

The Corporation of the Town of Essex
Minutes of Regular Committee of Adjustment Meeting
Tuesday November 17th, 2020

A regular meeting of the Town of Essex Committee of Adjustment was held on Tuesday, November 17th, 2020 at 4:00 PM via Virtual Zoom Meeting. Due to the ongoing COVID-19 pandemic, this meeting can only be viewed by the public electronically via livestream on YouTube at www.youtube.com/EssexOntario

1. Call to Order

Members Present

Percy Dufour, Chair

Brian Gray, Vice Chair

Phil Pocock

Ray Beneteau

Dan Boudreau

Also Present

Corinne Chiasson, Secretary Treasurer /Assistant Planner

Rita Jabbour, Manager, Planning Services

Sarah Aubin, Planning Assistant, Recording Secretary

Lori Chadwick, Director of Development Services

Members of the Public

Daniel, Custom Quality Built iHomes Inc

Tracey Pillon Abbs, Pillon Abbs Inc.

Sawyer DeJonge, Everjonge Homes

Henry & Kathy Neumiller

William Kendrick

Vijay Vasantgadkar, Vijay Vasantgadkar Architect Inc.

Thomas Gee

Edwin C Hooker, Wolf Hookers Office

Robert Troup, Troup Group

Lena Bidawid, Troup Group

Marc & Rose Anne Johnson

Karl Neudorf

2. Declaration of Conflict of Interest

None

3. Adoption of Published Agenda

3.1 Tuesday, November 17th 2020 meeting of the Committee of Adjustment
Agenda.

Moved by: Brian Gray

Seconded by: Dan Boudreau

(COA-2020-11-78) That the published agenda for November 17th 2020 be
adopted as presented

“Carried”

4. Adoption of Minutes

4.1 Tuesday, October 20th, 2020 Committee of Adjustment meeting minutes

Moved by: Ray Beneteau

Seconded by: Dan Boudreau

(COA-2020-11-79) That the Regular Minutes from the Committee of Adjustment Meeting of October 20th, 2020 be adopted as circulated.

“Carried”

5. Unfinished Business

6. Reports from Administration / Applications

6.1 Corinne Chiasson, Assistant Planner RE:

Application A-26-20 Custom Quality Built iHomes Inc. (Agent: Tracey Pillon Abbs) 80 Laird Ave (Essex Centre, Ward 1)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 80 Laird in Essex Centre (Ward 1). The applicants are proposing to construct a semi-detached dwelling, 1,375.2 square feet in size. As a result, the applicants are requesting the following variances from the Zoning By-law, Bylaw 1037. A 10 foot reduction in minimum lot width (the minimum lot width for a semi-detached dwelling in Residential District 2.1 is 60 feet). Relief from the required minimum lot area provision of 6350 square feet to 5000 square feet, for a variance of 1350 square feet in minimum lot area (The minimum lot area for a semi-detached dwelling in the R2.1 District is 6350 square feet).

A variance of 3.923 feet in the required side yard width (the minimum side yard width for an interior lot without an attached garage is 4 feet on one side and 10 feet on the other).

5.1.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Official Plan Designation: Residential

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

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 80 Laird in Essex Centre (Ward 1).

The applicants are proposing to construct a semi-detached dwelling, 1,375.2 square feet in size. As a result, the applicants are requesting the following variances from the Zoning By-law, Bylaw 1037:

- A 10 foot reduction in minimum lot width (the minimum lot width for a semi-detached dwelling in Residential District 2.1 is 60 feet).
- Relief from the required minimum lot area provision of 6350 square feet to 5000 square feet, for a variance of 1350 square feet in minimum lot area (The minimum lot area for a semi-detached dwelling in the R2.1 District is 6350 square feet).

- A variance of 3.923 feet in the required side yard width (the minimum side yard width for an interior lot without an attached garage is 4 feet on one side and 10 feet on the other).

The subject property is designated “Residential” under the Town of Essex Official Plan and zoned Residential District 2.1 (R2.1) for medium density residential uses under Town of Essex Zoning Bylaw, Bylaw 1037. Residential District 2.1 (R2.1) permits a mix of housing options as a main use, specifically, a single detached dwelling, duplex dwelling or a semi-detached dwelling. The applicants are proposing to build one (1) *semi-detached dwelling* on the property. A *semi-detached dwelling* is defined as one (1) dwelling divided vertically into two (2) *dwelling units* by a common interior wall.

The subject property is an *interior lot* defined as a lot other than a corner lot. The subject property fronts on a public road constructed to municipal standards, and has access to municipally owned and operated piped water, sanitary and storm sewers along the Laird Street frontage.

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

Proposal Conformity with Town of Essex Official Plan Policies

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

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

The Town of Essex Official plan encourages infill development and a greater variety of housing options near to the down town core area.

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

The Official Plan also identifies the need for affordable housing, and rental units, and encourages increases in density and compact development closer to the core areas in Essex Centre. .

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

The applicants are proposing a two storey semi-detached structure with a gable style type roof to better align with the older neighbourhood architectural styles. The applicants have proposed separate access areas (driveways) to serve the parking needs of each dwelling unit. One parking space is required for each dwelling unit and this has been accommodated in the design through separate driveways. No negative impacts to traffic are anticipated as a result of this application. There is a multi-unit

residential, a condominium, and semi-detached developments located nearby subject property

- d) The variance deals with circumstances particular to the site and development: The R2.1 Zone Category permits a semi-detached dwelling as a main use subject to conforming with the established regulations concerning lot width; lot area; and, the side yard width minimum. The variance is necessary to permit a semi-detached dwelling to be constructed on a lot that is under the size prescribed in the Zoning By-law (60 ft).

Internal Departments and External Agency Comments

Internal departments were circulated. We received comments from Kevin Carter, Chief Building Official, and he noted he had no objections. We received comments from Kevin Girard, Director of Infrastructure Services, and he had no objections.

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

Public Comment

As a result of the giving of public notice, one (1) letter of objection was received from James Renaud, owner of the multi-residential building at 72 Laird Ave. Mr. Renaud states the following:

"There is no room for parking. People at present, park on the side walk or all around the building that I own at 72 Laird Ave. Frequently there are deep ruts which makes it difficult to cut the grass. A cement curb would deter parking on the grass or in spots that I have for my tenant's parking lot.

I am asking for consideration that a single dwelling instead of a semi-detached dwelling be built.

Would you please notify me of the decision. I do not have a computer so I am not able to attend the meeting electronically. Thank you. James Renaud – 72 Laird Ave"

No further correspondences were received from members of the circulated public as of Thursday November 13, 2020.

Actions:

To be determined by the Committee.

Additional comments resulting from circulation:

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:

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

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

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

WATERSHED BASED RESOURCE MANAGEMENT AGENCY

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

SECTION 1.6.6.7 Stormwater Management (PPS, 2020)

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, 2020

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 Provincial Policy Statement of the Planning Act. 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 PPS. Based on our review, we have no objection to the application with respect to the natural heritage policies of the PPS.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no concerns in relation to Natural Hazards, Stormwater Management and Natural Heritage. Therefore, ERCA has no objection to this application for Minor Variance.

Discussion:

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

Ray Beneteau states that he has concerns with the parking.

Corinne Chiasson advises that the rear yard has a 39 foot setback therefor; there is 14 feet available to the applicant to move the proposed structure towards the rear to accommodate for parking.

Moved by: Ray Beneteau

Seconded by: Phil Pocock

(CAO-2020-11-80) That application A-26-20 be **granted** to reduce the minimum lot width to 10 foot, reduction in minimum lot area provision to 5000 square feet, reduction in side yard width to 3.923 feet.

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”

6.2 Corinne Chiasson, Assistant Planner RE:

Application A-27-20 Everjonge Homes (Agent: Sawyer DeJonge) Vacant Lot on Robinson Ave, Lot 24, 12M-600 (Essex Centre, Ward 1)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located on Robinson Ave, described as Lot 24, on Plan 12M-600, Essex Centre (Ward 1). The applicants are proposing to construct a new dwelling. Due to the configuration of the lot, the applicants are requesting the following variances from the Zoning Bylaw, Bylaw 1037 to accommodate the following: A minimum front yard depth of 5.24 metres (17.2 feet) (The minimum required front yard depth in the R1.1 district is 7.5 metres) A minimum rear yard depth of 6.4 metres (21 feet) (The minimum required rear yard depth in the R1.1 district is 7.5 metres)

6.2.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Official Plan Designation: “Residential”

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

Site Specific Zone: Section 28.1.29 - For Lots 15 to 19, 29 to 43, 58 to 76, all inclusive, on the east and west sides of Streets B and C, the minimum front yard depth shall be 6 meters and for Lots 69, 70 and 76, on Street C, the minimum exterior side yard width shall be 3 meters.

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located on Robinson Ave, described as Lot 24, on Plan 12M-600, Essex Centre (Ward 1). The applicants are proposing to construct a new dwelling. Due to the

configuration of the lot, the applicants are requesting the following variances from the Zoning Bylaw, Bylaw 1037:

- A minimum front yard depth of 5.24 metres (17.2 feet) (The minimum required front yard depth in the R1.1 district is 7.5 metres (24.6 feet).
- A minimum rear yard depth of 6.4 metres (21 feet) (The minimum required rear yard depth in the R1.1 district is 7.5 metres (24.6 feet).

A *front yard* is defined as a yard extending across the full width of a lot between the front lot line and the nearest wall of a main building on such lot. A *rear yard* is defined as a yard extending across the full width of a lot between the rear lot line or the intersection of the side lot lines and the nearest wall of a main building on such lot, under Bylaw 1037.

Proposal Conformity with Town of Essex Official Plan Policies

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

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

Single unit dwellings are permitted under the Residential designation under the Town of Essex Official Plan. The variance would allow for the construction of a single detached dwelling which is a permitted use under the R1.1 zoning.

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

The proposed layout with a slightly reduced front yard will not impede site lines for subject property, adjacent driveways or street parking. The proposal for a single family unit with an attached garage is comparable with adjacent properties.

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

The nearby dwellings currently under construction are comparable in size, architecture, and character of the proposed layout. An attached garage is proposed for this dwelling, which will accommodate the required one parking space provision. No impacts to traffic patterns are anticipated.

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

The subject property is located along the bell curve of the street crescent which encroaches into the front yard of the subject property. The applicants have located the attached garage to the south property line in order to reduce the impact of the bell curve encroachment on the layout of the dwelling. Due to the smaller lot size, the applicants require relief from the front yard setback. The rear property line is also slightly on an angle which constricts the rear yard amenity area. This subject property is part of the Jakana Subdivision, and is currently under development. The requested relief from the setback provisions is a direct result of the property having a slight angle

to the rear lot line, and being located on the bell curve of the avenue's crescent. The applicants have attempted to design the dwelling to accommodate the zoning provisions to as nearest possible.

Public and Agency Comments

Upon circulation of the public notice we did not receive any comment as of November 13, 2020.

Internal departments were circulated, and we did not receive any objections.

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

Actions:

To be determined by the Committee.

Additional comments resulting from circulation:

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:

DELEGATED RESPONSIBILITY TO REPRESENT THE PROVINCIAL INTEREST IN NATURAL HAZARDS AND REGULATORY RESPONSIBILITIES ASSOCIATED WITH THE CONSERVATION AUTHORITIES ACT

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

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

WATERSHED BASED RESOURCE MANAGEMENT AGENCY

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

SECTION 1.6.6.7 Stormwater Management (PPS, 2020)

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, 2020

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 Provincial Policy Statement of the Planning Act. 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 PPS. Based on our review, we have no objection to the application with respect to the natural heritage policies of the PPS.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no concerns in relation to Natural Hazard, Stormwater Management and Natural Heritage. Therefore, ERCA has no objection to this application for Minor Variance

Discussion:

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

Phil Pocock, asks the applicant if there is another style of dwelling that can be built on the subject property that would meet the zoning requirements.

Sawyer Dejonge, Applicants Agent, advises that there are other styles of dwellings however that they would not be able to provide for the square footage required for the development.

Rita Jabbour, Manager of Planning advises that there was a rezoning completed within the Jakana Subdivision by way of By-law 1257 (S28.1.29) that allows for Lots 15 to 10, 29 to 43, 58 to 76 a minimum front yard depth of 6 metres and lots 69,70 and 76 a minimum exterior side yard width of 3 meters.

Brian Gray asks administration if sidewalks are planned for the subdivision.

Lori Chadwick, Director of Development Services states that sidewalk placement would be stated in the development agreement.

Brian Gray states that there are drainage concerns within the subdivision and asks if these concerns have been met.

Lori Chadwick, states that the elevation for the remainder of the subdivision phases has been reviewed and the developer with the Chief Building Official has ensured proper drainage.

(CAO-2020-11-81) That application A-27-20 be **granted** to reduction in front yard depth from 7.5 metres to 5.24 metres and in rear yard depth from 7.5 metres to 6.4 metres

Moved by: Dan Boudreau

Seconded by: Ray Beneteau

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”

Corinne Chiasson, Assistant Planner RE:

**6.3 Application -A-29-20 William Keith Kendrick (Agent: Vijay Vasantgadkar)
Vacant Lot at Southwest corner of Talbot Street and Fairview Avenue (Essex
Centre, Ward 1)**

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the vacant land located at the southwest corner of Talbot Street South and Fairview Avenue West in Essex Centre (Ward 1). The applicants are proposing to construct a 6 storey, multi-unit residential building. The proposed building will have a building footprint of 10,439 square feet, and contain underground parking. As a result, the applicants are requesting the following variances from the Zoning By-law, Bylaw 1037: A 7 foot reduction in the minimum separation requirement between the building wall and the parking area. (The minimum required separation between a building wall containing a habitable room window facing a parking area is 4.5 metres). A reduction of 1.82 metres into the required side yard. (The minimum side yard setback for Residential District 3.1 is 6 metres (20 feet) where a habitable room window of a dwelling unit faces a side lot line). A reduction of 1.82 metres in the required rear yard setback. (The minimum required rear yard depth in the R3.1 district is 7.5 metres.

6.3.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Official Plan Designation: “Essex Town Centre”

Zoning: Residential District 3.1 (R3.1) –High density residential

Site specific zone Section 28, No. 22 – *For the lands comprising Part of Lot 281, Concession South of Talbot Road, designated as Part 1, Plan 12R-5931, on the southeast corner of Talbot Street South and Fairview Avenue (being former R4 lands), the following provisions apply:*

- i. A minimum lot area of 71.5m² (770f²) shall be required for each dwelling unit;*
- ii. The maximum building height for a main building shall be 7 stories;*
- iii. The maximum lot coverage for a main building shall be equal to 40% of the lot area;*
- iv. The minimum interior side yard setback for the main building shall be 4.5m (15f);*

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the vacant land located at the southwest corner of Talbot Street South and Fairview Avenue West in Essex Centre (Ward 1). The applicants are proposing to construct a 6 storey, multi-unit residential building. The proposed building will have a building footprint of 10,439 square feet, and contain underground parking. As a result, the applicants are requesting the following variances from the Zoning By-law, Bylaw 1037:

- A 2.13 metre (7 ft) reduction in the minimum separation requirement between the building wall and the parking area. (The minimum required separation between a building wall containing a habitable room window facing a parking area is 4.5 metres)
- A reduction of 0.57 metres (1 foot, 9 inches) in the required side yard width. (The minimum side yard setback for Residential District 3.1 is 6 metres (20 feet) where a habitable room window of a dwelling unit faces a side lot yard). This property however received a site specific zoning amendment in 1998 that reduced the required side yard setback distance to 15 feet.
- A reduction of 1.82 metres (6 ft) in the required rear yard depth. (The minimum required rear yard depth in the R3.1 district is 7.5 metres (24.6 ft))

A side lot line means any exterior or interior lot line other than a front or rear lot line. A *side yard* means a yard extending from the front yard to the rear yard between the side lot line and the nearest wall of the main building on such lot.

A *rear yard* is defined as a yard extending across the full width of a lot between the rear lot line or the intersection of the side lot lines and the nearest wall of a main building on such lot, under Bylaw 1037. A *rear lot line* is defined as the exterior or interior lot line which is farthest from the front lot line.

Proposal Conformity with Town of Essex Official Plan Policies

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

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

Official Plan: A multi-unit residential building is a permitted main use in the Town Centre designation under the Town of Essex Official Plan. The Official Plan promotes multiple dwelling units and mixed-use commercial/residential development, with a compact form in the downtown core areas. Increased density in the downtown main street area promotes pedestrian movement, it also aesthetically and functionally enhances the character of the main street. The property is zoned R3.1 which would permit this high density residential development.

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

Due to the angled property lines of the subject site the requested relief would permit the most efficient use of space and lot coverage. This proposal is considered minor because there will be no visual impacts on the adjacent properties as a result of the relief requested.

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

The subject property is located amongst a commercial corridor and two institutional uses, a church facility and a sports and recreation complex. Future residents will benefit from the close proximity of these amenities. The compact design and high

density residential use will satisfy a growing need for rental units within walking distance to the down town/main street commercial corridor. The proposed development will utilize underground parking, and a landscaping plan will enhance the streetscaping near this intersection providing amenity areas for the residents and pedestrian traffic. This proposal will be subject to Site Plan Control. A traffic impact study will be a component of the site plan control application process and will need to demonstrate no negative impacts to the intersections of Talbot Street and Fairview Avenue.

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

Due to the subject property having irregular property extents, portions of the design do overlap the required setbacks slightly. The design also includes a pool amenity area that is located on the 6th floor only. This will be the only area that encroaches into the side and rear yard setbacks. The applicants have designed mitigation barriers (parking blocks and curbing) that will act as safety mitigation for the reduction in the setback between a parking space and a habitable wall. The owner and architect have designed the site plan to ensure all other zoning provisions are satisfied.

Public and Agency Comments

Upon circulation of the public notice we did not receive any comment as of November 13th, 2020 from the public.

Internal departments were circulated, and we did not receive any objections.

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

Actions:

To be determined by the Committee.

Additional comments resulting from circulation:

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:

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

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

We have reviewed our floodline mapping for this area and it has been determined this site is not located within a regulated area that is under the jurisdiction of the ERCA (Section 28

of the Conservation Authorities Act). As a result, a permit is not required from ERCA for issues related to Section 28 of the Conservation Authorities Act, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act, (Ontario Regulation No. 158/06).

WATERSHED BASED RESOURCE MANAGEMENT AGENCY

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

SECTION 1.6.6.7 Stormwater Management (PPS, 2020)

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

PLANNING ADVISORY SERVICE TO PLANNING AUTHORITIES - NATURAL HERITAGE POLICIES OF THE PPS, 2020

The following comments are provided from our perspective as an advisory service provider to the Planning Authority on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the Provincial Policy Statement of the Planning Act. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of 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 PPS. Based on our review, we have no objection to the application with respect to the natural heritage policies of the PPS.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no objection to this application for Minor Variance.

Discussion:

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

Moved by: Ray Beneteau

Seconded by: Phil Pocock

(CAO-2020-11-82) That application A-29-20 be **granted** to reduce the minimum separation between habitable building wall and parking area from 4.5 metres (14 feet) to 2.1 metres (7 feet), and to reduction of 0.57 metres (1 foot, 9 inches) in the required side yard width, and reduce the rear yard from 7.5 metres (24 feet) to 1.82 metres (5.97 feet).

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”

6.4 Corinne Chiasson, Assistant Planner RE:

Application B-25-20 1954990 Ontario Inc. (Agent: Lena Bidawid) 330 South Talbot Road (Essex Centre, Ward 1)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 330 South Talbot Road, in Essex Centre (Ward 1). The applicants are proposing to sever a ± 5.5 acre parcel from the existing ± 12.6 acre lot for the purposes of lot creation. The retained lot will have an area of ± 7.1 acres

6.4.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Official Plan Designation: Industrial

Zoning By-law District: Manufacturing 1.3 (M1.3) -

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 330 South Talbot Road, in Essex Centre (Ward 1). The applicants are proposing to sever a ± 5.5 acre parcel from the existing ± 12.6 acre lot for the purposes of lot creation. The retained lot will have an area of $+7.1$ acres.

Proposal Conformity with Town of Essex Official Plan Policies

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

a) The proposal's consistency with Provincial legislation, policies and guidelines: This application is consistent with the PPS policies.

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

The Town of Essex Official Plan encourages the enhancement of the Town's assessment base, and also to provide additional local employment opportunities.

c) The continuation of an orderly development pattern:

The new site is located near the Highway 3 corridor, it is comparable in size and configuration to other adjacent manufacturing sites along South Talbot Road.

d) The adequate provision of potable water supply, sanitary sewage treatment and disposal and stormwater management in accordance with the Official Plan and to the satisfaction of the Town and the statutory approval authority having jurisdiction:

The proposed lot has access to municipal water, and is serviced by storm and sanitary sewers. Future development of this site will be subject to the Site Plan Control review, and a stormwater management plan will be a component of this process.

Agency and Public Comments

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

No objections were received from circulated internal agencies as of Thursday November 13, 2020.

We received comments from the Essex Region Conservation Authority, and they advised that prior to any construction or site alteration a permit may be required under the Conservation Authorities Act. They further note that they have no objections to this consent.

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 all of the above conditions be fulfilled on or before November 17, 2021.

Additional comments resulting from circulation:

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:

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

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

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 14th Conc. E. Drain Branch and Rush Drain. 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.

CONSERVATION AUTHORITIES AS LANDOWNERS

The parcel is adjacent to a property which is owned by the Essex Region Conservation Authority. Prior to any construction or site alteration activities adjacent to this property, or for general information regarding this property, please contact Kevin Money, Director of Conservation Services at (519) 776-5209 ext. 351.

PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS, 2020

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 Provincial Policy Statement of the Planning Act. 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 PPS. Based on our review, we have no objection to the application with respect to the natural heritage policies of the PPS.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no concerns in relation to Natural Hazard, Stormwater Management and Natural Heritage. Therefore, ERCA has no objection to this application for Consent.

Discussion:

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

Moved by: Phil Pocock

Seconded by: Ray Beneteau

(CAO-2020-11-83) That application B-25-20 be **granted** to sever a \pm 5.5 acre parcel from the existing \pm 12.6 acre lot for the purposes of lot creation

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

Actions:

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 all of the above conditions be fulfilled on or before November 17, 2021

“Carried”

6.5 Corinne Chiasson, Assistant Planner RE:

Application B-18-20 Marc and Rose Ann Johnston 3873 3rd Concession Road (Colchester South, Ward 3)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 3873 3rd Concession Road in the former township of Colchester South. The applicants are proposing to sever a ± 6.88 acre parcel from the existing ± 11.94 acre lot for the purposes of a lot addition. The severed parcel is comprised of an area designated and zoned an area of Natural Environment and Wetland. Consequently, the severed parcel is proposed to be merged with the lands located directly to the East and known municipally as 3881 3rd Concession, for the purposes of conservation. The retained parcel will result in an area of ± 5 acres and will continue to be used for residential purposes.

Note An application for minor variance has also been received for the subject lands (File Number: A-18-20). The public notice for the minor variance application has been included with this notice

6.5.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Official Plan Designation: Natural Environment

Zoning By-law District: Natural Environment 1.1 (NE1.1)

(10.7 Natural Environment & Wetland Setback Provisions, 10.8 Natural Heritage Overlay Provisions)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 3873 3rd Concession Road in the former township of Colchester South. The applicants are proposing to sever a ± 6.88 acre parcel from the existing ± 11.94 acre lot for the purposes of a lot addition.

The severed parcel is comprised of an area designated and zoned Natural Environment and Wetland. Consequently, the severed parcel is proposed to be merged with the lands located directly to the East and known municipally as 3881 3rd Concession, for the purposes of conservation. The retained parcel will result in an area of ±5 acres and will continue to be used for the established residential purposes.

Proposal Conformity with Provincial Policy Statement (PPS) and Town of Essex Official Plan Policies

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

a) *The proposal's consistency with Provincial legislation, policies and guidelines:*

The subject site contains one existing single family dwelling, and the balance of the property contains provincially significant wetland/valley land, floodplain hazard, and an upland woodland. In accordance with the Provincial Policy Statement (PPS) Section 2.1 states: "natural features shall be protected for the long term. Section 2.1.4 further states: "development and site alteration shall not be permitted in: a) significant wetlands...Section 2.1.5 b) significant woodlands, c) significant valleylands unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. The applicant is requesting this severance to add the severed lands to 3881 Concession Rd 3 in order to protect the natural heritage features in perpetuity. In order to satisfy the policies of the PPS noted above, the applicant is required to demonstrate that no negative impacts will result from this severance. Through consultation with the Essex Region Conservation Authority as prescribed in the Town of Essex Official Plan, the ERCA has identified that a Conservation Easement registered on title over the severed lands, would be an acceptable demonstration. The applicant is in agreement with a Conservation Easement being placed as a condition of his severance, as it is his objective to protect the lands in perpetuity. The registering of the easement over the severed lands will therefore satisfy the policies of the PPS.

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

Section 5.5 of the Town of Essex Official Plan states: that development and site alteration as defined in the PPS is not permitted within those areas designated as "Natural Environment". Further, no development shall occur on lands located adjacent to Natural Environment, unless it has been demonstrated to the satisfaction of the municipality, in consultation with ERCA, that there will be no negative impacts on the natural features or the ecological functions. As the applicants wish to protect the natural heritage feature in perpetuity ERCA and the applicant are in agreement that placement of a Conservation Easement is an acceptable demonstration that no negative impacts or future development will occur on the severed lands. The existing NE designation and NE zone category are permissive and cannot be utilized to satisfy

the PPS policies. The Zoning by-law further states that the minimum size are in an NE zone is “as existing”. The applicant is requesting to reduce the existing lot from 11.954 acres to 5 acres therefore a Minor Variance is required to accommodate this severance.

Comments were received from the Essex Region Conservation Authority (ERCA). They state the following:

“The subject property is within, and/or is adjacent to (within 120 metres of), a natural heritage feature that is identified as a significant wetland (Cedar Creek Wetland Complex (ER 15)), significant woodland, significant wildlife habitat, and significant area of natural and scientific interest (Cedar Creek Life Science ANSI) under the Provincial Policy Statement (PPS).

Section 2.1.4 of the PPS, 2020 states - "Development and site alteration shall not be permitted in "significant wetlands..." and "significant coastal wetlands." Section 2.1.5 of the PPS states - Development and site alterations shall not be permitted in significant woodland... and significant wildlife habitat... and significant area of natural and scientific interest... unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Section 2.1.8 of the PPS, 2020 states – “Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5 and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.” This demonstration of no negative impact, as required by the relevant PPS policies outlined above, is most effectively accomplished through the completion of an Environmental Impact Assessment (EIA), in accordance with the EIA Guidelines published by ERCA. However, other options may also qualify as an adequate demonstration of no negative impact.

Our information also indicates that the subject property may support habitat of endangered species and threatened species. As per Section 2.1.7 of the PPS, 2020 – “*Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements*”. All species listed as endangered or threatened (aquatic species, plants, mammals, birds, reptiles, amphibians, etc.) as well as their related habitats, are protected under the Ontario *Endangered Species Act*. Prior to initiating any proposed works on this property, it is the proponent’s responsibility to contact the Species at Risk Branch of the Ontario Ministry of Environment, Conservation & Parks (MECP) to ensure all issues related to the *Endangered Species Act* are addressed. All inquiries regarding the *Endangered Species Act* should be made with Permissions and Compliance Section of the MECP (e-mail address: SAROntario@ontario.ca).

In our opinion, for this particular application, a satisfactory demonstration of no negative impact could be accomplished through the registration of a Conservation Easement, which would be held by the Municipality and run on title of the property in perpetuity. It is recommended that this Conservation Easement contain sufficient provisions (i.e., covenants) prohibiting use the lands which would damage or destroy the natural features or prevent their restoration and enhancement. Registration and enforcement of the provisions within the Conservation Easement would effectively mitigate the potential for disturbance of the natural feature, and therefore no further EIA or demonstration of no negative impact would be required in order to satisfy the requirements of the PPS.

It is therefore recommended that the Application may be approved subject to the condition of the registration of a Conservation Easement on title, providing for the effective protection of the natural heritage feature, in perpetuity. In consideration of the e-mail correspondence received from Corinne Chiasson of the Town of Essex, dated November 2, 2020, confirming that the Town of Essex is recommending the establishment of a Conservation Easement on title, ERCA has no objection to this application for Minor Variance and Consent subject to the condition of the registration of the Conservation Easement.” Vitra Vimalananthan, Resource Planner, (ERCA)

No other comments were received from circulated public authorities or agencies;

b) *The continuation of an orderly development pattern:*

The lot addition encompasses the entire natural feature (wetland, upland woodlands, and natural hazards associated with the floodplain of Cedar Creek) on the subject property. The retained parcel will be limited to the historically mowed cleared area around the residence and driveway in the front yard.

- c) 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 existing residence (retained lot) has municipal potable water service, and is on a private septic system.

Requirement for Minor Variance A-18-20

As a result of the proposed lot addition, an application for minor variance is required to accommodate the reduction of the retained lot (3873 3rd Concession Road) from ± 11.94 acres to ± 5 acres. The Zoning By-law states that the minimum lot area and lot width for lots zoned Natural Environment District 1.1 (NE1.1) is "as existing". Therefore the subject lot requires a minor variance to recognize the reduction in the lot area and lot width.

Proposal Conformity with Provincial Policy Statement (PPS) and Town of Essex Official Plan Policies

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

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

The Official Plan contains policies that support development within NE designations provided there is a demonstration of no negative impact. The purpose of these applications is to ensure the protection of the natural heritage feature. A conservation easement registered on title over the severed lands will satisfy the requirement for a demonstration of no negative impact under the PPS and OP policies.

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

The severance is a change in lot configuration, intended to consolidate the natural heritage feature to one property only, identified as 3881 Concession 3. Consolidation of natural heritage lands is a desired goal noted in the Town of Essex Official Plan.

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

Lot sizes vary considerably in the Natural Environment designation. The extents of the subject property follow the extents of the natural features and hazard lands. No new lots will be created as a result of these applications, therefore no impacts to character, traffic or parking patterns are anticipated.

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

The applicant wishes to consolidate the natural heritage feature for protection in perpetuity, and as a result prepare the retained parcel for potential future sale.

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 November 13, 2020.

No comments were received from circulated internal agencies as of Thursday November 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 located at 3881 Concession Road 3. 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.
- g) That the Owner registers a Conservation Easement over the severed parcel in favour of the Town of Essex, to protect the natural heritage in perpetuity, to the satisfaction of the Town of Essex, in consultation with the ERCA.
- h) That minor variance A-18-20 receives approval from the Committee.
- f) That all of the above conditions be fulfilled on or before November 17, 2021.

Additional comments resulting from circulation:

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:

DELEGATED RESPONSIBILITY TO REPRESENT THE 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 Richmond 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.

WATERSHED BASED RESOURCE MANAGEMENT AGENCY PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS

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, 2020)

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

PLANNING ADVISORY SERVICE TO PLANNING AUTHORITIES - NATURAL HERITAGE POLICIES OF THE PPS, 2020

The following comments are provided from our perspective as an advisory service provider to the Planning Authority on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the Provincial Policy Statement of the Planning Act. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Planning Authority.

The subject property is within, and/or is adjacent to (within 120 metres of), a natural heritage feature that is identified as a significant wetland (Cedar Creek Wetland Complex (ER 15)), significant woodland, significant wildlife habitat, and significant area of natural and scientific interest (Cedar Creek Life Science ANSI) under the Provincial Policy Statement (PPS).

Section 2.1.4 of the PPS, 2020 states - "Development and site alteration shall not be permitted in

"significant wetlands..." and "significant coastal wetlands." Section 2.15 of the PPS states - Development and site alterations shall not be permitted in significant woodland... and significant wildlife habitat... and significant area of natural and scientific interest... unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Section 2.1.8 of the PPS, 2020 states – "Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5 and 2.1.6 unless the ecological function of the adjacent lands

has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.” This demonstration of no negative impact, as required by the relevant PPS policies outlined above, is most effectively accomplished through the completion of an Environmental Impact Assessment (EIA), in accordance with the EIA Guidelines published by ERCA. However, other options may also qualify as an adequate demonstration of no negative impact.

Our information also indicates that the subject property may support habitat of endangered species and threatened species. As per Section 2.1.7 of the PPS, 2020 – “Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements”. All species listed as endangered or threatened (aquatic species, plants, mammals, birds, reptiles, amphibians, etc.) as well as their related habitats, are protected under the Ontario Endangered Species Act. Prior to initiating any proposed works on this property, it is the proponent’s responsibility to contact the Species at Risk Branch of the Ontario Ministry of Environment, Conservation & Parks (MECP) to ensure all issues related to the Endangered Species Act are addressed. All inquiries regarding the Endangered Species Act should be made with Permissions and Compliance Section of the MECP (e-mail address: SAROntario@ontario.ca). In our opinion, for this particular application, a satisfactory demonstration of no negative impact could be accomplished through the registration of a Conservation Easement, which would be held by the Municipality and run on title of the property in perpetuity. It is recommended that this Conservation Easement contain sufficient provisions (i.e., covenants) prohibiting use the lands which would damage or destroy the natural features or prevent their restoration and enhancement. Registration and enforcement of the provisions within the Conservation Easement would effectively mitigate the potential for disturbance of the natural feature, and therefore no further EIA or demonstration of no negative impact would be required in order to satisfy the requirements of the PPS.

It is therefore recommended that the Application may be approved subject to the condition of the registration of a Conservation Easement on title, providing for the effective protection of the natural heritage feature, in perpetuity.

FINAL RECOMMENDATION

In consideration of the e-mail correspondence received from Corinne Chiasson of the Town of Essex, dated November 2, 2020, confirming that the Town of Essex is recommending the establishment of a Conservation Easement on title, ERCA has no objection to this application for Minor Variance and Consent subject to the condition of the registration of the Conservation Easement.

Discussion:

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

Ray Beneteau asks the applicant and the secretary treasurer if the retained parcel can be squared instead of the irregularly shaped like proposed.

Corinne Chiasson, advises that the irregular shape of the proposed retained parcel is to preserve and keep the natural valley within one property instead of across two separate subject parcels.

Marc Johnston, Applicant, states that he would have no concerns if the retained parcel was squared off instead of irregular as proposed.

Moved by: Ray Beneteau

Seconded by: Dan Boudreau

(CAO-2020-11-84) That application B-18-20 be **granted** to sever a \pm 6.88 acre parcel from the existing \pm 11.94 acre lot for the purposes of a lot addition. The severed parcel is proposed to be merged with the lands located directly to the East and known municipally as 3881 3rd Concession, and that the Conservation Easement be completed.

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

Actions:

- 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 located at 3881 Concession Road 3. 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.
- g) That the Owner registers a Conservation Easement over the severed parcel in favour of the Town of Essex, to protect the natural heritage in perpetuity, to the satisfaction of the Town of Essex, in consultation with the ERCA.
- h) That minor variance A-18-20 receives approval from the Committee.

f) That all of the above conditions be fulfilled on or before November 17, 2021.

“Carried”

6.6 Corinne Chiasson, Assistant Planner RE:

Application A-18-20 Marc and Rose Ann Johnston 3873 3rd Concession Road (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 3873 3rd Concession Road in the former township of Colchester South. The minimum lot area and lot width for lots zoned Natural Environment District 1.1 (NE1.1) is as existing. As a result of a proposed severance for lot addition, the lot area for the retained parcel will be reduced from ± 11.94 acres, the existing lot area, to ± 5 acres. The lot width will be reduced from ± 362.75 feet, the existing lot width, to ± 240 feet.

Note: An application for consent has also been received for the subject lands (File Number: B-18-20). The public notice for the consent application has been included with this notice.

6.5.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Official Plan Designation: Natural Environment

Zoning By-law District: Natural Environment 1.1 (NE1.1)

(10.7 Natural Environment & Wetland Setback Provisions, 10.8 Natural Heritage Overlay Provisions)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 3873 3rd Concession Road in the former township of Colchester South. The applicants are proposing to sever a ± 6.88 acre parcel from the existing ± 11.94 acre lot for the purposes of a lot addition. The severed parcel is comprised of an area designated and zoned Natural Environment and Wetland. Consequently, the severed parcel is proposed to be merged with the lands located directly to the East and known municipally as 3881 3rd Concession, for the purposes of conservation. The retained parcel will result in an area of ± 5 acres and will continue to be used for the established residential purposes.

Proposal Conformity with Provincial Policy Statement (PPS) and Town of Essex Official Plan Policies

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

d) *The proposal's consistency with Provincial legislation, policies and guidelines:*

The subject site contains one existing single family dwelling, and the balance of the property contains provincially significant wetland/valley land, floodplain hazard, and an upland woodland. In accordance with the Provincial Policy Statement (PPS) Section 2.1 states: "natural features shall be protected for the long term. Section 2.1.4 further states: "development and site alteration shall not be permitted in: a) significant wetlands...Section 2.1.5 b) significant woodlands, c) significant valleylands unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. The applicant is requesting this severance to add the severed lands to 3881 Concession Rd 3 in order to protect the natural heritage features in perpetuity. In order to satisfy the policies of the PPS noted above, the applicant is required to demonstrate that no negative impacts will result from this severance. Through consultation with the Essex Region Conservation Authority as prescribed in the Town of Essex Official Plan, the ERCA has identified that a Conservation Easement registered on title over the severed lands, would be an acceptable demonstration. The applicant is in agreement with a Conservation Easement being placed as a condition of his severance, as it is his objective to protect the lands in perpetuity. The registering of the easement over the severed lands will therefore satisfy the policies of the PPS.

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

Section 5.5 of the Town of Essex Official Plan states: that development and site alteration as defined in the PPS is not permitted within those areas designated as "Natural Environment". Further, no development shall occur on lands located adjacent to Natural Environment, unless it has been demonstrated to the satisfaction of the municipality, in consultation with ERCA, that there will be no negative impacts on the natural features or the ecological functions. As the applicants wish to protect the natural heritage feature in perpetuity ERCA and the applicant are in agreement that placement of a Conservation Easement is an acceptable demonstration that no negative impacts or future development will occur on the severed lands. The existing NE designation and NE zone category are permissive and cannot be utilized to satisfy the PPS policies. The Zoning by-law further states that the minimum size are in an NE zone is "as existing". The applicant is requesting to reduce the existing lot from 11.954 acres to 5 acres therefore a Minor Variance is required to accommodate this severance.

Comments were received from the Essex Region Conservation Authority (ERCA). They state the following:

"The subject property is within, and/or is adjacent to (within 120 metres of), a natural heritage feature that is identified as a significant wetland (Cedar Creek Wetland Complex (ER 15)), significant woodland, significant wildlife habitat, and significant area of natural and scientific interest (Cedar Creek Life Science ANSI) under the Provincial Policy Statement (PPS).

Section 2.1.4 of the PPS, 2020 states - "Development and site alteration shall not be permitted in "significant wetlands..." and "significant coastal wetlands." Section 2.1.5 of the PPS states - Development and site alterations shall not be permitted in significant woodland... and significant wildlife habitat... and significant area of natural and scientific interest... unless it has been

demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Section 2.1.8 of the PPS, 2020 states – “Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5 and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.” This demonstration of no negative impact, as required by the relevant PPS policies outlined above, is most effectively accomplished through the completion of an Environmental Impact Assessment (EIA), in accordance with the EIA Guidelines published by ERCA. However, other options may also qualify as an adequate demonstration of no negative impact.

Our information also indicates that the subject property may support habitat of endangered species and threatened species. As per Section 2.1.7 of the PPS, 2020 – “*Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements*”. All species listed as endangered or threatened (aquatic species, plants, mammals, birds, reptiles, amphibians, etc.) as well as their related habitats, are protected under the Ontario *Endangered Species Act*. Prior to initiating any proposed works on this property, it is the proponent’s responsibility to contact the Species at Risk Branch of the Ontario Ministry of Environment, Conservation & Parks (MECP) to ensure all issues related to the *Endangered Species Act* are addressed. All inquiries regarding the *Endangered Species Act* should be made with Permissions and Compliance Section of the MECP (e-mail address: SAROntario@ontario.ca).

In our opinion, for this particular application, a satisfactory demonstration of no negative impact could be accomplished through the registration of a Conservation Easement, which would be held by the Municipality and run on title of the property in perpetuity. It is recommended that this Conservation Easement contain sufficient provisions (i.e., covenants) prohibiting use the lands which would damage or destroy the natural features or prevent their restoration and enhancement. Registration and enforcement of the provisions within the Conservation Easement would effectively mitigate the potential for disturbance of the natural feature, and therefore no further EIA or demonstration of no negative impact would be required in order to satisfy the requirements of the PPS.

It is therefore recommended that the Application may be approved subject to the condition of the registration of a Conservation Easement on title, providing for the effective protection of the natural heritage feature, in perpetuity. In consideration of the e-mail correspondence received from Corinne Chiasson of the Town of Essex, dated November 2, 2020, confirming that the Town of Essex is recommending the establishment of a Conservation Easement on title, ERCA has no objection to this application for Minor Variance and Consent subject to the condition of the registration of the Conservation Easement.” Vitra Vimalananthan, Resource Planner, (ERCA)

No other comments were received from circulated public authorities or agencies;

e) *The continuation of an orderly development pattern:*

The lot addition encompasses the entire natural feature (wetland, upland woodlands, and natural hazards associated with the floodplain of Cedar Creek) on the subject property. The retained parcel will be limited to the historically mowed cleared area around the residence and driveway in the front yard.

f) *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 existing residence (retained lot) has municipal potable water service, and is on a private septic system.

Requirement for Minor Variance A-18-20

As a result of the proposed lot addition, an application for minor variance is required to accommodate the reduction of the retained lot (3873 3rd Concession Road) from ± 11.94 acres to ± 5 acres. The Zoning By-law states that the minimum lot area and lot width for lots

zoned Natural Environment District 1.1 (NE1.1) is “as existing”. Therefore the subject lot requires a minor variance to recognize the reduction in the lot area and lot width.

Proposal Conformity with Provincial Policy Statement (PPS) and Town of Essex Official Plan Policies

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

e) The general intent of the Official Plan and the Zoning Bylaw are maintained:

The Official Plan contains policies that support development within NE designations provided there is a demonstration of no negative impact. The purpose of these applications is to ensure the protection of the natural heritage feature. A conservation easement registered on title over the severed lands will satisfy the requirement for a demonstration of no negative impact under the PPS and OP policies.

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

The severance is a change in lot configuration, intended to consolidate the natural heritage feature to one property only, identified as 3881 Concession 3. Consolidation of natural heritage lands is a desired goal noted in the Town of Essex Official Plan.

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

Lot sizes vary considerably in the Natural Environment designation. The extents of the subject property follow the extents of the natural features and hazard lands. No new lots will be created as a result of these applications, therefore no impacts to character, traffic or parking patterns are anticipated.

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

The applicant wishes to consolidate the natural heritage feature for protection in perpetuity, and as a result prepare the retained parcel for potential future sale.

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 November 13, 2020.

No comments were received from circulated internal agencies as of Thursday November 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 located at 3881 Concession Road 3. 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.
- g) That the Owner registers a Conservation Easement over the severed parcel in favour of the Town of Essex, to protect the natural heritage in perpetuity, to the satisfaction of the Town of Essex, in consultation with the ERCA.
- h) That minor variance A-18-20 receives approval from the Committee.
- f) That all of the above conditions be fulfilled on or before November 17, 2021.

Additional comments resulting from circulation:

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:

DELEGATED RESPONSIBILITY TO REPRESENT THE 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 Richmond 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.

WATERSHED BASED RESOURCE MANAGEMENT AGENCY PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS

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, 2020)

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

PLANNING ADVISORY SERVICE TO PLANNING AUTHORITIES - NATURAL HERITAGE POLICIES OF THE PPS, 2020

The following comments are provided from our perspective as an advisory service provider to the Planning Authority on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the Provincial Policy Statement of the Planning Act. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Planning Authority.

The subject property is within, and/or is adjacent to (within 120 metres of), a natural heritage feature that is identified as a significant wetland (Cedar Creek Wetland Complex (ER 15)), significant woodland, significant wildlife habitat, and significant area of natural and scientific interest (Cedar Creek Life Science ANSI) under the Provincial Policy Statement (PPS).

Section 2.1.4 of the PPS, 2020 states - "Development and site alteration shall not be permitted in "significant wetlands..." and "significant coastal wetlands." Section 2.15 of the PPS states - Development and site alterations shall not be permitted in significant woodland... and significant wildlife habitat... and significant area of natural and scientific interest... unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Section 2.1.8 of the PPS, 2020 states – "Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5 and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions." This demonstration of no negative impact, as required by the relevant PPS policies outlined above, is most effectively accomplished through the completion of an Environmental Impact Assessment (EIA), in accordance with the EIA Guidelines published by ERCA. However, other options may also qualify as an adequate demonstration of no negative impact.

Our information also indicates that the subject property may support habitat of endangered species and threatened species. As per Section 2.1.7 of the PPS, 2020 – "Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements". All species listed as endangered or threatened (aquatic species, plants, mammals, birds, reptiles, amphibians, etc.) as well as their

related habitats, are protected under the Ontario Endangered Species Act. Prior to initiating any proposed works on this property, it is the proponent's responsibility to contact the Species at Risk Branch of the Ontario Ministry of Environment, Conservation & Parks (MECP) to ensure all issues related to the Endangered Species Act are addressed. All inquiries regarding the Endangered Species Act should be made with Permissions and Compliance Section of the MECP (e-mail address: SAROntario@ontario.ca).

In our opinion, for this particular application, a satisfactory demonstration of no negative impact could be accomplished through the registration of a Conservation Easement, which would be held by the Municipality and run on title of the property in perpetuity. It is recommended that this Conservation Easement contain sufficient provisions (i.e., covenants) prohibiting use the lands which would damage or destroy the natural features or prevent their restoration and enhancement. Registration and enforcement of the provisions within the Conservation Easement would effectively mitigate the potential for disturbance of the natural feature, and therefore no further EIA or demonstration of no negative impact would be required in order to satisfy the requirements of the PPS.

It is therefore recommended that the Application may be approved subject to the condition of the registration of a Conservation Easement on title, providing for the effective protection of the natural heritage feature, in perpetuity.

FINAL RECOMMENDATION

In consideration of the e-mail correspondence received from Corinne Chiasson of the Town of Essex, dated November 2, 2020, confirming that the Town of Essex is recommending the establishment of a Conservation Easement on title, ERCA has no objection to this application for Minor Variance and Consent subject to the condition of the registration of the Conservation Easement.

Discussion:

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

Moved by: Dan Boudreau

Seconded by: Phil Pocock

(CAO-2020-11-85) That application A-18-20 be **granted** to permit the reduction in lot area and lot width for a property designated and zoned Natural Environment

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”

6.7 Corinne Chiasson, Assistant Planner RE:

**Application B-24-20 Henry & Kathy Neumiller 650 County Road 13
(Colchester South, Ward 3)**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 650 County Road 13, in former Colchester South (Ward 3). The applicants are proposing to sever a 0.47 acre parcel from the existing ± 5 acre farm lot. The retained agricultural lot will therefore be reduced to ± 4.53 acres. The applicants wish to sever this lot for the purposes of creating a new lot.

Note: An application for minor variance has also been received for the subject lands (File Number: A-28-20). The public notice for the minor variance application has been included with this notice

6.7.1 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

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 650 County Road 13, in the former township of Colchester South (Ward 3). The applicants are proposing to sever a ± 0.47 acre parcel from the existing ± 5 acre farm lot. The retained agricultural lot will therefore be reduced to ± 4.53 acres. The applicants wish to sever this lot for the purposes of creating a new lot.

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 minimum required lot size in an Agricultural District 1.1 (A1.1) under the Town of Essex Zoning By-law, By-law 1037, is 40 hectares (100 acres) or as existing.

The minimum required lot width in Agricultural District 1.1 (A1.1) under Town of Essex Zoning By-law, By-law 1037, is 60 metres (200 feet).

Assessment of Proposal Conformity with the Provincial Policy Statement and Town of Essex Official Plan Policies

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

- a)** *The proposal’s consistency with Provincial legislation, policies and guidelines:*

The Provincial Policy Statement (PPS) discourages lot creation in prime agricultural areas. Lot creation may only be permitted for agricultural uses, agricultural related uses, lot adjustments, infrastructure and a residence surplus to a farming operation as a result of farm consolidation. The creation of new residential lots in prime agricultural areas shall not be permitted except when the severance qualifies as a residence surplus to a farming operation.

The 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 (the acquisition of additional farm parcels to be operated as one farm operation). The subject property is the only land holding that Mr. and Mrs. Nemiller own. Therefore, this application does not qualify as a surplus dwelling lot. **This proposal is therefore not consistent with the PPS policies for lot creation in prime agricultural areas. .**

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

Section 6.5 of the Town of Essex Official Plan only permits one lot creating consent in areas designated "Agricultural" for surplus dwellings, specifically, where a lot has been acquired for consolidation with another farm operation and there is a dwelling on the acquired lot, the applicant may be granted a consent to permit the severance of 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. The proposal does not meet the requirements and policies of the official plan for the Town of Essex.

c) The continuation of an orderly development pattern:

The proposed lot contains one existing dwelling. The proposed extents of the new lot will not impact land currently under agricultural production (Orchard cultivation).

d) The adequate provision of potable water supply, sanitary sewage treatment and disposal and stormwater management in accordance with the Official Plan and to the satisfaction of the Town and the statutory approval authority having jurisdiction:

The proposed lot has access to municipal water, and is serviced by storm drains. The lot contains a private septic system.

Requirement for a Minor Variance (A-28-20)

As a result of the proposed severance, the lot area for the severed and retained parcels will be reduced from ± 5 acres to ± 0.47 acres and ± 4.53 acres, respectively. The applicants wish to sever this lot for the purposes of creating a new lot. The minimum required lot area within an Agriculture District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

Proposal Conformity with Town of Essex Official Plan Policies

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

a) *The general intent of the Official Plan and the Zoning Bylaw are maintained:*

The minor variance is required as a result of the proposed severance application. The severance would permit 2 undersized agricultural properties. The proposed severance does not meet the criteria for an agricultural severance under the policies of the PPS or the Official Plan.

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

Two residences with separate addresses exists on the subject lands. The applicant wishes the properties to be separated. This would permit the owners to reside next to the farming operation, pass on the family business to their son, and later permit the sale of the second dwelling for potential estate planning purposes

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

The residences at both 650 and 658 County Road 13 contain separate access driveways. No changes are proposed to this configuration, therefore no impacts to traffic or parking patterns are anticipated.

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

The owners have identified that they wish to continue living next to the farming operation, but want to pass on the operations of the farm to their children. The existing 5 acre agricultural lot, which is considerably smaller than the typical 50-100 acre farm lots in the region, contains an orchard (a specialty crop) that is considered viable for the type of operation.

Public and Agency Comments

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections to the application for consent or accompanying application for minor variance. No further comments were received from other public authorities or agencies as of Friday November 13, 2020.

Upon circulation of the public notice we did not receive any comment as of November 13, 2020.

Internal departments were circulated, and we did not receive any objections.

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

Staff's Recommendation: As presented, these applications for Consent and Minor Variance are not consistent with the PPS policies or the severance policies of the Town of Essex Official Plan. It is therefore staff's recommendation to the Committee that these applications be denied.

Action:

To be determined by the Committee.

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 a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that the septic system(s) meet Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate;
- 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 frontage distance and the reduction in the side yard lot line area for the severed and retained parcel.
- h) That all of the above conditions be fulfilled on or before November 17, 2021.

Additional comments resulting from circulation:

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:

DELEGATED RESPONSIBILITY TO REPRESENT THE PROVINCIAL INTEREST IN NATURAL HAZARDS AND REGULATORY RESPONSIBILITIES ASSOCIATED WITH 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).

PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS, 2020

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 Provincial Policy Statement of the Planning Act. 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 PPS. Based on our review, we have no objection to the application with respect to the natural heritage policies of the PPS.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no concerns in relation to Natural Hazards, Natural Heritage and Stormwater Management. Therefore, ERCA has no objection to these application for Consent and Minor Variance.

Discussion:

Corinne Chiasson, Assistant Planner, explains the nature of the application and advises the members of administrations recommendation to deny the application as it does not align with the Provincial Policy Statement or the Official Plan of the Town of Essex.

Brian Gray states that he understands the restrictions set out in the Provincial Policy Statement and the Towns Official Plan but states that given this specific subject property and the nature of the two dwellings on the property should they follow the recommendation set out in both documents they would be creating a hardship for the applicants. He states that there is only a few properties within the Town of Essex with this type of circumstance and states that the Town should be encouraging the correction not discouraging it.

Rita Jabbour, Manager of Planning, states that the policy comes directly from the Planning Act, Provincial Policy Statement and Official Plan. She advises that a severance of the proposed is not recommended under any of the stated guidelines.

Percy Dufour, states that the Provincial Policy Statement advises that having two dwellings on one subject property is prohibited.

Rita Jabbour, states that the subject property is currently legally non-conforming. She states that a severance is possible on this subject property however it needs to be surplus to an already existing agricultural operation within the Town of Essex. She advises that the proposed severance is to create a new lot which is not permitted under the Planning Act, Provincial Policy Statement or the Official Plan.

Percy Dufour states that should the committee approve the application then they would be making the subject property conforming instead of legal non-conforming.

Moved by: Phil Pocock

Seconded by: Dan Boudreau

Ray Beneteau, member requests a recorded vote:

Member	Approved	Denied
Percy Dufour, Chair	X	
Brian Gray, Vice Chair	X	
Phil Pocock, Member	X	
Dan Boudreau, Member	X	
Ray Beneteau, Member		X

(CAO-2020-11-86) That application B-24-20 be **granted** to severe a 0.47 acre parcel from the existing ±5 acre farm lot for the purposes of lot creation.

Reasons for Decision: The Application is in keeping with subsections 6.4 of the Town of Essex Official Plan respecting consents and subsection 6.5 Consents in Areas Designated “Agricultural”.

Actions:

- 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 a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that the septic system(s) meet Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate;
- 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 frontage distance and the reduction in the side yard lot line area for the severed and retained parcel.
- h) That all of the above conditions be fulfilled on or before November 17, 2021.

“Carried”

6.8 Corinne Chiasson, Assistant Planner RE:

Application A-28-20 Henry & Kathy Neumiller 650 County Road 13 (Colchester South, Ward 3)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands agricultural lands identified as 650 County Road 13, in the former township of Colchester South (Ward 3). As a result of a proposed severance, the lot area for the severed and retained parcels will be reduced from ± 5 acres to ± 0.47 acres and ± 4.53 acres, respectively. The applicants wish to sever this lot for the purposes of creating a new lot

Note: An application for consent has also been received for the subject lands (File Number: B-24-20). The public notice for the consent application has been included with this notice.

6.8.1 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

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 650 County Road 13, in the former township of Colchester South (Ward 3). The applicants are proposing to sever a ± 0.47 acre parcel from the existing ± 5 acre farm lot. The retained agricultural lot will therefore be reduced to ± 4.53 acres. The applicants wish to sever this lot for the purposes of creating a new lot.

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 minimum required lot size in an Agricultural District 1.1 (A1.1) under the Town of Essex Zoning By-law, By-law 1037, is 40 hectares (100 acres) or as existing.

The minimum required lot width in Agricultural District 1.1 (A1.1) under Town of Essex Zoning By-law, By-law 1037, is 60 metres (200 feet).

Assessment of Proposal Conformity with the Provincial Policy Statement and Town of Essex Official Plan Policies

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

a) *The proposal's consistency with Provincial legislation, policies and guidelines:*

The Provincial Policy Statement (PPS) discourages lot creation in prime agricultural areas. Lot creation may only be permitted for agricultural uses, agricultural related uses, lot adjustments, infrastructure and a residence surplus to a farming operation as a result of farm consolidation. The creation of new residential lots in prime agricultural areas shall not be permitted except when the severance qualifies as a residence surplus to a farming operation.

The 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 (the acquisition of additional farm parcels to be operated as one farm operation). The subject property is the only land holding that Mr. and Mrs. Nemiller own. Therefore, this application does not qualify as a surplus dwelling lot. **This proposal is therefore not consistent with the PPS policies for lot creation in prime agricultural areas.**

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

Section 6.5 of the Town of Essex Official Plan only permits one lot creating consent in areas designated "Agricultural" for surplus dwellings, specifically, where a lot has been acquired for consolidation with another farm operation and there is a dwelling on the acquired lot, the applicant may be granted a consent to permit the severance of 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. The proposal does not meet the requirements and policies of the official plan for the Town of Essex.

c) *The continuation of an orderly development pattern:*

The proposed lot contains one existing dwelling. The proposed extents of the new lot will not impact land currently under agricultural production (Orchard cultivation).

- d) The adequate provision of potable water supply, sanitary sewage treatment and disposal and stormwater management in accordance with the Official Plan and to the satisfaction of the Town and the statutory approval authority having jurisdiction:*

The proposed lot has access to municipal water, and is serviced by storm drains. The lot contains a private septic system.

Requirement for a Minor Variance (A-28-20)

As a result of the proposed severance, the lot area for the severed and retained parcels will be reduced from ± 5 acres to ± 0.47 acres and ± 4.53 acres, respectively. The applicants wish to sever this lot for the purposes of creating a new lot. The minimum required lot area within an Agriculture District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

Proposal Conformity with Town of Essex Official Plan Policies

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

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

The minor variance is required as a result of the proposed severance application. The severance would permit 2 undersized agricultural properties. The proposed severance does not meet the criteria for an agricultural severance under the policies of the PPS or the Official Plan.

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

Two residences with separate addresses exists on the subject lands. The applicant wishes the properties to be separated. This would permit the owners to reside next to the farming operation, pass on the family business to their son, and later permit the sale of the second dwelling for potential estate planning purposes

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

The residences at both 650 and 658 County Road 13 contain separate access driveways. No changes are proposed to this configuration, therefore no impacts to traffic or parking patterns are anticipated.

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

The owners have identified that they wish to continue living next to the farming operation, but want to pass on the operations of the farm to their children. The existing 5 acre agricultural lot, which is considerably smaller than the typical 50-100 acre farm lots in the region, contains an orchard (a specialty crop) that is considered viable for the type of operation.

Public and Agency Comments

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections to the application for consent or accompanying application for minor variance. No further comments were received from other public authorities or agencies as of Friday November 13, 2020.

Upon circulation of the public notice we did not receive any comment as of November 13, 2020.

Internal departments were circulated, and we did not receive any objections.

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

Staff's Recommendation: As presented, these applications for Consent and Minor Variance are not consistent with the PPS policies or the severance policies of the Town of Essex Official Plan. It is therefore staff's recommendation to the Committee that these applications be denied.

Action:

To be determined by the Committee.

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 a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that the septic system(s) meet Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate;
- 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 frontage distance and the reduction in the side yard lot line area for the severed and retained parcel.
- h) That all of the above conditions be fulfilled on or before November 17, 2021.

Additional comments resulting from circulation:

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:

DELEGATED RESPONSIBILITY TO REPRESENT THE PROVINCIAL INTEREST IN NATURAL HAZARDS AND REGULATORY RESPONSIBILITIES ASSOCIATED WITH 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).

PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS, 2020

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 Provincial Policy Statement of the Planning Act. 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 PPS. Based on our review, we have no objection to the application with respect to the natural heritage policies of the PPS.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no concerns in relation to Natural Hazards, Natural Heritage and Stormwater Management. Therefore, ERCA has no objection to these application for Consent and Minor Variance.

Discussion:

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

Moved by: Dan Boudreau

Seconded by: Phil Pocock

(CAO-2020-11-87) That application A-28-20 be **granted** to accommodate the lot area of the severed and retained parcels will be reduced to ± 0.47 acres and ± 4.53 acres respectively

Reasons for Decision: 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”

6.9 Corinne Chiasson, Assistant Planner RE:

Application B-26-20 Thomas Howard Gee (Agents: Gordon Daniher, Edwin C. Hooker) 2889 County Road 12 (Colchester North, Ward 2)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 2889 County Road 12 in former Colchester North (Ward 2). The applicant is proposing to sever a 0.7 acre parcel from the existing ± 50.3 acre farm lot. The retained agricultural lot will be reduced to ± 49.96 acres. The application wishes to sever this lot as it is considered surplus to the needs of the farming operation.

Note: An application for minor variance has also been received for the subject lands (File Number: A-30-20). The public notice for the minor variance application has been included with this notice.

6.9.1. Public Presentation (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

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 2889 County Road 12 in former Colchester North (Ward 2). The applicant is proposing to sever a 0.7 acre parcel from the existing +50.3 acre farm lot. The retained agricultural lot will be reduced to +49.96 acres. The applicant wishes to sever this lot as it is considered surplus to the needs of the farming operation.

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 ±0.7 acre parcel from the existing ±50.3 acre farm lot. The severed parcel contains an existing single detached dwelling, and one accessory structure, 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 12.

The retained lot will have a resulting area of ±49.96 acres and will continue to be used for agricultural purposes. The retained lot has an existing driveway access off of Batten Road.

The applicant is proposing this consent due to the house being surplus to the needs of the farming operation of Mr. Gordon Daniher who has signed a purchase agreement with Mr. Gee 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. Gordon Daniher. 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 swales. A condition of this consent will be that the owner confirms with the Building Department that the septic system 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 12, 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 A-30-20

The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 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 50.3 acres to 49.96 and +0.7 acres, respectively.

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. We have received a purchase agreement from Mr. Daniher, and therefore this proposal will meet the criteria for consideration as this lot being considered surplus to the needs of the farming operation.

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 Friday November 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.

No comments were received from circulated internal agencies as of Thursday November 12, 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;

f) 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.

g) That a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that the septic system(s) meet Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate;

h) That all of the above conditions be fulfilled on or before November 17, 2021.

Additional comments resulting from circulation:

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:

DELEGATED RESPONSIBILITY TO REPRESENT THE PROVINCIAL INTEREST IN NATURAL HAZARDS AND REGULATORY RESPONSIBILITIES ASSOCIATED WITH 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).

PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS, 2020

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 Provincial Policy Statement of the Planning Act. 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 PPS. Based on our review, we have no objection to the application with respect to the natural heritage policies of the PPS.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no concerns in relation to Natural Hazards, Natural Heritage and Stormwater Management. Therefore, ERCA has no objection to these application for Consent and Minor Variance.

Discussion:

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

Moved by: Ray Beneteau

Seconded by: Phil Pocock

(CAO-2020-11-89) That application B-26-20 be **granted** to sever a 0.7 acre surplus dwelling lot from the existing ± 50.3 acre farm lot.

Reasons for Decision: The Application is in keeping with subsections 6.4 of the Town of Essex Official Plan respecting consents and subsection 6.5 Consents in Areas Designated "Agricultural".

Actions:

- 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;
- f) 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.
- g) That a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that the septic system(s) meet Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate;
- h) That all of the above conditions be fulfilled on or before November 17, 2021.

"Carried"

6.10 A-30-20 Thomas Howard Gee (Agents: Gordon Daniher, Edwin C. Hooker) 2889 County Road 12 (Colchester North, Ward 2)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the agricultural lands identified as 2889 County Road 12, in the former township of Colchester North (Ward 2). As a result of a proposed severance, the lot area for the retained and severed parcel will be reduced from ± 50.3 acres to ± 49.96 acres and 0.7 acres, respectively. The

minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing. The applicants are also requesting relief from the minimum lot frontage width for an agricultural lot, from 60.96 metres (200 feet) to 33 metres (108 feet).

Note: An application for consent has also been received for the subject lands (File Number: B-26-20). The public notice for the consent application has been included with this notice.

6.10.1 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

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 2889 County Road 12 in former Colchester North (Ward 2). The applicant is proposing to sever a 0.7 acre parcel from the existing +50.3 acre farm lot. The retained agricultural lot will be reduced to +49.96 acres. The applicant wishes to sever this lot as it is considered surplus to the needs of the farming operation.

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 ±0.7 acre parcel from the existing ±50.3 acre farm lot. The severed parcel contains an existing single detached dwelling, and one accessory structure, 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 12.

The retained lot will have a resulting area of ±49.96 acres and will continue to be used for agricultural purposes. The retained lot has an existing driveway access off of Batten Road.

The applicant is proposing this consent due to the house being surplus to the needs of the farming operation of Mr. Gordon Daniher who has signed a purchase agreement with Mr. Gee 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. Gordon Daniher. 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 swales. A condition of this consent will be that the owner confirms with the Building Department that the septic system 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 12, 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 A-30-20

The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 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 50.3 acres to 49.96 and +0.7 acres, respectively.

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. We have received a purchase agreement from Mr. Daniher, and therefore this proposal will meet the criteria for consideration as this lot being considered surplus to the needs of the farming operation.
- 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 Friday November 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.

No comments were received from circulated internal agencies as of Thursday November 12, 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;
- f) 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.
- g) That a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that the septic system(s) meet Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate;
- h) That all of the above conditions be fulfilled on or before November 17, 2021.

Additional comments resulting from circulation:

Vitra Vimalananthan, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:

DELEGATED RESPONSIBILITY TO REPRESENT THE PROVINCIAL INTEREST IN NATURAL HAZARDS AND REGULATORY RESPONSIBILITIES ASSOCIATED WITH 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).

PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS, 2020

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 Provincial Policy Statement of the Planning Act. 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 PPS. Based on our review, we have no objection to the application with respect to the natural heritage policies of the PPS.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no concerns in relation to Natural Hazards, Natural Heritage and Stormwater Management. Therefore, ERCA has no objection to these application for Consent and Minor Variance.

Discussion:

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

Moved by: Brian Gray

Seconded by: Dan Boudreau

(CAO-2020-11-90) That application A-30-20 be **granted** to accommodate the lot area of the severed and retained parcel reduced to \pm 49.96 acres and 0.7 acres and the reduction in the minimum lot frontage width requirement of 60.96 metres (200 ft) to 33 metres (108 feet) for the severed parcel.

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”

7. Unfinished Business

None

8. Correspondence

None

9. New Business

9.1: 1241 South Malden Road Update

Rita Jabbour advises the members that the Local Planning Appeal Tribunal approved application B-04-20 & A-04-20 (1241 South Malden Road). She advises that the conditions will commence from the date of the approval received from the LPAT.

10. Notices of Motion

None.

11. Adjournment

Moved by: Dan Boudreau

Seconded by: Phil Pocock

(CAO-2020-11-91`) That the meeting be adjourned at 6:38 p.m.

“Carried”

12. Future Meetings

12.1 December 15th, 2020 Virtual Zoom Meeting at 4:00 p.m.

Chair

Secretary-Treasurer