



Committee of Adjustment Meeting Minutes

March 16, 2021, 4:00 PM

Location: Electronic Meeting

Accessible formats or communication supports are available upon request. Please contact the Planning Department at essexplanning@essex.ca or 519-776-7336 extension 1128

Present: Percy Dufour, Chair
Brain Gray, Co-Chair
Phil Pocock, Committee Member
Ray Beneteau, Committee Member

Also Present: Corinne Chiasson, Secretary Treasurer / Assistant Planner
Sarah Aubin, Recording Secretary / Planning Assistant
Rita Jabbour, Manager Planning Services
Lori Chadwick, Director Development Services

Regrets: Dan Boudreau, Committee Member

Absent: None

1. Call to Order

The Chair called the meeting to order at 4:00 PM

2. Declarations of Conflict of Interest

There were no declarations of conflict of interest noted at this time.

3. Adoption of Published Agenda

3.1 Committee of Adjustment Meeting Agenda for March 16, 2021

COA21-03-08

Moved by Ray Beneteau

Seconded by Phil Pocock

Item 6.4 application B-04-21 and 6.5 application A-03-21 Susie Gagnon 3441 North Malden Road (Colchester south, Ward 2) be moved up to item 6.1 on the agenda as the applicant is present in person at the Town Hall.

That the published agenda for the March 16, 2021 Committee of Adjustment Meeting be adopted as amended.

Carried

4. Adoption of Minutes

4.1 Committee of Adjustment Meeting Minutes for January 19, 2021

COA21-03-09

Moved by Brian Gray

Seconded by Phil Pocock

That the minutes of the Committee of Adjustment Meeting held January 19, 2021 be adopted as circulated.

Carried

5. Unfinished Business

6. Reports from Administration

6.1 Corinne Chiasson, Assistant Planner RE:

Application B-04-21 Susie Gagnon 3441 North Malden Rd (Colchester North, Ward 2)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 3441 North Malden Road in the former township of Colchester North. The applicant is proposing to sever a ± 1.0 ha (2.47 acre) parcel from the existing ± 41.37 ha (102.23 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-03-21**). The public notice for the minor variance application has been included with this notice.

6.1.1 Public Presentations (if any)

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 3441 North Malden Road in the former township of Colchester North (Ward 2). The applicant is proposing to sever a 1.0 ha (2.47 acre) parcel from the existing ± 41.37 Ha (102.23 acre) farm lot. The retained agricultural lot will be reduced to ± 40.37 ha. 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 severed parcel contains an existing single detached dwelling, and several farm outbuildings. Access to the severed lot will continue to be by way of North Malden

Road, and access to the retained farm lot will continue to be over an existing culvert at the corner of North Malden Road and Brush Road.

Proposal Conformity with Provincial and Town of Essex Policies

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 applicant owns another agricultural operation located at 3361 North Malden Rd. 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. 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 North Malden 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.

Requirement for Minor Variance A-03-21

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 the retained parcel will decrease in size from 41.37 hectares to 40.37 hectares as a result of the severed parcel being 1.0 hectares. Relief is required to recognise the 1.0 ha severed parcel.

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 application meets the 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 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 March 11, 2021.

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 March 11, 2021.

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, 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.
- 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 all of the above conditions be fulfilled on or before March 16, 2022.

**Essex Region Conservation Authority Comments from Vitra Vimalananthan,
Resource Manager**

The following is provided as a result of our review of Application for Consent B-04-21 and Minor Variance A-03-21. The applicant is proposing to sever a 2.47 acre parcel from the existing 102.23 acre farm lot. The applicant is proposing this consent because the residence is surplus to the needs of the farming operation. In accordance with Zoning By-law 1037, the minimum lot area within the Agricultural District 1.1 (A1.1) is 100 acres or as existing. As a result of a proposed severance for surplus dwelling, the lot area for the severed parcel is proposed to be 2.47 acres, and the retained lot will be 99.75 acres.

**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 Lepain Drain, Mckenize Drain and North Rear Road 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

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 these applications for Minor Variance and Consent.

Discussion

Corinne Chiasson, Assistant Planner, explains the application

COA21-03-10

Moved by Ray Beneteau

Seconded by Phil Pocock

That application B-04-21 be **granted** to sever a \pm 1.0 ha (2.47 acre) parcel from the existing \pm 41.37 ha (102.23 acre) farm lot. The residence is surplus to the needs of the farming operation

Reason for Decision: The Application **is** in keeping with subsection 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, 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.
- 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 all of the above conditions be fulfilled on or before March 16, 2022.

6.2 Corinne Chiasson, Assistant Planner RE:

Application A-03-21 Susie Gagnon 3441 North Malden Rd (Colchester North, Ward 2)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 3441 North Malden Road in the former township of Colchester North. In accordance with Zoning By-law 1037, the minimum lot area within the Agricultural District 1.1 (A1.1) is 40 ha (100 acres) or as existing. As a result of a proposed severance for surplus dwelling, the lot area for the severed parcel is proposed to be 1.0 ha (± 2.47 acres), and the retained lot will be 40.37 ha (99.75 acres).

Note: An application for consent has also been received for the subject lands (**File Number: B-04-21**). The public notice for the consent application has been included with this notice.

6.2.1 Public Presentations (if any)

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 3441 North Malden Road in the former township of Colchester North (Ward 2). The applicant is proposing to sever a 1.0 ha (2.47 acre) parcel from the existing ± 41.37 Ha (102.23 acre) farm lot. The retained agricultural lot will be reduced to ± 40.37 ha. 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 severed parcel contains an existing single detached dwelling, and several farm outbuildings. Access to the severed lot will continue to be by way of North Malden Road, and access to the retained farm lot will continue to be over an existing culvert at the corner of North Malden Road and Brush Road.

Proposal Conformity with Provincial and Town of Essex Policies

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 applicant owns another agricultural operation located at 3361 North Malden Rd. 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. 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 North Malden 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.

Requirement for Minor Variance A-03-21

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 the retained parcel will decrease in size from 41.37 hectares to 40.37 hectares as a result of the severed parcel being 1.0 hectares. Relief is required to recognise the 1.0 ha severed parcel.

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 application meets the 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 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 March 11, 2021.

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 March 11, 2021.

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, 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.
- 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 all of the above conditions be fulfilled on or before March 16, 2022.

Essex Region Conservation Authority Comments from Vitra Vimalananthan, Resource Manager

The following is provided as a result of our review of Application for Consent B-04-21 and Minor Variance A-03-21. The applicant is proposing to sever a 2.47 acre parcel from the existing 102.23 acre farm lot. The applicant is proposing this consent because the residence is surplus to the needs of the farming operation. In accordance with Zoning By-law 1037, the minimum lot area within the Agricultural District 1.1 (A1.1) is 100 acres or as existing. As a result of a proposed severance for surplus dwelling, the lot area for the severed parcel is proposed to be 2.47 acres, and the retained lot will be 99.75 acres.

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 Lepain Drain, Mckenize Drain and North Rear Road 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

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 these applications for Minor Variance and Consent.

Discussion

Corinne Chiasson, Assistant Planner, explains the application

COA21-03-11

Moved by Brian Gray

Seconded by Phil Pocock

That application A-04-21 be **granted** relief from the minimum lot area requirement for an Agricultural District A1.1 (40 ha) lot, to permit the severance of a surplus dwelling 1 ha in size.

Carried

Reason 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

6.3 Corinne Chiasson, Assistant Planner RE:

Application A-01-21 Kennedy Funeral Home Ltd. (Agent: Tony DeRyk) 128 Talbot Street North (Essex Centre, Ward 1)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for 128 Talbot Street North, in Essex Centre (Ward 1). The applicants are proposing to construct an addition to the front of the existing Kennedy Funeral Home. As a result, the applicants are requesting a variance from the following Zoning By-law, Bylaw 1037, Commercial District C2.2 provision

- For a building on a lot within a Parking Exception Area, the front wall of the building shall be setback from the front lot line a distance no greater than the average setback of the main buildings flanking either side of the lot.

The flanking property identified as 120 Talbot St N, Grace Baptist Church, is setback 3.7 metres from the property line. Therefore the amount of relief being requested by the applicant is 3.7 metres from the road right of way (sidewalk)

6.3.1 Public Presentations (if any)

Official Plan Designation: Central Commercial-Essex (and within the Parking exemption area)

Zoning: Commercial C2.2 – General Commercial Uses

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the property identified as 128 Talbot Street North, in Essex Centre (Ward 1).

The applicants are proposing to construct an addition to the front of the existing Kennedy Funeral Home. As a result, the applicants are requesting a variance from the following Zoning By-law, Bylaw 1037, Commercial District C2.2 provision:

For a building on a lot within a Parking Exemption Area, the front wall of the building shall be setback from the front lot line a distance no greater than the average setback of the main buildings flanking either side of the lot.

The “parking exemption area” noted above refers to the areas identified in the Centre Commercial District that may be exempt from the parking requirements identified in the Zoning By-law. These areas have access to shared municipal parking lots, and on street parking.

The subject property is located on a corner lot, at Talbot and Medora Ave, therefore the only flanking property is the Grace Baptist Church located at 120 Talbot St N. The neighbouring church structure, is setback 2.7 metres from the front property line or 3.7 metres from the edge of the road right of way (sidewalk). The applicant is therefore requesting 2.7 metres of relief from the zoning provision to permit the structure to abut the front property line. If permitted, this zero front yard setback would be comparable to nearby businesses along Talbot St N, which also have a zero front lot line setback (eg.

Short Cuts Hair Salon, Little House of Cupcakes, Vangs Restaurant, Red Apple, and Royal Canadian Legion).

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: The existing funeral home business/commercial structure is a permitted use under the Central Commercial designation. Businesses are permitted to be placed at a zero front yard setback distance along the main street in the Town Centre designation under the Town of Essex Official Plan. The Official Plan promotes a continuous linear street frontage of mixed-use commercial/residential development, with compact form in the downtown core areas. These policies promote pedestrian movement, and enhances the esthetically and functional character of the main street. The property is zoned C2.2 which permits the existing use, and the addition to the funeral reception area. Relief from this specific zoning provision is due to the Grace Church being slightly setback from the road right of way than other buildings along the main street. This proposal will satisfy all other zoning provisions. The intent of the zoning provision is to ensure buildings are consistently placed along the main street in a linear alignment.

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

The Kennedy Funeral Home has been a long established business at this site. Relief is being requested to accommodate a small extension of the existing reception area, to accommodate additional patrons and spacing, and update the façade of the reception area. This proposal is considered minor as all other zoning provisions will be met. Due to the existing wide sidewalk area fronting this property, there will only be a small visual impact to the adjacent property.

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

The subject property, being located on a corner lot is only flanked by the Grace Baptist Church. The Church being slightly setback from the street, is the reason why this variance is necessary. All the commercial businesses located down the street from this property, on both sides of Talbot Street and Medora Ave, contain a zero front yard setback distance.

The proposed addition will be located outside of the line of site and daylight corners of the adjacent intersection with Medora Ave. This addition will not impact the entrances or parking patterns associated with the Grace Church, because of the ample sidewalk width and additional width area of the on-street parking.

The proposal will enhance the established character of the neighbourhood through architectural design. The proposed expanded reception area design will complement

the historic façade of the 1880's main building, add further curb appeal at the street level, and incorporate further accessibility for patrons.

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

Due to the Grace Baptist Church being the only building slightly setback from the road right of way on main street, a variance of 2.7 metres (8.8 feet) is needed. The owner wishes to compliment the historic character of existing building by improving the existing flat roof style façade with a gable roof and new porch entrance.

Public and Agency Comments

Upon circulation of the public notice we did not receive any comment as of March 11th, 2021 from the public.

Internal departments were circulated, and we did not receive any objections as of March 11th, 2021.

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

Actions:

To be determined by the Committee.

Essex Region Conservation Authority Comments from Vitra Vimalananthan, Resource Manager

The following is provided as a result of our review of Application for Minor Variance A-01-21. The applicant is proposing to construct an addition to the front of the existing Kennedy Funeral Home. As a result, the applicants are requesting a variance from the following Zoning By-law, Bylaw 1037, Commercial District C2.2 provision

For a building on lot within a Parking Exception Area, the front wall of the building shall be setback from the front lot line a distance no greater than the average setback of the main buildings flanking either side of the lot.

The flanking property identified as 120 Talbot St N, Grace Baptist Church, is setback 3.7 meters from the property line. Therefore the amount of relief being requested by the applicant is 3.7 meters from the road right of way.

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.

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 objection to these applications for Minor Variance.

Discussion

Corinne Chiasson, Assistant Planner, explains the application

COA21-03-12

Moved by Phil Pocock

Seconded by Ray Beneteau

That application A-01-21 be **granted** relief in the front yard setback requirement for a lot within a Parking Exception Area. The relief requested is to permit a zero setback distance from the road right of way.

Carried

Reason 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

6.4 Corinne Chiasson, Assistant Planner RE:

Application A-02-21 Essex Town Centre Ltd. (Agent: Remo Valente) Vacant Lot on Lane Street, South of Maidstone Ave (Essex Centre, Ward 1)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for a vacant lot located South of Maidstone Ave, on Lane Street (which is yet to be completed as part of the Essex Town Centre Subdivision – located directly behind the Canadian Tire Store) in Essex Centre (Ward 1). The applicants are proposing to construct a 4 unit townhouse residential structure. As a result, the applicants are requesting the following variances from the Zoning By-law, Bylaw 1037:

- Relief from the required 7.5 metre rear yard setback distance, to the following: 5.06 m, 7.10 m, 7.08 m, and 5.49 m because of the irregular shaped lot. (Note: By-law 1037 permits porches to encroach into the required rear yard).
- Relief from the maximum 50 percent lot coverage provision. Due to the irregular shaped lot, the proposed structure would result in a 51 percent lot coverage. Therefore, the relief being requested is 1 percent.

6.4.2 Public Presentations (if any)

Property: Vacant Lot on Lane Street, South of Maidstone Ave (Essex Centre, Ward 1)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for a vacant lot located South of Maidstone Ave, on Lane Street (which is yet to be completed as part of the Essex Town Centre Subdivision located directly behind the Canadian Tire Store) in Essex Centre (Ward 1). The applicants are proposing to construct a 4 unit townhouse residential structure. As a result, the applicants are requesting the following variances from the Zoning By-law, Bylaw 1037:

- Relief from the required 7.5 metre rear yard setback distance, to the following: 5.06 m, 7.10 m, 7.08 m, and 5.49 m because of the irregular shaped lot. (Note: Bylaw 1037 permits porches to encroach into the required rear yard).

- Relief from the maximum 50 percent lot coverage provision. Due to the irregular shaped lot, the proposed structure would result in a 51 percent lot coverage. Therefore, the relief being requested is 1 percent

Deferral Request Received: February 26, 2021

As per our conversation this morning we would like to defer our application for Minor Variance until next month, we will be revising the minor variance to be for the garage width and not for the lot coverage and set back as previously applied.

I will be sending you the new sketch and site specific zoning as requested in a separate email.

Thank you

Corey St-Onge

Project Manager

Valente Development

Essex Region Conservation Authority Comments from Vitra Vimalanathan, Resource Manager

The following is provided as a result of our review of Application for Minor Variance A-02-21. The applicant is proposing to construct a 4 unit townhouse residential structure.

As a result, the applicants are requesting the following variances from the Zoning By-law Bylaw 1037:

Relief from the required 7.5 meter rear yard setback distance, to the following: 5.06m, 7.10m, 7.08m and 5.49 m because of the irregular shaped lot.

Relief from the maximum 50% lot coverage provision. Due to the irregular shaped lot, the proposed structure would result in 51 percentage lot coverage. Therefore, the relief being requested is 1%.

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 Rush 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

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)

This office previously reviewed the Stormwater Management Report and related plans associated with the development of this site, and our concerns with respect to stormwater management were adequately addressed. However, if any changes to the previously reviewed development are proposed, the property owner's consultant will be required to review and reassess those changes with respect to their potential impacts on stormwater management. If it is determined that additional stormwater management measures and/or modifications to the original report are required, it may be necessary for the owner to obtain a revision to our original approval.

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 these applications for Minor Variance.

Discussion

Corinne Chiasson, Assistant Planner, explains the application

COA21-03-13

Moved by Brian Gray

Seconded by Phil Pocock

That application A-02-21 be **deferred**

Carried

Reason for Decision: The Applicant requested deferral

6.5 Corinne Chiasson, Assistant Planner RE:

Application B-03-21 Brian Curtis, Jessy Bale, Danny Bale 118 Levergood Drive (Colchester South, Ward 3)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 118 Levergood Drive, in former Colchester South. The applicants are proposing to sever a ± 9591.05 square metre parcel from the existing $\pm 22,854$ square metre residential lot for the purposes of lot creation. The retained parcel would result in an area of ± 13262.95 square metres.

6.5.1 Public Presentations (if any)

Official Plan Designation: "Lakeshore Residential"

Zoning Category: Residential District 1.1 (HR1.1) – Low density on urban lots

An application for consent has been received by the Town of Essex Committee of Adjustment for the lands located at 118 Levergood Drive in former Colchester South. The applicants are proposing to sever a ± 9591 square metre parcel from the existing $\pm 22,854$ square metre residential lot for the purposes of creating a new residential lot. The proposed dividing property line will follow the natural severance of the Bondy Drain No. 1, which runs diagonally through the centre of the subject site.

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 areas designated "Residential". Single detached dwellings are permitted uses in areas designated "Lakeshore Residential".

We received comments 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 March 11, 2021.

c) The continuation of an orderly development pattern:

Lots located along Levergood Drive are a mixture of large estate size lots and smaller cottage size lots. This lot will be comparable with the retained portion as well as two large lots located just south of the subject site.

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 will be serviced by a private tertiary septic system, and a roadside drainage swale.

Public Comment

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 March 11, 2021.

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 March 11, 2021.

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 March 16, 2022.

Essex Region Conservation Authority Comments from Vitra Vimalananthan, Resource Manager

The following is provided as a result of our review of Application for Consent B-03-21.

The applicant is proposing to sever a 9591.05 square meter parcel from the existing 22,854 square meter residential lot located at 118 Levergood Drive for the purpose of lot creation. The retained parcel would result in an area of 13262.95 square meters.

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 Bondy 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 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.

Notwithstanding the above noted references to the PPS policies, based on our review of the subject application, it is our recommendation to the Municipality that an Environmental Impact Assessment is not required because residential uses already exist in this area and any future construction on the severed lot will not alter the vegetation associated with the existing drain. In our opinion based on these circumstances, a demonstration of no negative impact is not necessary in this case.

FINAL RECOMMENDATION

With the review of background information and aerial photograph, ERCA has no objection to the applications for Consent.

Discussion

Corinne Chiasson, Assistant Planner, explains the application

COA21-03-14

Moved by Phil Pocock

Seconded by Brian Gray

That application B-03-21 be **granted** to sever a \pm 9591.05 square metre parcel from the existing \pm 22,854 square metre residential lot for the purposes of lot creation.

Carried

Reason for Decision: The Application **is** in keeping with subsection 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 March 16, 2022.

7 Correspondence

8 New Business

8.1 Update on Committee Member

COA-03-15

Moved by Brian Gray

Seconded by Phil Pocock

That the committee move into a closed session to discuss or receive an update on a personal matter as permitted by Section 239 (2) (b) of the Municipal Act, S.O. 2001, c.25,

Carried

COA-03-16

Moved by Ray Beneteau

Seconded by Brian Gray

That Council make a decision with regards to a committee members request for leave of absence and that Council determine how they would like to proceed with the position and filling the seat in his absence.

Carried

9 Announcements

Corinne Chiasson, Assistant Planner advised that the annual Ontario Association of Committee of Adjustment and Consent Authority (OACA) will be hosting their annual conference via zoom on June 8, 2021. She invited all members to advise of their interest at their earliest convenience as the deadline to register is April 30, 2021.

10 Notices of Motion

11 Adjournment

COA21-03-17

Moved by Ray Beneteau

Seconded by Phil Pocock

That the meeting be adjourned at 5:02 PM

Carried

Chair

Recording Secretary