

The Corporation of the Town of Essex
Minutes of Regular Committee of Adjustment Meeting
Tuesday August 18th, 2020

A regular meeting of the Town of Essex Committee of Adjustment was held on Tuesday, August 18th, 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, Recording Secretary Lori Chadwick, Director of Development Services
Members of the Public	John and Kathy Hunt Andrea Grimes

2. Declaration of Conflict of Interest

None

3. Adoption of Published Agenda

3.1 That the published agenda for the August 18th, 2020 meeting of the Committee of Adjustment be adopted as circulated.

Moved by: Ray Beneteau

Seconded by: Dan Boudreau

(COA-2020-08-47) That the published agenda for August 18th, 2020 be amended so that Reports / Applications item number 5.3 with regards to Application B-16-20 be moved to the top of Reports / Applications for first discussion.

“Carried”

4. Adoption of Minutes

4.1 That the minutes of the July 21st, 2020 Committee of Adjustment meeting be adopted with amendments.

Moved by: Brian Gray

Seconded by: Phil Pocock

(COA-2020-08-48) That the Regular Minutes from the Committee of

Adjustment Meeting of July 21st, 2020 be adopted as circulated.

“Carried”

5. Reports / Applications

5.1 Corinne Chiasson, Assistant Planner RE:

Application B-16-20 Evelyn Vivier Agent: Walter Branco, Noah Homes (Essex Centre, Ward 1)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 80 Maidstone Ave in Essex Centre (Ward 1). The applicants are proposing to sever a ± 0.14 acre parcel from the existing ± 4.5 acre residential lot identified municipally as 80 Maidstone Avenue. The applicant is proposing this consent for the purpose of a lot addition. The severed parcel is proposed to be merged with the lands located directly to the southeast known municipally as 61 Bell Ave.

5.1.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Official Plan Designation: “Residential”

Zoning: Holding Residential District 2.3 (HR2.3)–low density housing on urban lots or within a rental or plan of condominium development.

An application for consent has been submitted for the lands located at 80 Maidstone Ave in Essex Centre. The subject property is designated “Residential” under the Town’s Official Plan and zoned Holding Residential District 2.3 (HR2.3) for low density housing on urban lots or within a rental or plan of condominium development under the Town of Essex Zoning Bylaw, Bylaw 1037.

The applicant is proposing to sever a ± 0.14 acre parcel from the ± 4.5 acre residential lot. The applicant is proposing this consent for the purposes of a lot addition. The severed parcel is proposed to be merged with the property identified municipally as 61 Bell Avenue. The severed parcel contains a pole barn structure that is utilized as an accessory use to the residential property at 61 Bell Avenue. . The applicant intends to sell the retained parcel for future residential development, however no development is proposed at this time, or is a component of this application.

Proposal Conformity with Provincial and Town of Essex Policies

In accordance with the Town of Essex Official Plan (OP), consents should only be granted for lot adjustments or minor boundary changes provided both parcels comply with the provisions of the implementing Zoning By-law. The existing pole barn complies with the rear, side and front yard setback provisions of the Zoning By-law.

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

- a) *the proposal's consistency with Provincial legislation, policies and guidelines:* This application is consistent with the policies of the Provincial Policy Statement.
- b) *The requirements and policies of the Official Plan for the Town of Essex and the comments of other public authorities and agencies:* The lot addition will merge the pole barn with the associated main use at 61 Bell Ave. In accordance with the Town of Essex Official Plan (OP), uses accessory to the foregoing uses are permitted on lands designated "Residential". No development is proposed as a result of this Consent, and therefore there are no traffic pattern changes to adjacent properties.
- c) *The continuation of an orderly development pattern:*
The proposed lot addition is not of a shape that would hinder adjoining land uses.

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 severed portion will be added to a lot that has full municipal services.

Agency and Public Comments

As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public as of Thursday August 13, 2020. Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections. No comments were received from circulated internal agencies as of Thursday August 13, 2020. As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public as of Thursday August 13, 2020.

No comments were received from circulated internal agencies as of Thursday August 13, 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 the severed parcel be consolidated with the lands identified municipally as 61 Bell Avenue. In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.

f) That all of the above conditions be fulfilled on or before August 18, 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.

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).

We have no objections to the application with respect to our natural hazards or regulatory perspective.

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. 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

Kristopher Balallo, Engineering Technician, County of Essex wrote:

Please be advised that the County has reviewed the aforementioned application and the comments provided are engineering related only. This application has not been reviewed from a planning perspective. The subject lands have frontage on County Road No. 8. The Applicant will be required to comply with the following County Road regulations:

County By-Law Number 2481 - A By-Law to Provide for the Protection of Highways and to Provide for the Installation of Entrance Ways.

County By-Law Number 2480 - A By-Law of the Corporation of the County of Essex to Regulate the Location of Buildings and Structures on Land Adjacent to County Roads.

The minimum setback for any proposed structures on this property must be 85 feet from the centre of the original ROW of County Road No. 8. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances or structures.

We are requesting a copy of the Decision of the aforementioned application. Should this application be approved we are requesting a copy the revised survey plan of the subject lands in order to update our mapping records. Thank you for your assistance and cooperation in this matter.

Discussion:

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

Moved by: Phil Pocock

Seconded by: Brian Gray

(CAO-2020-08-49) That application B-16-20 be granted to sever a ± 0.14 acre parcel from the existing ± 4.5 acre residential lot. The severed parcel is proposed to be merged with the lands located directly to the southeast known municipally as 61 Bell Ave.

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 the severed parcel be consolidated with the lands identified municipally as 61 Bell Avenue. In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.
- f) That all of the above conditions be fulfilled on or before August 18, 2021

"Carried"

Reasons for Decision: The Application is in keeping with subsection 6.4 of the Town of Essex Official Plan respecting consents

5.2 Corinne Chiasson, Assistant Planner RE:

Application B-15-20 Dennis James Salter (Agent: Joseph Drouillard) (Colchester South, Ward 3)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 2218 County Road 20 West in the former township of Colchester South. The applicant is proposing to sever a ± 1.71 acre parcel from the existing ± 52 acre farm lot. The applicant is proposing this consent because the residence is surplus to the needs of the farming operation.

5.2.1 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

Applications for consent and minor variance have been submitted for the lands located at 2218 County Road 20 West in the former township of Colchester South. 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 Bylaw, Bylaw 1037.

The applicant is proposing to sever a ± 1.71 acre parcel from the existing ± 52 acre farm lot. The severed parcel contains an existing single detached dwelling, two accessory structures, and the accompanying infrastructure (i.e. septic system and access area). Access to the severed lot will continue to be by way of County Road 20 West.

The retained lot will have a resulting area of ± 52 acres and will continue to be used for agricultural purposes. A new access to the retained parcel is proposed as a condition of the consent approval.

The applicant is proposing this consent due to the house being surplus to the needs of the farming operation of Mr. Joe Drouillard who has signed a purchase agreement with Mr. Salter the current owner.

Proposal Conformity with Provincial and Town of Essex Policies

The Provincial Policy Statement (PPS) states that a surplus dwelling, namely, a dwelling that is acquired as part of farm land acquisition, may be severed and sold, with the stipulation that no new dwelling will be permitted on the retained farm parcel. The Provincial Policy Statement (PPS) defines a residence surplus to a farming operation as an existing habitable farm residence that is rendered surplus as a result of farm consolidation. Farm consolidation is defined as the acquisition of additional farm parcels to be operated as one (1) farm operation. The subject lands are being purchased by Mr. Joe Drouillard. His main agricultural operation is located at 9798 Walker Road. He also owns multiple agricultural properties in the area: 4190 Smith Rd, 7043 Arner Townline, 12144 12th Concession, and 13091 13th Concession. Therefore this application for consent is consistent with the PPS policies for farm consolidation and severance of a surplus dwelling.

In accordance with Town of Essex Official Plan policies relating to consents in areas designated "Agricultural", one (1) lot creating consent will be permitted for a surplus dwelling on the condition that:

- a) *No new dwelling will be permitted on the retained farm parcel:* A restricted development layer will be applied to the property upon provisional consent approval on the Town's Geographic Information System (GIS);
- b) *the size of the surplus dwelling lot should not be greater than one (1) hectare, however, the choice of consolidating outbuildings with the surplus dwelling will also be considered when the size and boundaries of the surplus dwelling lot are determined and approved by consent:* the size of the proposed surplus dwelling lot will not exceed one (1) hectare and the accessory structures will be kept with the main use dwelling;

- c) *the lot to be created has provision for sewage disposal, a potable water supply and stormwater management systems satisfactory to the Town and other statutory approval authority having jurisdiction:* the surplus dwelling lot has access to municipal water and road side drains (Webster Drain and Little Drain). The Building Department has confirmed that the septic system was upgraded in 2017 and satisfies Part 8 of the Ontario Building Code (OBC);
- d) *the severed dwelling lot will satisfy Minimum Distance Separation 1 (MDS 1) provisions of the Official Plan:* the lot to be severed contains an existing dwelling. No additional dwellings will be permitted on this lot. Therefore, no livestock facilities will be impacted by the proposed development;
- e) *the severed dwelling lot has frontage on a public road:* the severed dwelling lot has frontage on County Road 20, a public road which is owned and assumed by the County of Essex.
- f) *the surplus dwelling is in habitable condition, as determined by the Town or certified by a qualified building inspector:* no objections to the application were received from the Building Department.

Requirement for Minor Variance

The minimum lot area required for lots zoned A1.1 under Bylaw 1037 is the lesser of 40 hectares (100 acres) or as existing. As a result of the proposed severance, the lot area for both the retained and severed parcel will decrease in size from 52 acres to 50.3 acres and +1.71 acres, respectively. Due to the proposed reduction in the farm parcel lot area, minor Variance application A-16-20 has been submitted concurrently for the Committee's review.

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 (OP) permits the creation of surplus dwelling lots when in accordance with the provisions of the Provincial Policy Statement (PPS). In accordance with the Town OP, the proposed surplus dwelling lot is of a size sufficient to accommodate septic services acceptable to the Town;
- b) *The variance(s) is minor and desirable for the appropriate use of the land:* Lots in the A1.1 zoning district vary greatly in lot area. No new development is proposed on the severed or retained parcel;
- 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 dwelling on the retained agricultural land.
- d) *The variance deals with circumstances particular to the site and development:* The variance is necessary in order to accommodate a surplus dwelling application.

Agency and Public Comments

As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public as of Thursday August 13, 2020.

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections.

Comments were received from the County of Essex stating they have no objections to the installation of a new culvert to access the retained farm lot, however a permit approval will be necessary. They also ask that the existing second access to the surplus lot be taken out of use, whereas the driveway will be removed by top dressing with top soil and grass as a condition of the severance. No comments were received from circulated internal agencies as of Thursday August 13, 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 the second access to the surplus dwelling be taken out of use by applying topsoil and grassing the driveway entrance;
- f) That an access be installed for the retained farm lot parcel to the satisfaction and requirements of the Town of Essex, County of Essex and other agencies having jurisdiction;
- g) That, prior to the granting of this consent, the requested variance should be granted by the Committee of Adjustment to accommodate the reduction in minimum lot area for the retained and severed parcel.
- h) That all of the above conditions be fulfilled on or before August 18, 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 Little Drain and Grayer 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.

We have no objections to the applications with respect to our natural hazards or regulatory perspective.

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

Kristopher Balallo, Engineering Technician, County of Essex wrote:

Please be advised that the County of Essex has reviewed the aforementioned applications and the comments provided are engineering related only. These applications have not been reviewed from a planning perspective. This road was formerly King's Highway 18 until it was downloaded to the County of Essex.

The number of allowable accesses for the severed and retained lot is one. In order to approve an access to retained portion of property, the severed lot to close one of the existing access. The minimum setback for any proposed structures on this property must be 85 feet from the center of the original ROW of County Road No. 20 in the case of a dwelling, and 105 feet from

the centre of the right of way in the case of an commercial building. Permits are necessary for any changes to existing entrances and structures, of the construction of new structures. We are requesting a copy of the Decision of the aforementioned applications. Thank you for your assistance and cooperation in this matter.

Discussion:

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

Ray Beneteau states that the U shaped driveway is a good selling feature for the subject property and states that he does not agree with proposed condition e).that the second access to the surplus dwelling be taken out of use by applying topsoil and grassing the driveway entrance; and states the condition should be removed.

Rita Jabbour, Planner, states that condition e) was put forth by planning department as the County of Essex requested that the second access be removed, however the committee has the authority to implement the condition or remove it.

Moved by: Ray Beneteau

Seconded by: Phil Pocock

(CAO-2020-08-50) That application B-15-20 be granted to sever a ± 1.71 acre parcel from the existing ± 52 acre farm lot. The residence has been rendered surplus as a result of farm consolidation.

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 the second access to the surplus dwelling be taken out of use by applying topsoil and grassing the driveway entrance;~~ removed
- f) That an access be installed for the retained farm lot parcel to the satisfaction and requirements of the Town of Essex, County of Essex and other agencies having jurisdiction;
- g) That, prior to the granting of this consent, the requested variance should be granted by the Committee of Adjustment to accommodate the reduction in minimum lot area for the retained and severed parcel.

h) That all of the above conditions be fulfilled on or before August 18, 2021.

“Carried”

Reasons for Decision: 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”.

Corinne Chiasson, Assistant Planner RE:

5.3 Application A-16-20 Dennis James Salter (Agent: Joseph Drouillard) 2218 County Road 20 West (Colchester South, Ward 3)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 2218 County Road 20 West in the former township of Colchester South (Ward 3). As a result of an associated surplus dwelling severance (B-15-20), the lot area of the severed and retained parcels will be reduced to ± 1.71 acres and ± 50.3 acres, respectively. 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.

5.3.1 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

Applications for consent and minor variance have been submitted for the lands located at 2218 County Road 20 West in the former township of Colchester South. 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 Bylaw, Bylaw 1037.

The applicant is proposing to sever a ± 1.71 acre parcel from the existing ± 52 acre farm lot. The severed parcel contains an existing single detached dwelling, two accessory structures, and the accompanying infrastructure (i.e. septic system and access area). Access to the severed lot will continue to be by way of County Road 20 West.

The retained lot will have a resulting area of ± 52 acres and will continue to be used for agricultural purposes. A new access to the retained parcel is proposed as a condition of the consent approval.

The applicant is proposing this consent due to the house being surplus to the needs of the farming operation of Mr. Joe Drouillard who has signed a purchase agreement with Mr. Salter the current owner.

Proposal Conformity with Provincial and Town of Essex Policies

The Provincial Policy Statement (PPS) states that a surplus dwelling, namely, a dwelling that is acquired as part of farm land acquisition, may be severed and sold, with the stipulation that no new dwelling will be permitted on the retained farm parcel. The Provincial Policy Statement (PPS) defines a residence surplus to a farming operation as an existing habitable farm residence that is rendered surplus as a result of farm consolidation. Farm consolidation is defined as the acquisition of additional farm parcels to be operated as one (1) farm operation. The subject lands are being purchased by Mr. Joe Drouillard. His main agricultural operation is located at 9798 Walker Road. He also owns multiple agricultural properties in the area: 4190 Smith Rd, 7043 Arner Townline, 12144 12th Concession, and 13091 13th Concession. Therefore this application for consent is consistent with the PPS policies for farm consolidation and severance of a surplus dwelling.

In accordance with Town of Essex Official Plan policies relating to consents in areas designated "Agricultural", one (1) lot creating consent will be permitted for a surplus dwelling on the condition that:

- a) *No new dwelling will be permitted on the retained farm parcel:* A restricted development layer will be applied to the property upon provisional consent approval on the Town's Geographic Information System (GIS);
- b) *the size of the surplus dwelling lot should not be greater than one (1) hectare, however, the choice of consolidating outbuildings with the surplus dwelling will also be considered when the size and boundaries of the surplus dwelling lot are determined and approved by consent:* the size of the proposed surplus dwelling lot will not exceed one (1) hectare and the accessory structures will be kept with the main use dwelling;
- c) *the lot to be created has provision for sewage disposal, a potable water supply and stormwater management systems satisfactory to the Town and other statutory approval authority having jurisdiction:* the surplus dwelling lot has access to municipal water and road side drains (Webster Drain and Little Drain). The Building Department has confirmed that the septic system was upgraded in 2017 and satisfies Part 8 of the Ontario Building Code (OBC);
- d) *the severed dwelling lot will satisfy Minimum Distance Separation 1 (MDS 1) provisions of the Official Plan:* the lot to be severed contains an existing dwelling. No additional dwellings will be permitted on this lot. Therefore, no livestock facilities will be impacted by the proposed development;
- e) *the severed dwelling lot has frontage on a public road:* the severed dwelling lot has frontage on County Road 20, a public road which is owned and assumed by the County of Essex.
- f) *the surplus dwelling is in habitable condition, as determined by the Town or certified by a qualified building inspector:* no objections to the application were received from the Building Department.

Requirement for Minor Variance

The minimum lot area required for lots zoned A1.1 under Bylaw 1037 is the lesser of 40 hectares (100 acres) or as existing. As a result of the proposed severance, the lot area for both the retained and severed parcel will decrease in size from 52 acres to 50.3 acres and +1.71 acres, respectively. Due to the proposed reduction in the farm parcel lot area, minor Variance application A-16-20 has been submitted concurrently for the Committee's review.

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 (OP) permits the creation of surplus dwelling lots when in accordance with the provisions of the Provincial Policy Statement (PPS). In accordance with the Town OP, the proposed surplus dwelling lot is of a size sufficient to accommodate septic services acceptable to the Town;
- b) *The variance(s) is minor and desirable for the appropriate use of the land:* Lots in the A1.1 zoning district vary greatly in lot area. No new development is proposed on the severed or retained parcel;
- 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 dwelling on the retained agricultural land.
- d) *The variance deals with circumstances particular to the site and development:* The variance is necessary in order to accommodate a surplus dwelling application.

Agency and Public Comments

As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public as of Thursday August 13, 2020.

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections.

Comments were received from the County of Essex stating they have no objections to the installation of a new culvert to access the retained farm lot, however a permit approval will be necessary. They also ask that the existing second access to the surplus lot be taken out of use, whereas the driveway will be removed by top dressing with top soil and grass as a condition of the severance. No comments were received from circulated internal agencies as of Thursday August 13, 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 the second access to the surplus dwelling be taken out of use by applying topsoil and grassing the driveway entrance;
 - f) That an access be installed for the retained farm lot parcel to the satisfaction and requirements of the Town of Essex, County of Essex and other agencies having jurisdiction;
 - g) That, prior to the granting of this consent, the requested variance should be granted by the Committee of Adjustment to accommodate the reduction in minimum lot area for the retained and severed parcel.
 - h) That all of the above conditions be fulfilled on or before August 18, 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 Little Drain and Grayer 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.

We have no objections to the applications with respect to our natural hazards or regulatory perspective.

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

Kristopher Balallo, Engineering Technician, County of Essex wrote:

Please be advised that the County of Essex has reviewed the aforementioned applications and the comments provided are engineering related only. These applications have not been reviewed from a planning perspective. This road was formerly King's Highway 18 until it was downloaded to the County of Essex.

The number of allowable accesses for the severed and retained lot is one. In order to approve an access to retained portion of property, the severed lot to close one of the existing access. The minimum setback for any proposed structures on this property must be 85 feet from the center of the original ROW of County Road No. 20 in the case of a dwelling, and 105 feet from the centre of the right of way in the case of an commercial building. Permits are necessary for any changes to existing entrances and structures, of the construction of new structures. We are requesting a copy of the Decision of the aforementioned applications. Thank you for your assistance and cooperation in this matter.

Discussion:

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

Moved by: Ray Beneteau

Seconded by: Phil Pocock

(CAO-2020-08-51) That application A-16-20 be granted the severed and retained parcel will be reduced to ± 1.71 acres and ± 50.3 acres.

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

“Carried”

5.4 Corinne Chiasson, Assistant Planner RE:

Application A-17-20 Paul & Eva Antonel 581 County Road 50 East (Colchester South, Ward 3)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 581 County Road 50 East in the former township of Colchester South (Ward 3). The applicants are proposing to construct a ± 126.5 square metre garage addition to the existing dwelling. As a result, the required exterior side yard width would be reduced to ± 1.2 metre (4 feet). The required exterior side yard width for exterior lots within the Residential District 1.1 (R1.1) under Town of Essex Zoning By-law, By-law 1037, is 4.5 metres (15 feet). Thus the applicants are requesting ± 3.3 metre (11 foot) reduction in the exterior side yard width

5.4.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Official Plan Designation: “Lakeshore 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 581 County Road 50 East in the former township of Colchester South. The subject property is designated “Lakeshore Residential” under the Town’s 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 applicants are proposing to construct a $+126.5$ square metre addition to the existing dwelling to accommodate an accessory use (an attached garage). As a result, the required exterior side yard width will be reduced to $+1.2$ metres (4 feet) from the private road right-of-way of Poplar Bluff Drive.

An *exterior side yard* is defined under Bylaw 1037 as a side yard of a corner lot between an *exterior side lot line* and the nearest wall of a main building on such lot. An *exterior lot line* is defined as a lot line which parallels and abuts a street. The required exterior side yard width for lots within Residential District 1.1 under Bylaw 1037 is 4.5 metres (15 feet), thus, the applicants are requesting a $+3.3$ metre (11 foot) reduction in the exterior side yard width.

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:* A single detached dwelling is a permitted main use for lands designated "Residential" and under the R1.1 zoning district. An accessory use is defined as use which is customarily incidental, subordinate and exclusively devoted to the main use and is carried on with such main use on the same lot. In accordance with Bylaw 1037, an accessory use may be situated within the main building (dwelling).

b) *The variance(s) is minor and desirable for the appropriate use of the land:* The garage addition will support the main use of the property which is for residential purposes. The garage addition will be located on the west side of the dwelling to satisfy County Road 50 setbacks, and Town of Essex front yard and rear yard setbacks. The addition to the dwelling will also fall within the lot coverage provisions for the R1.1 zoning district.

c) *The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:* Neighbouring residential contain attached and detached structures of relative size and use. The variance will allow accesses off of Poplar Bluff Drive, a private road, as opposed to County Road 50, a highly travelled public road with cycling infrastructure. The owner has obtained permission to have a driveway access off of Polar Bluff Drive from the Poplar Drive Homeowners Association. The site plan provided ensures setbacks from the intersection of County Road 50 and Poplar Bluff Drive are maintained and do not affect traffic patterns;

d) *The variance deals with circumstances particular to the site and development:* Due to the configuration of the Poplar Bluff Drive road right-of-way allowance, and the exterior side yard setback provision of 4.5 metres (15 feet), development on the west side of this dwelling is very restrictive.

The proposed 1.2 metre (4 foot) setback from the property line to the addition is a typical setback for interior lots (lots that are not corner lots).

Although this relief would allow the southern corner of the addition to be 4 feet from the road allowance, the majority of the addition meets the 15 foot exterior side yard width.

As a condition of approval, no openings to accommodate vehicular ingress and egress will be permitted within 6 metres (20 feet) of the exterior side lot line. .

Town of Essex Internal Department Comments

Comments were received from Kevin Girard, Director, Infrastructure Services. He stated the following:

"I am amicable to accepting the 25' x 50' garage addition with a minor variance for reduction in exterior side yard to 4'. This proposal would meet the criteria specified to allow for a 20 metre right of way for Poplar Bluff Drive. We would require proof of permitted access to

Poplar Bluff Drive from the homeowner's association. Driveway access beyond 25 feet wide should not be permitted within the road right of way."

In response, proposed conditions of approval will stipulate that the driveway access will be no wider than 7.5 metres (25 feet).

Comments were received from Kevin Carter, Chief Building Official and Manager of By-law Enforcement. He had no objections.

Public and Agency Comments

As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public as of Thursday August 13, 2020.

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections.

No comments were received from circulated internal agencies as of Thursday August 13, 2020.

Actions:

The following conditions of approval are proposed:

- a) The minimum separation between the vehicular entrance to a garage and the exterior side lot line shall be 6 metres (20 feet);
- b) Driveway accesses will be no wider than 7.5 metres (25 feet);
- c) That proof of permitted access to Poplar Bluff Drive has been obtained from the homeowner's association.

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.

Kristopher Balallo, Engineering Technician, County of Essex wrote:

Please be advised that the County has reviewed the aforementioned application and the comments provided are engineering related only. This application has not been reviewed from a planning perspective. The subject lands have frontage on County Road No. 50. The Applicant will be required to comply with the following County Road regulations:

County By-Law Number 2481 - A By-Law to Provide for the Protection of Highways and to Provide for the Installation of Entrance Ways.

County By-Law Number 2480 - A By-Law of the Corporation of the County of Essex to Regulate the Location of Buildings and Structures on Land Adjacent to County Roads.

The minimum setback for any proposed structures on this property must be 85 feet from the centre of the original ROW of County Road No. 50. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances or structures.

We are requesting a copy of the Decision of the aforementioned application. Thank you for your assistance and cooperation in this matter.

Discussion:

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

Brian Gray states that the proposed structure will have four (4) bay doors and states that there will not be enough room for the appropriate setbacks with the proposed site plan.

Paul Antonel, Applicant, advises that the doors will be moved inwards to accommodate 6 metre setback requirement.

Rita Jabbour, Planner, advises that there are conditions that planning has suggested to accompany the application.

- a) The minimum separation between the vehicular entrance to a garage and the exterior side lot line shall be 6 metres (20 feet);
- b) Driveway accesses will be no wider than 7.5 metres (25 feet);
- c) That proof of permitted access to Poplar Bluff Drive has been obtained from the homeowner's association.

Moved by Ray Beneteau that the application be approved with the proposed conditions placed on the subject property.

"Defeated"

Moved by: Dan Boudreau

Seconded by: Ray Beneteau

(CAO-2020-08-52) That application A-17-20 be deferred and that the committee be provided with a better site plan that depicts two (2) bay doors only on the property structure.

"Carried"

Reasons for Decision: Deferral

6. Unfinished Business

None

7. Correspondence

None

8. New Business

8.1 General Discussion of Evaluating Lot Severances in Agricultural Areas

Moved by: Ray Beneteau

Seconded by: Percy Dufour, Chair

(CAO-2020-08-53) That 8.1 General Discussion of Evaluating Lot Severances in Agricultural Areas be deferred to a later meeting date.

"Carried"

8.2 Delegated Approval Authority for Certificate of Validations

Rita Jabbour, Planner advises the members that Council approved the delegation of authority By-law. Thus allowing the Secretary Treasurer of the Committee of Adjustment to review and approve Certificates of Officials. She states these items are time sensitive, they do not require circulation or an appeal period. Therefore are

not required to attend the Committee of Adjustment for re-approval. This allows the Secretary Treasurer to approve the certificate in a timely fashion.

8.3 Appointment of Secretary-Treasurer

Rita Jabbour, Planner advises the members that she will be stepping down as Secretary Treasurer of the Committee of Adjustment and that Corinne Chiasson, Assistant Planner will be taking her place. She advises that she has enjoyed being the secretary for the past 3 years.

The Committee thank Rita for her time and service to the Committee.

Moved by: Dan Boudreau

Seconded by: Phil Pocock

(CAO-2020-08-55) That Corinne Chiasson, Assistant Planner, be appointed as the Secretary Treasurer for the Town of Essex Committee of Adjustment.

“Carried”

9. Notices of Motion

None.

10. Adjournment

Moved by: Ray Beneteau

Seconded by: Brian Gray

(CAO-2020-08-55) That the meeting be adjourned at 5:09 p.m.

“Carried”

11. Next Meeting

11.1 September 15th, 2020 Virtual Zoom Meeting at 4:00 p.m.

Chair

Secretary-Treasurer