

**The Corporation of the Town of Essex**  
**Minutes of Regular Committee of Adjustment Meeting**  
**Tuesday November 19, 2019**

A regular meeting of the Town of Essex Committee of Adjustment was held on Tuesday, November 19, 2019 at 4:00 PM in the Council Chambers at the Municipal Building at 33 Talbot Street South, Essex, Ontario.

**1. Roll Call**

Members Present: Percy Dufour, Chair  
Brian Gray, Vice Chair  
Phil Pocock  
Ray Beneteau  
Dan Boudreau

Also Present: Rita Jabbour, R.P.P  
Manager, Planning Services  
Secretary-Treasurer  
Sarah Aubin, Planning Assistant

Members of Public in Attendance: See sign-in sheet attached hereto

**2. Declaration of Conflict of Interest**

None

**3. Adoption of Published Agenda**

- 3.1** The Published Agenda for November 19, 2019 meeting of the Committee of Adjustment be adopted.  
Moved by Ray Beneteau  
Seconded by Dan Boudreau  
(**COA-2019-11-93**) That the published agenda for the November 19, 2019 meeting of the Committee of Adjustment be adopted as circulated.  
"Carried"

**4. Adoption of Minutes**

- 4.1** The Regular Minutes from the Committee of Adjustment Meeting of October 15, 2019 be adopted.  
Moved by Brian Gray  
Seconded by Phil Pocock  
(**COA-2019-11-94**) The Regular Minutes from the Committee of Adjustment Meeting of October 15, 2019 be adopted.  
"Carried"

## 5. Reports / Applications

### 5.1 Rita Jabbour, Planner RE:

#### **Application B-29-19 1277083 Ontario Ltd. (Agent: Katie Dunn), 135 Crystal Beach Road (Colchester South, Ward 3)**

A consent application has been received by the Town of Essex Committee of Adjustment for the subject lands located at 135 Crystal Beach Road in the former township of Colchester South. The applicants are proposing to sever two  $\pm 526$  square metre ( $\pm 5664$  square foot) parcels from the existing  $\pm 1578$  square metre ( $\pm 16992$  square foot) residential lot. The retained parcel is proposed to have an area of  $\pm 526$  square metres ( $\pm 5664$  square feet). The applicant is proposing these consents for the purpose of residential lot creation.

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

##### **5.1.1.1 Ken Chapman, 139 Crystal Beach Rd**

##### **5.1.1.2 Travis Miller, 131 Crystal Beach Rd**

##### **5.1.1.3 John Kay, 155 Crystal Beach Rd**

##### **5.1.1.4 Laura Hasulo, 145 Crystal Beach Rd**

#### **Rita Jabbour, Planner, wrote:**

Official Plan Designation: "Lakeshore Residential"

Zoning: Residential District 1.1 (R1.1) –Low density Housing on Urban Lots

An application for consent has been submitted for the residential lands located at 135 Crystal Beach Road 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 applicants are proposing to sever two (2)  $\pm 526$  square metre ( $\pm 5664$  square foot) parcels from the existing  $\pm 1578$  square metre ( $\pm 16992$  square foot) residential lot. The applicants are proposing this consent for the purposes of creating two (2) new residential parcels. The R1.1 zoning district permits the development of a single detached dwelling as a main use, and any use accessory to the main use.

*A single detached dwelling* is defined as one (1) dwelling, other than a mobile home, having one (1) dwelling unit. An *accessory use* is defined as a 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. An example of an accessory use is a detached garage.

In accordance with section 6.4 of the Town of Essex Official Plan, the Committee of Adjustment should have regard to:

- a) its consistency with Provincial legislation, policies and guidelines;

b) the requirements and policies of this Plan and the comments of other public authorities and agencies. The Official Plan permits new residential development on full municipal services and a single detached dwelling in the Lakeshore Residential designation. Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections to the consent application. No comments were received from circulated internal agencies as of Wednesday November 13, 2019;

c) the continuation of an orderly development pattern; and,

d) the adequate provision of potable water supply, sanitary sewage treatment and disposal and stormwater management in accordance with this Plan and to the satisfaction of the Town and the statutory approval authority having jurisdiction. The lot is serviced by the Crystal Beach Drain and has access to a municipally owned and operated piped water, sanitary and storm sewer.

Consents should only be granted:

a) when there are four or fewer lots proposed and only in areas where the premature extension of any major municipal service would not be required. The application is for the creation of only two lots;

b) when the land fronts on an existing public road which is of a reasonable standard of construction acceptable to the Town and/ or the Ministry of Transportation or the County of Essex. Access to the severed and retained lot is by way of Crystal Beach Road which is a public road that is owned and assumed by the Town of Essex;

d) for infilling in existing built-up areas. Residential development exists on the west and east side of Crystal Beach Road.

The minimum lot width and lot area required to accommodate a single detached dwelling on a lot that is serviced by a sanitary sewer under the R1.1 zoning district is 15 metres (50 feet) and 460 square metres (5000 square feet), respectively. The severed parcels are proposed to have a lot width of 18 metres and a lot area of +526 square metres. Thus, the proposed severances will meet and exceed the minimum lot area and lot width regulations under the R1.1 zoning district for a single detached dwelling.

The retained parcel is proposed to have a lot width and area of 18 metres (60 feet) and ±526 square metres (±5664 square feet), respectively. The retained parcel will continue to be occupied by an existing single detached dwelling, two accessory sheds and accompanying infrastructure and will continue to be used for residential purposes.

As a result of the giving of public notice, no written correspondences have been received from members of the public as of Wednesday November 13, 2019. One phone call was received from a member of the public on the application who did not wish to speak with the Secretary-Treasurer.

**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 applicant pay the applicable parkland dedication fee in the amount of \$1250.00 in accordance with Town of Essex Policy No. 899-11-324 to be charged against the lot created by consent and that the payment be made prior to the stamping of the deeds and/or issuance of the certificate;
- f) That all of the above conditions be fulfilled on or before November 19, 2020.

**Additional comments resulting from circulation.**

**Corinne Chiasson, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:**

**DELEGATED RESPONSIBILITY TO REPRESENT THE PROVINCIAL INTEREST IN NATURAL HAZARDS (PPS, 2014) 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.

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, 2014**

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**

We have no objections to this application for Consent

### **Discussions:**

Rita Jabbour, Planner, explains the nature of the application

Ray Beneteau, questions administration on why the application was not given two separate application numbers. He advises that the application should be divided so the members can make a better decision on the application before them.

Rita advises that he is correct and that the application should have been divided.

Ray advises that he attended the subject property and took note that the property to the south, 131 Crystal Beach Road, has a garage that is seems to be encroaching on the subject property.

Rita advises that the matter of encroachment is a legal matter and the residents should discuss the encroachment concerns themselves.

Katie Dunn, Applicants Agent, advises that the subject property has a registered plan that would allow for four 40 foot lots to be deeded immediately. She states that they are seeking larger lots and conformity to the current zoning by-law thus the request for the severance. She advises that a survey will be completed which will better determine the encroachment if any of 131 Crystal Beach Rd onto the subject property.

Ken Chapman, 139 Crystal Beach, states that he has been a resident in the area for 30+ years. He states that he is opposed to the proposed severance for multiple reasons. One reason is drainage is a concern in the area.

He advises that flooding starts at 127 Crystal Beach Rd to Lake Erie during rainfalls. He has concerns that the proposed additional residential dwellings will require greater capacity and the flooding will become severe in the area.

He states that he approached the neighbours in the area and would like to submit a petition to oppose the application before the Committee members.

Moved by: Ray Beneteau

Seconded by: Dan Boudreau

**(COA-2019-11-95)** That the petition of opposition to the proposed severance at 135 Crystal Beach be received.

“Carried”

Rita Jabbour advises that Drainage and the Environmental services department was circulated and no comments were received with regards to any concerns with capacity in the area.

Laura Hasulo, 145 Crystal Beach Rd, advises that the Drainage superintendent for the Town of Essex has been in attendance in the area and an engineer has been hired to configure a plan to stop the flooding.

Percy states that the drainage concern in the area and the encroachment concern should be addressed prior to the approval of the application before them.

Moved by Phil Pocock

Seconded by Brian Gray

**(COA-2019-11-96)** That Application B-29-19 be approved as presented.

“Defeated”

Phil Pocock questions if the applicant and property owner to the south, 131 Crystal Beach, could come to an agreement on purchasing 5 feet of the subject property.

Travis Miller, 131 Crystal Beach, states that the garage has been erected for 50+ years and that he should not have to purchase land from the subject property or demolish his garage due to an application to sever the subject property.

Rita advises that the possible encroachment is a legal matter between the applicants and the owner of 131 Crystal Beach Rd.

John Kay, 155 Crystal Beach, states that he has concerns with the dwellings being utilized as an Airbnb.

Katie Dunn, Applicants Agent, advises that the dwellings will be utilized for permanent residential accommodations.

Moved by: Dan Boudreau

Seconded by: Ray Beneteau

**(COA-2019-11-97)** That application B-29-19, 135 Crystal Beach Rd, be **deferred** until drainage and environmental services can confirm appropriate capacity.

“Carried”

**6. Unfinished Business**

**6.1 Committee to be updated on the LPAT appeal hearing B-17-19 James & Janette Sylvestre (7880 County Road 18)**

Rita advises that the Local Planning Appeal Tribunal held a meeting on November 15, 2019 to hear the application B-17-19, 7880 County Road 18, James & Janette Sylvestre.

She states that many of the questions pertained to drainage, therefore she could not answer them as they should have been directed to a drainage superintendent.

She advises that a decision should be made within 20 to 40 days.

**7. New Business**

**8. Notices of Motion**

**8.1** Brian Gray motions that administration review holding Committee of Adjustment meetings in the Harrow / Colchester in 2020.

**9. Adjournment**

Moved by Ray Beneteau

Seconded by Phil Pocock

(**COA-2019-11-98**) That the meeting be adjourned at 5:39 p.m.

"Carried"

**10. Next Meeting**

Tuesday December 17<sup>th</sup>, 2019 at 4:00 pm, Council Chambers, 33 Talbot Street South, Essex, Ontario.

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Chair

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Secretary-Treasurer/Manager, Planning Services