



**The Corporation of the Town of Essex
Committee of Adjustment Meeting Minutes**

January 16, 2024, 5:00 pm
Location: Essex Municipal Building, 33 Talbot Street South

Present: Vice Chair - Baker, William
Member - Child, Matthew
Member - Lester, Dorene
Member - Sauve, Danny

Absent: Chair - Pocock, Phil

Also Present: Rita Jabbour, Manager, Planning Services
Corinne Chiasson, Secretary-Treasurer, Senior Planner
Sarah Girard, Planning Assistant
Ian Rawlings, Junior Planner

1. Call to Order

The Vice Chair called the meeting to order at 5:00 p.m.

2. Land Acknowledgement

We acknowledge that this land is the traditional territory of the Three Fires Confederacy of First Nations (comprised of the Ojibway, the Odawa, and the Potawatomi Peoples), and of the Huron-Wendat Peoples. We value the significant historical and contemporary contributions of local and regional First Nations and all of the Original Peoples of Turtle Island who have been living and working on the land from time immemorial.

3. Declarations of Conflict of Interest

Member, Dan Sauve, declared a Conflict of Interest on Agenda Items 6.1, 6.2 and 6.3.

4. Adoption of Published Agenda

4.1 Committee of Adjustment Meeting Agenda for January 16, 2024

COA24-01-01

Moved By Dorene Lester
Seconded By Danny Sauve

That the published agenda for the January 16, 2024 Committee of Adjustment Meeting be adopted with an amendment that item 6.7 B-04-24 420 Dun Road - Donald Brisebois, be deferred.

Carried

5. Adoption of Minutes

5.1 Committee of Adjustment Minutes for December 19 2023

COA24-01-02

Moved By Dorene Lester
Seconded By Danny Sauve

That the minutes of the Committee of Adjustment meeting held December 19 2023 be adopted as circulated.

Carried

5.2 Committee of Adjustment Minutes for the November 21 2023

COA24-01-03

Moved By Dorene Lester
Seconded By Danny Sauve

That the minutes of the Committee of Adjustment meeting held November 21 2023 be adopted as circulated.

Carried

6. Reports from Administration/Applications

6.1 B-01-24 4739 4th Concession Road - Larry Snively

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 4739 4th Concession Road, formerly known as Colchester South. The applicants are proposing to sever a ± 716.29 square metre (0.177 acre) parcel from the existing ± 19,263 square metre (4.76 acres) agricultural / rural residential lot to be added to the adjacent property identified as 4741 4th Concession Road. The retained agricultural / rural residential lot is proposed to have an area of ± 18,546.74 square metres (4.583 acres). The applicant is proposing this consent for the purposes of a lot addition.

Member Sauve declared a conflict of interest on this agenda item and did not participate or vote on this item

Ian Rawlings, Junior Planner, provided an overview of the application by way of a Report from the Planning Services Department (attached hereto as Schedule 'A') whereby the report recommended the approval of the application.

COA24-01-04

Moved By Dorene Lester
Seconded By Matthew Child

That application B-01-24 be approved to sever a ± 716.29 square metre (0.177 acre) parcel from the existing ± 19,263 square metre (4.76 acres) agricultural / rural residential lot to be added to the adjacent property identified as 4741 4th Concession Road. The retained agricultural / rural residential lot is proposed to have an area of ± 18,546.74 square metres (4.583 acres). The applicant is proposing this consent for the purposes of a lot addition.

Subject to the following conditions:

1. That at the time the conveyance is prepared for certification, a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, be submitted to the satisfaction of the Town of Essex;

2. That the appropriate documents for the conveyance be prepared and suitable for registration. All copies shall have original signatures and one digital copy will remain as a record with the Town;
3. 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;
4. 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;
5. That the severed parcel be consolidated with the lands known as 4741 4th Concession Road. 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;
6. 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;
7. That all of the above conditions be fulfilled on or before January 16, 2026, as per Section 53(41) of the Planning Act, R.S.O. 1990.

Carried

6.2 A-01-24 4739 4th Concession Road - Larry Snively

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 4739 4th Concession Road, in the former township of Colchester South. As result of a lot addition on the subject lands, the lot area for the retained parcel will be reduced from \pm 19,263 square metres (4.76 acres) to \pm 18,546.7 square metres (4.583 acres). Relief is therefore required from Section 13.1 b) ii) of the Zoning By-law which states: The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

Member Sauve declared a conflict of interest on this agenda item and did not participate or vote on this item.

Ian Rawlings, Junior Planner, provided an overview of the application by way of a Report from the Planning Services Department (attached hereto as Schedule 'A') whereby the report recommended the approval of the application.

COA24-01-05

Moved By Dorene Lester

Seconded By Matthew Child

That application A-01-24 be approved to permit relief from Section 13.1 b) ii) to recognize that the retained parcel will be reduced from + 19,263 square metre (4.76 acres) to + 18,546.74 square metres (4.583 acres).

Reason for Decision:

- 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

6.3 A-02-24 4741 4th Concession Road - Scott Waters

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 4741 4th Concession Road, former Colchester South. The applicant is looking to construct a secondary dwelling unit being + 185.8 square metre (2,000 square feet) in gross floor area located + 7.62 metres (25 feet) from the rear lot line. The location of the proposed secondary dwelling unit is zoned agricultural 1.1 (A1.1) which requires a rear yard setback of 15 metre (50 feet) as per section 13.1 b) vi). Therefore, the applicant is requesting relief from section 8.15 b) ii) which states that “a second dwelling unit shall not be permitted in an accessory or ancillary residential building located in a required yard.”

Member Sauve declared a conflict of interest on this agenda item and did not participate or vote on this item.

Ian Rawlings, Junior Planner, provided an overview of the application by way of a Report from the Planning Services Department (attached hereto as Schedule 'A') whereby the report recommended the approval of the application.

COA24-01-06

Moved By Dorene Lester

Seconded By Matthew Child

That application A-02-24 be approved to construct AN additional dwelling unit (ADU) being ± 185.8 square metre (2,000 square feet) in gross floor area and is located ± 7.62 metres (25 feet) from the rear lot line.

Reason for Decision:

- 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

6.4 B-02-24 3116 County Road 11 - John & Michelle McLean

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 3116 County Road 11, formerly Colchester South. The applicants are proposing to sever a \pm 4.86 hectares (12 acre) parcel from the existing \pm 29.74 hectares (73.5 acre) agricultural lot. The retained agricultural lot is proposed to have an area of \pm 24.69 hectares (61 acres). The applicant is proposing this consent because the dwelling and outbuildings are deemed surplus to the needs of the farming operation.

Ian Rawlings, Junior Planner, provided an overview of the application by way of a Report from the Planning Services Department (attached hereto as Schedule 'A') whereby the report recommended the approval of the application.

Dorene Lester, Member, asked administration how many acres of farmland would be provided to the severed lot.

Mr. Rawlings advised that the workable farmland is approximately, 3 acres, and that the owners would be utilizing the acreage for farming purposes as they will be housing cattle for the purposes of an agricultural operation.

Mathew Child, Member, stated that at the December 19 2023 meeting he cited the Town of Essex Official Plan under 6.5 Consents in Areas Designated "Agricultural" under Division of Farm Land Surplus Dwelling it states that "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 a 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 farm operation"

Mr. Child continued that given that the applicants do not own further farm land he cannot support the application as it does not meet the Official Plan requirements.

Corinne Chiasson, Secretary Treasurer, Senior Planner, stated that there is a purchase agreement between the applicants and a farmer who owns additional farm parcels, therefore administration has brought this application forward to work in tandem with the applicant and purchaser.

Ms. Chiasson continued to state that the Planning Act was amended in 2021 to allow for this type of application to be brought forward.

COA24-01-07

Moved By Dorene Lester

Seconded By Danny Sauve

That application B-02-24 be approved to sever a \pm 4.86 hectares (12 acre) parcel from the existing \pm 29.74 hectares (73.5 acre) agricultural property for the creation of a surplus lot.

Subject to the following conditions:

1. That at the time the conveyance is prepared for certification, a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, be submitted to the satisfaction of the Town of Essex;
2. That the appropriate documents for the conveyance be prepared and suitable for registration. All copies shall have original signatures and one digital copy will remain as a record with the Town;

3. 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;
4. 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;
5. That a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that both septic systems meet Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate;
6. A restricted development layer will be applied to the property upon provisional consent approval on the Town's Geographic Information System (GIS);
7. That a Conservation Easement be registered on title over the lands that have been identified as significant natural heritage, to the review and satisfaction of the Town of Essex.
8. 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;
9. That, prior to the granting of this consent, the requested easement should be granted by the Committee of Adjustment to provide access and services to the retained and severed parcels, respectively;
10. That all of the above conditions be fulfilled on or before January 16, 2026, as per Section 53(41) of the Planning Act, R.S.O. 1990.

Carried

6.5 A-03-24 3116 County Road 11 - John and Michelle McLean

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 3116 County Road 11, in the former township of Colchester South. As a result of a surplus severance on the subject lands, the lot area for the severed and retained parcels will be reduced from \pm 29.74 hectares (73.5 acres) to \pm 4.86 hectares (12 acres) and \pm 24.69 hectares (61 acres), respectively. Relief is therefore required from Section 13.1 b) ii) of the Zoning By-law which states: The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing, and Section 13.1 b) i) which states: "The minimum lot width for lots within Agricultural District 1.1 (A1.1) is the lesser of 60 metres (200 feet) or as existing, unless otherwise specifically provided."

Ian Rawlings, Junior Planner, provided an overview of the application by way of a Report from the Planning Services Department (attached hereto as Schedule 'A') whereby the report recommended the approval of the application.

COA24-01-08

Moved By Dorene Lester
Seconded By Danny Sauve

That application A-03-24 be approved to permit relief from Section 13.1 b) ii) to recognize that the retained parcel will be reduced from \pm 29.74 hectares (73.5 acres) to \pm 24.69 hectares (61 acres).

Reason for Decision:

- 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

6.6 B-03-24 3116 County Road 11 - John and Michelle McLean

An application for consent has been received by the Town of Essex Committee of Adjustment for the lands located at 3116 County Road 11, in the former township of Colchester South. As result of the surplus severance application B-02-24 on the subject lands, the applicants are applying to establish two (2) easements in perpetuity to provide access and services to the retained and severed parcels, respectively. The first easement will be in favor of the retained land to provide access to the existing access (driveway) and will be \pm 1,699.67 square metres (0.42 acres). The second easement will be in favor of the surplus lands for maintenance access to the existing utility corridor and will be \pm 1,699.67 square metres 0.42 acres in area.

Ian Rawlings, Junior Planner, provided an overview of the application by way of a Report from the Planning Services Department (attached hereto as Schedule 'A') where by the report recommended the approval of the application.

COA24-01-09

Moved By Dorene Lester
Seconded By Danny Sauve

That application B-03-24 be approved to establish two (2) easements in perpetuity to provide access and services to the retained and severed parcels as identified in consent application B-02-24.

Subject to the following conditions:

1. That at the time the conveyance is prepared for certification, a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, be submitted to the satisfaction of the Town of Essex;
2. That the appropriate documents for the conveyance be prepared and suitable for registration. All copies shall have original signatures and one digital copy will remain as a record with the Town;

3. That all of the above conditions be fulfilled on or before January 16, 2026, as per Section 53(41) of the Planning Act, R.S.O. 1990.

Carried

6.7 B-04-24 420 Dunn Road - Donald Brisebois

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 420 Dunn Road, formerly Colchester South. The applicants are proposing to sever a ± 602 square metre (6,480 square foot) parcel from the existing $\pm 1,471.58$ square metre (15,840 square foot) residential lot. The retained residential lot is proposed to have an area of ± 869.57 square metres (9,360 square feet). The applicant is proposing this consent for the creation of one (1) residential lot.

COA24-01-10

Moved By Dorene Lester

Seconded By Danny Sauve

That application B-04-24 **be deferred** until such a time the comments provided by Infrastructure Services can be addressed.

Carried

6.8 B-14-22 108 County Road 50 East, Bernard Gorski

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 108 County Road 50, in former Colchester South. The applicant is proposing to sever a + 50.4 acre parcel from the existing + 70 acre Agricultural (A1.1) lot. The purpose of the severance is to consolidate the vacant farmland with the adjacent agricultural operation located to the north, also owned by the applicant. The resulting +19.6 acre parcel will be retained for the existing winery operation. The application is for farm lot consolidation only.

Corinne Chiasson, Secretary Treasurer, Senior Planner, provided an overview of the application by way of a Report from the Planning Services Department (attached hereto as Schedule 'A') whereby the report recommended the approval of the application.

COA24-01-11

Moved By Danny Sauve

Seconded By Dorene Lester

That application B-14-22 be approved to sever a + 50.4 acre parcel from the existing + 70 acre Agricultural (A1.1) lot for the purposes of a lot addition.

Subject to the following conditions:

1. That a draft reference plan prepared by an Ontario Land Surveyor, be submitted to the Town of Essex Secretary-Treasurer for review. Once the draft is reviewed and deemed acceptable, the reference plan can be numbered, dated, signed and registered. A copy of the registered plan is required to be sent to essexplanning@essex.ca prior to the issuance of the consent certificate;

2. That the appropriate documents for the conveyance be prepared and suitable for registration. All copies shall have original signatures and one digital copy will remain as a record with the Town;
3. 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;
4. That the severed parcel be consolidated with the lands known as 0 County Road 50 (375464000013170) and 0 County Road 13 (375464000031910). 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;
5. That the applicant's solicitor ensure that the existing access easement be updated to reflect any changes to the legal description if deemed necessary.
6. 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;
7. 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;
8. That all of the above conditions be fulfilled on or before January 16, 2026, as per Section 53(41) of the Planning Act, R.S.O. 1990.

6.9 A-11-22 108 County Road 50 East, Bernard Gorski

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 108 County Road 50, in former Colchester South. As a result of a proposed severance for lot addition, the lot area for the severed and retained parcel will be reduced from + 70 acres to + 50.4 acres and + 19.6 acres, respectively. The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

Corinne Chiasson, Secretary Treasurer, Senior Planner, provided an overview of the application by way of a Report from the Planning Services Department (attached hereto as Schedule 'A') whereby the report recommended the approval of the application.

COA24-01-12

Moved By Matthew Child
 Seconded By Danny Sauve

That application A-11-22 be approved to permit relief from Section 13.1 b) ii to recognize that the severed and retained parcel will be reduced from \pm 70 acres to \pm 50.4 acres and \pm 19.6 acres, respectively.

Reason for Decision:

- 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

7. Adjournment

COA24-01-13

Moved By Danny Sauve

Seconded By Matthew Child

That the meeting be adjourned at 6:12 p.m.

Carried

8. Future Meetings

February 13, 2024 at Council Chambers, Town Hall, 33 Talbot Street South, at 5 p.m.

Chair

Recording Secretary