essex Official Plan, in considering an application for consent, the Committee of Adjustment should have regard to:

- a) The proposal's consistency with Provincial legislation, policies and guidelines;

There are no conflicts with the Planning Act or the Provincial Policy Statement (PPS).

The PPS discourages lot creation in prime agricultural areas but permits them for a residence that is surplus to the farming operation as a result of farm consolidation. As a condition of the consent, a residential dwelling will be prohibited on the retained farmland parcel.

- b) The requirements and policies of the Official Plan for the Town of Essex and the comments of other public authorities and agencies:

This proposal complies with Section 6.5 of the Town of Essex Official Plan, that states: where a lot has been acquired for consolidation with another farm operation and there is a dwelling on the acquired lot, a consent may be granted to permit the farmer to sever the dwelling and a surrounding portion of the acquired lot, if the dwelling is considered to be surplus to the needs of the farming operation.

The owner has identified their main farming operation to be located at 1040 Ridge Road.

- c) The continuation of an orderly development pattern:

The severed surplus will not result in the creation of an irregular parcel, or it will not take agricultural lands out of production.

- d) The adequate provision of potable water supply, sanitary sewage treatment and disposal and stormwater management in accordance with the Official Plan and to the

satisfaction of the Town and the statutory approval authority having jurisdiction: the proposed surplus dwelling has municipal water services and a private septic system. The applicants have been informed by the Town of Essex Building Department that the existing septic system requires replacement. The applicants will be required to install a new septic system and obtain satisfactory confirmation that it meets Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the consent certificate.

#### Requirement for Minor Variance

As a result of the associated surplus dwelling severance, the lot area of the severed and retained parcel will be reduced to +0.37 acres and +59.52 acres, respectively, and the lot width of the severed parcel will be +60 feet. The minimum lot area for lots within an Agricultural District 1.1 (A1.1) under the Town of Essex Zoning By-law 1037 is 40 hectares (100 acres) or as existing. The minimum lot width for lots within and Agricultural District 1.1 (A1.1) under By-law 1037 is 60 metres (200 feet).

#### Proposal Conformity with Town of Essex Official Plan Policies

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning Bylaw, the Committee of Adjustment should be satisfied that:

- a) The general intent of this Plan and the Zoning Bylaw are maintained;  
Severances for surplus dwellings are permitted in the agricultural district and in accordance with the policies found under Section 2.3.4.1 c) of the Town of Essex Official Plan. The main use of the retained parcel will continue to be agricultural. Construction of a new dwelling will not be permitted on the retained farm parcel.
- b) The variance(s) is minor and desirable for the appropriate use of the land;  
Lot areas and lot widths in the agricultural district vary greatly. Additionally, no agricultural land will be taken out of production.
- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns; the dwelling and accompanying infrastructure are existing and there will be a prohibition against the construction of any new dwellings on the retained agricultural land. There will be no new entrances or buildings that would impact traffic patterns or neighbouring lots.
- d) The variance deals with circumstances particular to the site and development; the variance is necessary in order to accommodate a surplus dwelling application.

#### Internal and External Agency Comments:

These applications were circulated to internal Town of Essex departments, and to external public agencies.

Comments were received from the Town of Essex Chief Building Official stating that a new septic system is required for this property, and be as a condition of the Consent.

Comments were received from the Essex Region Conservation Authority (ERCA). They have no objections to the consent application.

#### Public Comment

As a result of the giving of public notice, no phone calls or written correspondence objecting to the Consent or Minor Variance have been received from members of the public as of Thursday July 16, 2020.

#### **Actions:**

1. Should the Committee choose to approve this application, approval should be subject to satisfying the following conditions:
  - a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
  - b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
  - c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
  - d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
  - e) That a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that the septic system(s) meet Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate
  - f) That, prior to the granting of the consent, the requested variance be granted by the Committee of Adjustment to accommodate the reduction in minimum lot width for the severed parcel.
  - g) That all of the above conditions be fulfilled on or before July 21, 2021.

#### **Additional comments resulting from circulation:**

**Michael Nelson, Watershed Planner, Essex Region Conservation Authority (ERCA), wrote**



## **DELEGATED RESPONSIBILITY TO REPRESENT PROVINCIAL INTEREST IN NATURAL HAZARDS (PPS) AND REGULATORY RESPONSIBILITIES OF THE CONSERVATION AUTHORITIES ACT**

The following comments reflect our role as representing the provincial interest in natural hazards as outlined by Section 3.1 of the Provincial Policy Statement of the Planning Act as well as our regulatory role as defined by Section 28 of the Conservation Authorities Act.

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Dolson Creek and Tofflemire Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act. There is not requirement to obtain a permit for this proposed consent and minor variance application.

## **WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

The following comments are provided in an advisory capacity as a public commenting body on matters related to watershed management.

### **SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

Our office has reviewed the proposal and has no concerns relating to stormwater management.

## **PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS**

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the

PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

## **FINAL RECOMMENDATION**

ERCA has no objection to the application for consent or the application for minor variance.

### **Discussion:**

Corinne Chiasson, Assistant Planner, explains the nature of the application.

Moved by: Phil Pocock

Seconded by: Brian Gray

Opposed by: Ray Beneteau

**(CAO-2020-07-44)** That application B-14-20 be granted to sever a  $\pm 0.37$  acre parcel from

the existing  $\pm 59.89$  acre farm lot. The residence has been rendered surplus as a result of farm consolidation with the following conditions:

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that the septic system(s) meet Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate
- f) That, prior to the granting of the consent, the requested variance be granted by the Committee of Adjustment to accommodate the reduction in minimum lot width for the severed parcel.
- g) That all of the above conditions be fulfilled on or before July 21, 2021.

### **“Carried”**

**Reasons:** The Application is in keeping with subsection 2.3.4 of the Provincial Policy Statement (PPS) respecting lot creation and lot adjustment in prime agricultural areas and subsection 6.4 and 6.5 of the Town of Essex Official Plan policies respecting consents and consents in areas designated “Agricultural”.

### **5.5 Corinne Chiasson, Assistant Planner RE:**

#### **Application A-15-20 Susane Kranicz (Agent: Joe Bouzide) 1645 Huffman Road (Colchester North, Ward 2)**

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 1645 Huffman Road in the former township of Colchester South. As a result of an associated surplus dwelling severance, the lot area of the severed and retained parcel will be reduced to  $\pm 0.37$  acres and  $\pm 59.52$  acres, respectively, and the lot width of the severed parcel will be  $\pm 60$  feet.

The minimum lot area for lots within Agricultural District 1.1 (A1.1) under the Town of Essex zoning By-law 1037 is 40 hectares (100 acres) or as existing. The minimum lot width for lots within Agricultural District 1.1 (A1.1) under Town of Essex Zoning Bylaw 1037 is 60 metres (200 feet).

**Note:** An application for consent has also been received for the subject lands (File Number: B-14-20).

#### **5.1.1 Public Presentations (if any)**

**Corinne Chiasson, Assistant Planner wrote:**

Official Plan Designation: "Agricultural"

Zoning: Agricultural District 1.1 (A1.1) – general agriculture and farm production support activities

An application for Consent and Minor Variance has been received by the Town of Essex Committee of Adjustment for the lands located at 1645 Huffman Road in Colchester South (Ward 1). The subject property is designated "Agricultural" under the Town's Official Plan and zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities under the Town of Essex Zoning By-law, By-law 1037.

The applicant is proposing to sever a +0.37 acre parcel from the existing +59.89 acre farm lot. The applicant is proposing this consent because the residence is considered surplus to the needs of the farming operation. The owner's main farming operation is located at 1040 Ridge Road which consists of approximately 41 acres.

The severed parcel has an existing access driveway off Huffman Road. The property has municipal water, and has a private septic system. The owners have submitted a septic system inspection form to the Town of Essex Building Department. In accordance with the information submitted, the installation of a new septic system at 1645 Huffman Road is required.

The retained farmland parcel has an existing farm access located along the most western property line. No new buildings are proposed to be constructed on the severed parcel or retained parcels.

#### Proposal Conformity with Town of Essex Official Plan Policies

In accordance with section 6.4 of the Town of Essex Official Plan, in considering an application for consent, the Committee of Adjustment should have regard to:

- d) The proposal's consistency with Provincial legislation, policies and guidelines;  
There are no conflicts with the Planning Act or the Provincial Policy Statement (PPS). The PPS discourages lot creation in prime agricultural areas but permits them for a residence that is surplus to the farming operation as a result of farm consolidation. As a condition of the consent, a residential dwelling will be prohibited on the retained farmland parcel.

- e) The requirements and policies of the Official Plan for the Town of Essex and the comments of other public authorities and agencies:

This proposal complies with Section 6.5 of the Town of Essex Official Plan, that states: where a lot has been acquired for consolidation with another farm operation and there is a dwelling on the acquired lot, a consent may be granted to permit the farmer to sever the dwelling and a surrounding portion of the acquired lot, if the dwelling is considered to be surplus to the needs of the farming operation.

The owner has identified their main farming operation to be located at 1040 Ridge Road.

- f) The continuation of an orderly development pattern:

The severed surplus will not result in the creation of an irregular parcel, or it will not take agricultural lands out of production.

- d) The adequate provision of potable water supply, sanitary sewage treatment and disposal and stormwater management in accordance with the Official Plan and to the satisfaction of the Town and the statutory approval authority having jurisdiction: the proposed surplus dwelling has municipal water services and a private septic system. The applicants have been informed by the Town of Essex Building Department that the existing septic system requires replacement. The applicants will be required to install a new septic system and obtain satisfactory confirmation that it meets Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the consent certificate.

#### Requirement for Minor Variance

As a result of the associated surplus dwelling severance, the lot area of the severed and retained parcel will be reduced to +0.37 acres and +59.52 acres, respectively, and the lot width of the severed parcel will be +60 feet. The minimum lot area for lots within an Agricultural District 1.1 (A1.1) under the Town of Essex Zoning By-law 1037 is 40 hectares (100 acres) or as existing. The minimum lot width for lots within and Agricultural District 1.1 (A1.1) under By-law 1037 is 60 metres (200 feet).

#### Proposal Conformity with Town of Essex Official Plan Policies

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning Bylaw, the Committee of Adjustment should be satisfied that:

- e) The general intent of this Plan and the Zoning Bylaw are maintained;  
Severances for surplus dwellings are permitted in the agricultural district and in accordance with the policies found under Section 2.3.4.1 c) of the Town of Essex Official Plan. The main use of the retained parcel will continue to be agricultural. Construction of a new dwelling will not be permitted on the retained farm parcel.

- f) The variance(s) is minor and desirable for the appropriate use of the land; Lot areas and lot widths in the agricultural district vary greatly. Additionally, no agricultural land will be taken out of production.
- g) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns; the dwelling and accompanying infrastructure are existing and there will be a prohibition against the construction of any new dwellings on the retained agricultural land. There will be no new entrances or buildings that would impact traffic patterns or neighbouring lots.
- h) The variance deals with circumstances particular to the site and development; the variance is necessary in order to accommodate a surplus dwelling application.

#### Internal and External Agency Comments:

These applications were circulated to internal Town of Essex departments, and to external public agencies.

Comments were received from the Town of Essex Chief Building Official stating that a new septic system is required for this property, and be as a condition of the Consent.

Comments were received from the Essex Region Conservation Authority (ERCA). They have no objections to the consent application.

#### Public Comment

As a result of the giving of public notice, no phone calls or written correspondence objecting to the Consent or Minor Variance have been received from members of the public as of Thursday July 16, 2020.

#### **Actions:**

1. Should the Committee choose to approve this application, approval should be subject to satisfying the following conditions:

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
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- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that the septic system(s) meet Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate
- f) That, prior to the granting of the consent, the requested variance be granted by the Committee of Adjustment to accommodate the reduction in minimum lot width for the severed parcel.
- g) That all of the above conditions be fulfilled on or before July 21, 2021.

**Additional comments resulting from circulation:**

**Michael Nelson, Watershed Planner, Essex Region Conservation Authority (ERCA), wrote**

**DELEGATED RESPONSIBILITY TO REPRESENT PROVINCIAL INTEREST IN NATURAL HAZARDS (PPS) AND REGULATORY RESPONSIBILITIES OF THE CONSERVATION AUTHORITIES ACT**

The following comments reflect our role as representing the provincial interest in natural hazards as outlined by Section 3.1 of the Provincial Policy Statement of the Planning Act as well as our regulatory role as defined by Section 28 of the Conservation Authorities Act.

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Dolson Creek and Tofflemire Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act. There is not requirement to obtain a permit for this proposed consent and minor variance application.

**WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

The following comments are provided in an advisory capacity as a public commenting body on matters related to watershed management.

**SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

Our office has reviewed the proposal and has no concerns relating to stormwater management.

**PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS**

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the

PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority. The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

### **FINAL RECOMMENDATION**

ERCA has no objection to the application for consent or the application for minor variance.

#### **Discussion:**

Corinne Chiasson, Assistant Planner explains the nature of the application.

Moved by: Phil Pocock

Seconded by: Brian Gray

Opposed by: Ray Beneteau

**(CAO-2020-07-45)** That application A-15-20 to accommodate a lot area of  $\pm 0.37$  acres and  $\pm 59.52$  acres for the severed and retained parcels, and a lot width of 60 feet for the severed parcel. The lot area and width were reduced as a result of a severance for a surplus dwelling

#### **"Carried"**

**Reasons for Decision:** The Application **is** in keeping with the general intent and purpose of the Town of Essex Zoning Bylaw and the prescribed criteria for Minor Variances under subsection 9.8 of the Town of Essex Official Plan:

- a) the general intent of this Plan and the Zoning By-law are maintained;
- b) the variance(s) is minor and desirable for the appropriate use of the land;
- c) the variance is compatible with the established character of the neighbourhood, traffic and parking patterns;
- d) the variance deals with circumstances particular to the site and development

### **6. Unfinished Business**

### **7. Correspondence**

None.

### **8. New Business**

#### **8.1 Update on Appeal B-17-19 (7880 County Rd 18)**

Rita Jabbour advises the members that she has received the decision of the Local Planning Appeal Tribunal (LPAT) with regards to application B-17-19 (7880 County Road 18). She states that the LPAT decided in favour of the applicants.

She states that the LPAT has granted the easement over the existing access bridge in favour of the retained parcel and has removed the condition respecting the installation of a separate access bridge to the retained farm parcel.

**8.2 Changes to the Provincial Police Statement**

Rita Jabbour advises the members that the Provincial Policy Statement (PPS) has been amended and is now in effect. She states that severance policies for agricultural lands have not changed. She explains that the PPS is now clear on the allowance of lot creation on rural lands. She states that the Committee may see an influx of severance applications in the coming months for severances within rural lands. She also advises that an Official Plan review is being initiated in 2020 which may result in the designation of more rural lands.

**9. Notices of Motion**

None.

**10. Adjournment**

Moved by: Ray Beneteau

Seconded by: Dan Boudreau

**(CAO-2020-07-46)** That the meeting be adjourned at 5:24 p.m.

**“Carried”**

**11. Next Meeting**

**11.1** August 18<sup>th</sup>, 2020 Virtual Zoom Meeting at 4:00 p.m.

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Secretary-Treasurer