

The Corporation of the Town of Essex
Minutes of Regular Committee of Adjustment Meeting
Tuesday December 15th, 2020

A regular meeting of the Town of Essex Committee of Adjustment was held on Tuesday, December 15th, 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 | 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 | Bernard Gorski Richard Bonneau Mike Cipkar Ryder Mathies Mary-Anne Keefner Mike Ciarrocchi |
| Regrets: | Percy Dufour, Chair |

2. Declaration of Conflict of Interest

None

3. Adoption of Published Agenda

3.1 Tuesday, December 15th 2020 meeting of the Committee of Adjustment Agenda.

Moved by: Ray Beneteau

Seconded by: Dan Boudreau

(COA-2020-12-92) That the published agenda for December 15th 2020 be adopted as presented

“Carried”

4. Adoption of Minutes

4.1 Tuesday November 17th 2020 Committee of Adjustment meeting minutes

Moved by: Dan Boudreau

Seconded by: Phil Pocock

(COA-2020-12-93) That the Regular Minutes from the Committee of Adjustment Meeting of November 17th 2020 be adopted as circulated.
“Carried”

5. Unfinished Business

6. Reports from Administration / Applications

6.1 Corinne Chiasson, Assistant Planner RE:

Application B-17-20 Bernard Gorski 1445 Gore Road (Colchester South, Ward 3)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 1445 Gore Road in the former township of Colchester South. The applicants are proposing to sever a ± 0.65 acre parcel from the existing ± 65.5 acre agricultural lot for the purposes of lot addition. The severed parcel is proposed to be merged with the lands to the west and identified municipally as 1443 Gore Road. The retained agricultural lot is proposed to have an area of ± 64.89 acres).

NOTE: An application for minor variance has also been received for the subject lands (File Number: A-32-20). The public notice for the minor variance application has been included with this notice

5.1.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Official Plan Designation: Agricultural

Zoning Category: Agricultural 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 1445 Gore Road in the former township of Colchester South. The applicants are proposing to sever a ± 0.65 acre parcel from the existing ± 65.5 acre agricultural lot for the purposes of lot addition. The severed parcel is proposed to be merged with the lands to the west and identified municipally as 1443 Gore Road. The retained agricultural lot is proposed to have an area of ± 64.89 acres.

Proposal Conformity with the 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 Provincial Policy Statement (PPS) states that lot adjustments in prime agricultural areas may be permitted for legal or technical reasons. Legal or technical reasons include minor

boundary adjustments which do not result in the creation of a new lot. As a condition of this consent, the applicants will be responsible for submitting evidence that indicates the severed parcel will be consolidated with the property at 1443 Gore Road.

The minimum lot area required for lots zoned A1.1 under Bylaw 1037 is the lesser of 40 hectares (100 acres) or the existing lot size. As a result of the proposed severance, the lot area for the retained farm parcel will be reduced by 0.65 acres. As such, a variance to accommodate a reduction in lot area for the retained farm parcel is required.

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

Section 6.4 of the Town of Essex Official Plan states that consents should only be granted for lot adjustments or minor boundary changes provided both parcels comply with the provisions of the implementing zoning bylaw or such variances granted through the Committee of Adjustment and the consent is granted in accordance with section 50(3) of the Planning Act. The applicant has submitted a Minor Variance application to accommodate the reduction in lot area for the retained parcel.

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections to the application for consent or minor variance. No other comments were received from circulated public authorities or agencies;

c) The continuation of an orderly development pattern:

The lot addition is not irregular in shape, and will not take agricultural land out of production. The severed parcel has been mowed and maintained by the owner of 1443 Gore Road for multiple years. Mr. Gorski has expressed the parcel it is not feasible to convert to agricultural production due to the width and size of the parcel, which will not support turning radius of farming equipment. The retained parcel will continue to be used for agricultural purposes. Access to the retained parcel will continue to be by way of Gore Road. Mr. Gorski has provided documentation that the retained parcel has been consolidated with the vacant agricultural lands located directly east of this parcel and therefore this proposal will not create a landlocked property. The proposed severance will therefore have no adverse impact on access to the retained lot.

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:

Water supply, and stormwater management is not required as the proposal will not result in the creation of a new vacant buildable lot.

Item 2 - Requirement for Minor Variance A-32-20

An application for minor variance has also been received by the Town of Essex Committee of Adjustment for the retained lands located at 1445 Gore Road. The minimum lot area for lots within an Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing. As a result of the proposed severance for lot addition, the lot area for the retained parcel will be reduced from +65.5 acres, the existing lot area, to +64.89 acres.

Proposal Conformity with the 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 this Plan and the Zoning Bylaw are maintained:

The main use of the retained farm parcel will remain agricultural.

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

No agricultural land will be taken out of production as a result of this severance.

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

Agricultural lot sizes vary greatly in the agricultural district. There will be no access changes to the retained lot.

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

The variance is necessary to accommodate an application for consent to facilitate a lot addition.

As a result of the giving of public notice, no written correspondences have been received from members of the public as of Thursday December 11, 2020. Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections.

No further comments were received from circulated agencies.

Actions:

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

a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;

b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;

c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;

- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That the severed parcel be consolidated with the lands identified as 1443 Gore Road. In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.
- f) That all of the above conditions be fulfilled on or before December 15, 2021.

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.

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 Hughson Drain and Tom Wright Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any future construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

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 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.

We note that the subject property is adjacent to (within 120 m of) a natural heritage feature that may meet the criteria for significance under the PPS. 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.”

Notwithstanding the above noted references to the PPS policies, we note that the purpose of this application for consent is for a lot addition only, and that there will be no change in land use. In our opinion, we believe that this type of Planning Act application does not meet the definition of development under the PPS, 2020. Based upon this, therefore it is our recommendation to the Municipality that a demonstration of no negative impact is not required.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no concerns relating to Stormwater Management, Natural Hazard and Natural Heritage. Therefore, ERCA has no objection to these applications 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-2020-12-94) That application B-17-20 be **granted** to sever a ± 0.65 acre parcel from the existing ± 65.5 acre agricultural lot for the purposes of lot addition. The severed parcel is proposed to be merged with the lands to the west and identified municipally as 1443 Gore Road.

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) A digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;

- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That the severed parcel be consolidated with the lands identified as 1443 Gore Road. In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.
- f) That all of the above conditions be fulfilled on or before December 15, 2021.

"Carried"

6.2 Corinne Chiasson, Assistant Planner RE:

Application A-32-20 Bernard Gorski 1445 Gore 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 1445 Gore Road in the former township of Colchester South. 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 a proposed severance for lot addition, the lot area for the retained parcel will be reduced from ± 65.5 acres, the existing lot area, to ± 64.89 acres

Note: An application for consent has also been received for the subject lands (File Number: B-17-20). The public notice for the consent application has been included with this notice)

6.2.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Official Plan Designation: Agricultural

Zoning Category: Agricultural 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 1445 Gore Road in the former township of Colchester South. The applicants are proposing to sever a ± 0.65 acre parcel from the existing ± 65.5 acre agricultural lot for the purposes of lot addition. The severed parcel is proposed to be merged with the lands to the west and identified municipally as 1443 Gore Road. The retained agricultural lot is proposed to have an area of ± 64.89 acres.

Proposal Conformity with the 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 Provincial Policy Statement (PPS) states that lot adjustments in prime agricultural areas may be permitted for legal or technical reasons. Legal or technical reasons include minor boundary adjustments which do not result in the creation of a new lot. As a condition of this consent, the applicants will be responsible for submitting evidence that indicates the severed parcel will be consolidated with the property at 1443 Gore Road.

The minimum lot area required for lots zoned A1.1 under Bylaw 1037 is the lesser of 40 hectares (100 acres) or the existing lot size. As a result of the proposed severance, the lot area for the retained farm parcel will be reduced by 0.65 acres. As such, a variance to accommodate a reduction in lot area for the retained farm parcel is required.

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

Section 6.4 of the Town of Essex Official Plan states that consents should only be granted for lot adjustments or minor boundary changes provided both parcels comply with the provisions of the implementing zoning bylaw or such variances granted through the Committee of Adjustment and the consent is granted in accordance with section 50(3) of the Planning Act. The applicant has submitted a Minor Variance application to accommodate the reduction in lot area for the retained parcel.

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections to the application for consent or minor variance. No other comments were received from circulated public authorities or agencies;

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

The lot addition is not irregular in shape, and will not take agricultural land out of production. The severed parcel has been mowed and maintained by the owner of 1443 Gore Road for multiple years. Mr. Gorski has expressed the parcel it is not feasible to convert to agricultural production due to the width and size of the parcel, which will not support turning radius of farming equipment. The retained parcel will continue to be used for agricultural purposes.

Access to the retained parcel will continue to be by way of Gore Road. Mr. Gorski has provided documentation that the retained parcel has been consolidated with the vacant agricultural lands located directly east of this parcel and therefore this proposal will not create a landlocked property. The proposed severance will therefore have no adverse impact on access to the retained lot.

- 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:*

Water supply, and stormwater management is not required as the proposal will not result in the creation of a new vacant buildable lot.

Item 2 - Requirement for Minor Variance A-32-20

An application for minor variance has also been received by the Town of Essex Committee of Adjustment for the retained lands located at 1445 Gore Road. The minimum lot area for lots within an Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing. As a result of the proposed severance for lot addition, the lot area for the retained parcel will be reduced from +65.5 acres, the existing lot area, to +64.89 acres.

Proposal Conformity with the 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 this Plan and the Zoning Bylaw are maintained:*

The main use of the retained farm parcel will remain agricultural.

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

No agricultural land will be taken out of production as a result of this severance.

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

Agricultural lot sizes vary greatly in the agricultural district. There will be no access changes to the retained lot.

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

The variance is necessary to accommodate an application for consent to facilitate a lot addition.

As a result of the giving of public notice, no written correspondences have been received from members of the public as of Thursday December 11, 2020. Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections.

No further comments were received from circulated agencies.

Actions:

1. Should the Committee choose to approve this application, approval should be subject to satisfying the following conditions:
- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
 - b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
 - c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
 - d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
 - e) That the severed parcel be consolidated with the lands identified as 1443 Gore Road. In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.
 - f) That all of the above conditions be fulfilled on or before December 15, 2021.

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.

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 Hughson Drain and Tom Wright Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any future construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

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 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.

We note that the subject property is adjacent to (within 120 m of) a natural heritage feature that may meet the criteria for significance under the PPS. 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.”

Notwithstanding the above noted references to the PPS policies, we note that the purpose of this application for consent is for a lot addition only, and that there will be no change in land use. In our opinion, we believe that this type of Planning Act application does not meet the definition of development under the PPS, 2020. Based upon this, therefore it is our recommendation to the Municipality that a demonstration of no negative impact is not required.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no concerns relating to Stormwater Management, Natural Hazard and Natural Heritage. Therefore, ERCA has no objection to these applications for Consent and Minor Variance.

Discussion:

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

Moved by: Dan Boudreau

Seconded by: Ray Beneteau

(CAO-2020-12-95) That application A-32-20 be **granted** to accommodate the Reduction in the minimum agricultural lot size area for the retained parcel from ± 65.5 acres, to ± 64.89 acres.

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

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

“Carried”

Corinne Chiasson, Assistant Planner RE:

6.3 Application - B-20-20 Richard and Beverly Bonneau (Agent: Jerry Goldberg) 171 Harvey St (Essex Centre, Ward 1) (Previously Heard October 20th 2020)

An consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 171 Harvey Street in Essex Centre. The applicants are proposing to sever a ± 5100 square foot parcel from the existing $\pm 10,200$ square foot residential lot for the purposes of lot creation. The retained parcel is proposed to have an area of a ± 5100 square foot.

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

6.3.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

An application for consent and minor variance were received by the Town of Essex Committee of Adjustment for the lands located at 171 Harvey Street in Essex Centre. The applicants are proposing to sever a ± 5100 square foot parcel from the existing $\pm 10,200$ square foot residential lot for the purposes of creating a new residential lot. As a result, the lot width of both the severed and retained parcels will be reduced to ± 12.95 metres (42.5 feet).

The minimum required lot width in Residential District 1.1 (R1.1) under Town of Essex Zoning By-law, By-law 1037, is 15 metres (50 feet). Therefore, the relief being requested is for 2.286 metres (7.5 feet).

The applicants are proposing to construct a single family dwelling on the resulting severed and retained lots. A *single detached dwelling* is defined as one (1) dwelling, other than a

mobile home, having one (1) dwelling unit, but may also include a second dwelling unit within it. Due to concerns raised by the public during the previous October hearing, the owners have revised the original house designs. To satisfy the public concerns for additional parking, the owners have included attached garages, and designed a building envelope to preserve the mature trees. The building envelopes were also reduced to ensure compliance with the zoning provisions for lot coverage. A drainage plan has also been submitted and will be a component of the building review process.

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 proposal does not conflict with the policies of the PPS.

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 infilling within the existing developed areas designated "Residential". Single detached dwellings are permitted uses in areas designated "Residential". 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, December 11, 2020.

c) The continuation of an orderly development pattern:

The proposed lot is comparable in size and in configuration to other lots located along Harvey St, and neighbouring adjacent Thomas Street and Albert Street.

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.

Item 4 - Requirement for Minor Variance A-24-20

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:

Consents for new development parcels are permitted for lands designated "Residential" under the Town of Essex Official Plan;

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

Lot areas in the Residential district vary greatly. There are lots existing in this neighbourhood that are under the 50 foot width provision.

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

The Harvey Street neighbourhood contains single family dwellings. The R1.1 zoning category permits single family dwellings, and also allows a 2nd dwelling unit to be located within the main dwelling provided that there are no indications externally of the second dwelling. Due to parking concerns brought forward from the public in October, the applicants have revised their designs to include single family residences with attached garages, and have included the potential for a second dwelling unit within the basement level. The attached garages will permit 2 parked cars, and the driveway can support a third and potentially a 4th parking space. There is also on-street parking available on Harvey St directly in front of the subject property. According to the parking provisions in the Zoning By-law only one parking spot is required per dwelling unit. The proposed design accommodates and exceeds the parking provisions in the Zoning By-law.

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

The variance is necessary in order to accommodate the consent application.

Public Comment

As a result of the giving of public notice, we previously received the following summarized concerns from the public:

- Concerns with the original design showing a potential tri-plex (3 dwelling units) on the severed and retained parcels. (Note: a tri-plex would not be a permitted use in the R1.1 zone)
- A multiple unit dwelling would create parking issues
- Concerns for the removal of mature trees from the neighbourhood
- Proposed design would not fit in with the established older single family dwelling neighbourhood characteristics
- Concerns that this development would create more stress on the drainage system

Upon circulation of the revised design, we have received no further phone calls or written objections from the public regarding this proposal as of December 11, 2020.

For the Committee's information and in response to the above noted concerns we provide the following information for clarity:

- **The applicants are only able to have a maximum of two dwelling units in each main building to comply with the R1.1 Zoning Category.**
- **the proponents must provide one onsite parking space for each dwelling unit**
- **The main building height is restricted to 10 metres (32 feet)**
- **Building height is defined as the vertical distance between the grade and the midpoint between the lowest eaves and the highest point of the roof (there is nothing dictating how high you can go beyond this point.**

- **A basement is defined as a storey *which is partially below grade* where the vertical distance from the grade to the floor is equal to or less than the vertical distance from the grade to the ceiling next above.**

Actions:

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

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That the applicant pay the applicable parkland dedication fee in the amount of \$1250.00 in accordance with Town of Essex Policy No. 899-11-324 to be charged against the lot created by consent and that the payment be made prior to the stamping of the deeds and/or issuance of the certificate;
- f) That, 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 width for the severed and retained parcel. Additionally, that the variance be made conditional to the submitted drawings completed by Keen Design Studio, dated November 5, 2020.
- g) That all of the above conditions be fulfilled on or before December 15, 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.

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 concerns in relation to Stormwater Management, Natural Hazard and Natural Heritage. ERCA has no objection to these applications for Minor Variance and Consen.

Discussion:

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

James Mathies, 181 Harvey, advises that he has concerns with water retention and possible damage to his property from the proposed structures at 171 Harvey.

Lori Chadwick, Director of Development Services, advises that water retention is required to be done by each home owner.

Corinne Chiasson, advises that there is a drainage plan for the subject property and advises that when the applicants attend the building department for permits to build a structure grading and water retention will be reviewed and current standards will be required to be met.

Moved by: Ray Beneteau

Seconded by: Phil Pocock

(CAO-2020-12-96) That application B-20-20 be **granted** to sever a 5100 square foot parcel from the existing 10,200 square foot residential lot for the purposes of lot creation. The retained parcel is proposed to have an area of a 5100 square foot

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 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, 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 width for the severed and retained parcel. Additionally, that the variance be made conditional to the submitted drawings completed by Keen Design Studio, dated November 5, 2020.
- g) That all of the above conditions be fulfilled on or before December 15, 2021.

“Carried”

6.4 Corinne Chiasson, Assistant Planner RE:

Application A-24-20 Richard and Beverly Bonneau (Agent: Jerry Goldberg) 171 Harvey St (Essex Centre, Ward 1) (Previously Heard October 20th 2020)

A application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 171 Harvey Street in Essex Centre. The applicants are proposing to sever a \pm 5100 square foot parcel from the existing \pm 10, 200 square foot residential lot. As a result, the

severed and retained parcels lot width will be reduced to ± 42.5 feet. The minimum required lot width in residential District 1.1 (R1.1) under Town of Essex Zoning By-law, By-law 1037, is 15 metres (50 feet). Therefore, the relief being requested is for 2.286 metres (7.5 feet)

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

6.4.1 Public Presentations (if any)

Corinne Chiasson, Assistant Planner wrote:

Corinne Chiasson, Assistant Planner wrote:

An application for consent and minor variance were received by the Town of Essex Committee of Adjustment for the lands located at 171 Harvey Street in Essex Centre. The applicants are proposing to sever a ± 5100 square foot parcel from the existing $\pm 10,200$ square foot residential lot for the purposes of creating a new residential lot. As a result, the lot width of both the severed and retained parcels will be reduced to ± 12.95 metres (42.5 feet).

The minimum required lot width in Residential District 1.1 (R1.1) under Town of Essex Zoning By-law, By-law 1037, is 15 metres (50 feet). Therefore, the relief being requested is for 2.286 metres (7.5 feet).

The applicants are proposing to construct a single family dwelling on the resulting severed and retained lots. *A single detached dwelling* is defined as one (1) dwelling, other than a mobile home, having one (1) dwelling unit, but may also include a second dwelling unit within it. Due to concerns raised by the public during the previous October hearing, the owners have revised the original house designs. To satisfy the public concerns for additional parking, the owners have included attached garages, and designed a building envelope to preserve the mature trees. The building envelopes were also reduced to ensure compliance with the zoning provisions for lot coverage. A drainage plan has also been submitted and will be a component of the building review process.

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 proposal does not conflict with the policies of the PPS.

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 infilling within the existing developed areas designated "Residential". Single detached dwellings are permitted uses in areas designated "Residential". 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, December 11, 2020.

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

The proposed lot is comparable in size and in configuration to other lots located along Harvey St, and neighbouring adjacent Thomas Street and Albert Street.

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.

Item 4 - Requirement for Minor Variance A-24-20

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:*

Consents for new development parcels are permitted for lands designated "Residential" under the Town of Essex Official Plan;

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

Lot areas in the Residential district vary greatly. There are lots existing in this neighbourhood that are under the 50 foot width provision.

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

The Harvey Street neighbourhood contains single family dwellings. The R1.1 zoning category permits single family dwellings, and also allows a 2nd dwelling unit to be located within the main dwelling provided that there are no indications externally of the second dwelling. Due to parking concerns brought forward from the public in October, the applicants have revised their designs to include single family residences with attached garages, and have included the potential for a second dwelling unit within the basement level. The attached garages will permit 2 parked cars, and the driveway can support a third and potentially a 4th parking space. There is also on-street parking available on Harvey St directly in front of the subject property.

According to the parking provisions in the Zoning By-law only one parking spot is required per dwelling unit. The proposed design accommodates and exceeds the parking provisions in the Zoning By-law.

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

The variance is necessary in order to accommodate the consent application.

Public Comment

As a result of the giving of public notice, we previously received the following summarized concerns from the public:

- Concerns with the original design showing a potential tri-plex (3 dwelling units) on the severed and retained parcels. (Note: a tri-plex would not be a permitted use in the R1.1 zone)
- A multiple unit dwelling would create parking issues
- Concerns for the removal of mature trees from the neighbourhood
- Proposed design would not fit in with the established older single family dwelling neighbourhood characteristics
- Concerns that this development would create more stress on the drainage system

Upon circulation of the revised design, we have received no further phone calls or written objections from the public regarding this proposal as of December 11, 2020.

For the Committee's information and in response to the above noted concerns we provide the following information for clarity:

- **The applicants are only able to have a maximum of two dwelling units in each main building to comply with the R1.1 Zoning Category.**
- **the proponents must provide one onsite parking space for each dwelling unit**
- **The main building height is restricted to 10 metres (32 feet)**
- **Building height is defined as the vertical distance between the grade and the midpoint between the lowest eaves and the highest point of the roof (there is nothing dictating how high you can go beyond this point.**
- **A basement is defined as a storey *which is partially below grade* where the vertical distance from the grade to the floor is equal to or less than the vertical distance from the grade to the ceiling next above.**

Actions:

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

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;

- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That the applicant pay the applicable parkland dedication fee in the amount of \$1250.00 in accordance with Town of Essex Policy No. 899-11-324 to be charged against the lot created by consent and that the payment be made prior to the stamping of the deeds and/or issuance of the certificate;
- f) That, 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 width for the severed and retained parcel. Additionally, that the variance be made conditional to the submitted drawings completed by Keen Design Studio, dated November 5, 2020.
- g) That all of the above conditions be fulfilled on or before December 15, 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.

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 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 concerns in relation to Stormwater Management, Natural Hazard and Natural Heritage. ERCA has no objection to these applications for Minor Variance and Consent.

Discussion:

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

Moved by: Phil Pocock

Seconded by: Dan Boudreau

(CAO-2020-12-97) That application A-24-20 be **granted** to accommodate a reduction in the minimum lot width provision from 50 feet to 42.5 feet and add the condition that the submitted drawings completed by Keen Design Studio, dated November 5, 2020 be complied with for the subject property.

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”

6.5 Corinne Chiasson, Assistant Planner RE:

Application B-27-20 Sand Dollar Farms Inc. (Agent: Mike Cipkar) 1195 Iler Road (Colchester South, Ward 3)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 1195 Iler Road in the former township of Colchester South. The applicants are proposing to sever a ± 0.92 acre parcel from the existing ± 105.5 acre farm lot. The applicant is proposing this consent because the residence is surplus to the needs of the farming operation.

Note: An application for minor variance has also been received for the subject lands (File Number: A-31-20). 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: Agricultural

Zoning Category: Agricultural 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 1195 Iler Road in the former township of Colchester South. The applicants are proposing to sever a +0.92 acre parcel from the existing +105.5 acre farm lot. The applicant is proposing this consent because the residence is surplus to the needs of the farming operation.

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 main agricultural operation is located at 1195 Iler Road. Mr. and Mrs. Cipkar also own a separate agricultural property located just west of the subject property. The proposed severed parcel fronting on Huffman Road contains a dwelling that is considered surplus to the needs of the Cipkar's farming operation. This application is therefore consistent with the PPS policies for 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 retained 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 for the farming operation will be kept with the main use dwelling at 1195 Iler Rd;

- 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 Huffman Road, a public road which is owned and assumed by the Town 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.

Item 6 - Requirement for Minor Variance A-30-20

An application for minor variance has also been received by the Town of Essex Committee of Adjustment for the lands located at 1195 Iler Road. The minimum lot width for lots within Agricultural District 1.1 (A1.1) is 60 metres (200 feet) or as existing. As a result of the proposed severance for a surplus dwelling, the lot width for the severed parcel is proposed to be ± 45 metres (150 feet), therefore the relief being requested is 15 metres (50 feet).

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. This proposal meets the PPS criteria for 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. 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 December 11, 2020.

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

Comments were received from Mr. Kevin Carter, Manager of Building Services/Chief Building Official, he stated that approval be conditional on the septic system complying with Part 8 of the Ontario Building code.

No other comments were received from circulated internal agencies as of Friday December 11, 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 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 lot area for the retained and severed parcel.
- h) That all of the above conditions be fulfilled on or before December 15, 2021.

Additional comments resulting from circulation:

Vitra Vimalanathan, 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.

We note that the subject property is adjacent to (within 120 m of) a natural heritage feature that may meet the criteria for significance under the PPS. 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.”

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 Stormwater Management, Natural Heritage and Natural Hazard. Therefore, ERCA has no objection to this applications 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-2020-12-98) That application B-27-20 be **granted** to sever a \pm 0.92 acre parcel from the existing \pm 105.5 acre farm lot as it is deemed surplus to the farming operation.

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 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 lot area for the retained and severed parcel.
- h) That all of the above conditions be fulfilled on or before December 15, 2021.

"Carried"

6.6 Corinne Chiasson, Assistant Planner RE:**Application A-31-20 Sand Dollar Farms Inc. (Agent: Mike Cipkar) 1195 Iler 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 1195 Iler Road in the former township of Colchester South. The minimum lot width for lots within

Agricultural District 1.1 (A1.1) is 60 metres (200 feet) or as existing. As a result of a proposed severance for surplus dwelling, the lot width for the severed parcel is proposed to be \pm 45 metres, therefore the relief being requested is 15 metres.

Note: An application for consent has also been received for the subject lands (File Number: B-27-20). 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: Agricultural

Zoning Category: Agricultural 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 1195 Iler Road in the former township of Colchester South. The applicants are proposing to sever a +0.92 acre parcel from the existing +105.5 acre farm lot. The applicant is proposing this consent because the residence is surplus to the needs of the farming operation.

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 main agricultural operation is located at 1195 Iler Road. Mr. and Mrs. Cipkar also own a separate agricultural property located just west of the subject property. The proposed severed parcel fronting on Huffman Road contains a dwelling that is considered surplus to the needs of the Cipkar’s farming operation. This application is therefore consistent with the PPS policies for 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 retained 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 for the farming operation will be kept with the main use dwelling at 1195 Iler Rd;

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 Huffman Road, a public road which is owned and assumed by the Town 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.

Item 6 - Requirement for Minor Variance A-30-20

An application for minor variance has also been received by the Town of Essex Committee of Adjustment for the lands located at 1195 Iler Road. The minimum lot width for lots within Agricultural District 1.1 (A1.1) is 60 metres (200 feet) or as existing. As a result of the proposed severance for a surplus dwelling, the lot width for the severed parcel is proposed to be \pm 45 metres (150 feet), therefore the relief being requested is 15 metres (50 feet).

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. This proposal meets the PPS criteria for 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. 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 December 11, 2020.

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

Comments were received from Mr. Kevin Carter, Manager of Building Services/Chief Building Official, he stated that approval be conditional on the septic system complying with Part 8 of the Ontario Building code.

No other comments were received from circulated internal agencies as of Friday December 11, 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 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 lot area for the retained and severed parcel.

h) That all of the above conditions be fulfilled on or before December 15, 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.

We note that the subject property is adjacent to (within 120 m of) a natural heritage feature that may meet the criteria for significance under the PPS. 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.”

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 Stormwater Management, Natural Heritage and Natural Hazard. Therefore, ERCA has no objection to this applications 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-2020-12-99) That application A-31-20 be **granted** to reduce in the minimum lot width for an Agricultural A1.1 lot from 60 metres to \pm 45 metres, for a relief of 15 metres and Reduction in the minimum lot area provision for an Agricultural A1.1 lot from 40 ha (100 acres) or as existing. As a result of the creation of a surplus dwelling lot, the severed lot will result in \pm 0.92 acres in area. .

Reasons for DecisionThe 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: 2021 Committee of Adjustment Meeting Schedule

Moved by: Phil Pocock

Seconded by: Dan Boudreau

(CAO-2020-12-100) That the 2021 Committee of Adjustment Meeting Schedule be adopted as presented.

9.2 Deputy Secretary Treasurer

Committee to adopt a Deputy Secretary Treasurer

Moved by: Dan Boudreau

Seconded by: Phil Pocock

(CAO-2020-12-101) That Rita Jabbour, Manager, Planning Services be the Deputy Secretary Treasurer

9.3 Election Chair / Vice Chair Committee Season 2021

Brian Gray, Vice Chair states that due to COVID-19 restrictions the current Chair, Percy Dufour was not present at the meeting and therefor states that elections should be moved to the January 19th 2021 meeting.

Moved by: Ray Beneteau

Seconded by: Phil Pocock

(CAO-2020-12-102) That the election of Chair and Vice Chair be moved to the January 19th 2021 meeting.

10. Notices of Motion

None.

11. Adjournment

Moved by: Dan Boudreau

Seconded by: Phil Pocock

(CAO-2020-12-103) That the meeting be adjourned at 5:04 p.m.

“Carried”

12. Future Meetings

12.1 Tuesday January 19th, 2021 at 4:00 pm, Virtual Meeting via Zoom

Chair

Secretary-Treasurer