



Committee of Adjustment Meeting Minutes

July 20, 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](mailto:essexplanning@essex.ca) or 519-776-7336 extension 1128

Present: Brain Gray, Co-Chair  
Phil Pocock, Committee Member  
Sherry Ducedre, Committee Member

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

Regrets: Ray Beneteau, Committee Member  
Percy Dufour, Chair

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 declaration of conflicts of interest noted at this time.

**3. Adoption of Published Agenda**

**3.1 Committee of Adjustment Meeting Agenda for July 20, 2021**

**COA21-07-54**

Moved by Member Pocock  
Seconded by Member Ducedre

**That** the published agenda for the July 20 2021 Meeting be adopted as amended that item 6.9 B-23-21 and 6.10 A-16-21 Alexander & Janet Keith 170 County Road 50 West be moved to item 6.1 on the agenda.

**Carried**

#### **4. Adoption of Minutes**

##### **4.1 Committee of Adjustment Meeting Minutes for June 15, 2021**

###### **COA21-07-55**

Moved by Member Pocock

Seconded by Member Ducedre

**That** the minutes of the Committee of Adjustment Meeting held June 15, 2021 be adopted as circulated.

**Carried**

#### **5. Unfinished Business**

#### **6. Reports from Administration / Applications**

##### **6.1 Corinne Chiasson, Assistant Planner RE:**

###### **Application B-23- 21 Alexander & Janet Keith 170 County Road 50 West (Colchester South, Ward 3)**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 170 County Road 50 West in the former township of Colchester South. The applicants are proposing to sever a  $\pm 7$  acre parcel from the existing  $\pm 75$  acre Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being surplus to the needs of the farming operation.

###### **6.9.1. 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 170 County Road 50 West in the former township of Colchester South. The applicants are proposing to sever a  $\pm 7$  acre parcel from the existing  $\pm 75$  acre Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being 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, with a separate driveway access than that of the farm. The retained parcel also contains an existing

single detached dwelling. Both dwellings are in habitable condition. Access to the retained lot will continue to be via Road 50.

#### 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 is selling the retained lands to UCG Farms, who owns other agricultural operations in the area. The applicant has submitted a purchase agreement and farm consolidation form to provide evidence that this application meets the criteria under 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 Official Plan further states that "the protection of natural heritage feature and systems, the integration of manmade features, such as windbreaks, and the choice of consolidating outbuildings with the surplus dwelling or retaining them with the farm will also be considered when the size and boundaries of the surplus dwelling lot are determined and approved by consent; the applicants wish to keep and protect the natural heritage feature with the severed parcel. The applicant also requests that the larger lot size be considered by the Committee, as it is their future intention to create horse paddocks in the field area where the barn was once located. Therefore, the applicants are requesting to sever 7 acres (2.83 ha) instead of the Official Plan policy recommendation of 1 hectare (2.47 ac) for surplus dwellings.

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); The applicant is undertaking new septic systems for both dwellings.

- 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, as well as the retained parcel. No additional dwellings will be permitted on this lot or on the retained lot. No existing livestock facilities will be impacted by the proposed severance;
- e) *the severed dwelling lot has frontage on a public road:* the severed dwelling lot has frontage on County Road 50, a public road which is owned and assumed by the County of Essex.
- f) *the surplus dwelling is in habitable condition, as determined by the Town or certified by a qualified building inspector:* no objections to the application were received from the Building Department.
- 

### **Requirement for Minor Variance A-16-21**

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 75 acres (30.35 ha) to 68 acres (27.51 ha) as a result of the severed parcel being 7 acres (2.8 ha). Relief is also required to recognise the 7 acre severed parcel.

### **Proposal Conformity with Provincial and Town of Essex 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 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, therefore there will be no impacts to the existing character or traffic patterns of the neighbourhood.
- 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 July 15, 2021.

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections because the purpose of the application will not result in a change in land use or negative impact the natural heritage features identified on the severed and retained parcels.

Comments were received from the County of Essex stating they have no objections. They further state that the minimum setback must be 85 feet from the centre of the original ROW of County Road 50. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances and structures.

No comments were received from circulated internal agencies as of July 15, 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, one hard copy 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 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 July 20, 2022.

**Discussion:**

Corinne Chiasson, Secretary Treasurer explains the application

**COA21-07-56**

Moved by Member Ducredre

Seconded by Member Pocock

**That** application B-23-21 be **granted** sever a  $\pm 7$  acre parcel from the existing  $\pm 75$  acre Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being surplus to the needs of the farming operation.

**Carried**

**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, one hard copy 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 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 July 20, 2022.

## **6.2 Corinne Chiasson, Assistant Planner RE:**

### **Application A-16- 21 Alexander & Janet Keith 170 County Road 50 West (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 170 County Road 50 West in the former township of Colchester South. The lot area for the severed and retained parcel will be reduced from  $\pm 75$  acres to  $\pm 7$  acres and  $\pm 68$  acres, respectively. The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

#### **6.10.1. 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 170 County Road 50 West in the former township of Colchester South. The applicants are proposing to sever a  $\pm 7$  acre parcel from the existing  $\pm 75$  acre Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being 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, with a separate driveway access than that of the farm. The retained parcel also contains an existing single detached dwelling. Both dwellings are in habitable condition. Access to the retained lot will continue to be via Road 50.

#### 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 is selling the retained lands to UCG Farms, who owns other agricultural operations in the area. The applicant has submitted a purchase agreement and farm consolidation form to provide evidence that this application meets the criteria under 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 Official Plan further states that "the protection of natural heritage feature and systems, the integration of manmade features, such as windbreaks, and the choice of consolidating outbuildings with the surplus dwelling or retaining them with the farm will also be considered when the size and boundaries of the surplus dwelling lot are determined and approved by consent; the applicants wish to keep and protect the natural heritage feature with the severed parcel. The applicant also requests that the larger lot size be considered by the Committee, as it is their future intention to create horse paddocks in the field area where the barn was once located. Therefore, the applicants are requesting to sever 7 acres (2.83 ha) instead of the Official Plan policy recommendation of 1 hectare (2.47 ac) for surplus dwellings.

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); The applicant is undertaking new septic systems for both dwellings.

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, as well as the retained parcel. No additional dwellings will be permitted on this lot or on the retained lot. No existing livestock facilities will be impacted by the proposed severance;

e) *the severed dwelling lot has frontage on a public road:* the severed dwelling lot has frontage on County Road 50, a public road which is owned and assumed by the County of Essex.

f) *the surplus dwelling is in habitable condition, as determined by the Town or certified by a qualified building inspector:* no objections to the application were received from the Building Department.



### **Requirement for Minor Variance A-15-21**

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 75 acres (30.35 ha) to 68 acres (27.51 ha) as a result of the severed parcel being 7 acres (2.8 ha). Relief is also required to recognise the 7 acre severed parcel.

#### **Proposal Conformity with Provincial and Town of Essex 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 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, therefore there will be no impacts to the existing character or traffic patterns of the neighbourhood.
- 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 July 15, 2021.

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections because the purpose of the application will not result in a change in land use or negative impact the natural heritage features identified on the severed and retained parcels.

Comments were received from the County of Essex stating they have no objections. They further state that the minimum setback must be 85 feet from the centre of the original ROW of County Road 50. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances and structures.

No comments were received from circulated internal agencies as of July 15, 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, one hard copy 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 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 July 20, 2022.

**Discussion:**

Corinne Chiasson, Secretary Treasurer explains the application

**COA21-07-57**

Moved by Member Ducedre

Seconded by Member Pocock

**That** application A-16-21 be **granted** as a result of a proposed severance for surplus dwelling, the lot area for the severed and retained parcel will be reduced from +75 acres to + 7 acres and +68 acres, respectively. The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

**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-13- 21 Christopher & Chelsea Letteri 6207 County Road 11 (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 6207 County Road 11 in the former township of Colchester South. The applicants are proposing to construct a + 83.61 square metre (900 square foot) addition to the existing dwelling for the purposes of a garage. As a result, the rear yard depth will be reduced to + 12.6 metres (41.5 feet). The minimum required rear yard depth for lands within Agricultural District (A1.1) under Town of Essex Zoning By-law, By-law 1037, is 15 metres (50 feet). Thus the applicants are requesting a variance to accommodate a + 2.5 metre (8.5 foot) reduction in the rear yard depth.

#### **6.1.1. Public Presentations (if any)**

Official Plan Designation: Agricultural

Zoning: Agricultural District 1.1 (A1.1) – General agricultural and farm production support activities

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 6207 County Road 11 in the former township of Colchester South. The applicants are proposing to construct a + 83.61 square metre (900 square foot) addition to the existing dwelling for the purposes of a garage. As a result, the rear yard depth will be reduced to + 12.6 metres (41.5 feet). The minimum required rear yard depth for lands within Agricultural District (A1.1) under Town of Essex Zoning By-law, By-law 1037, is 15 metres (50 feet). Thus the applicants are requesting a variance to accommodate a ± 2.5 metre (8.5 foot) reduction in the rear yard depth.

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

encroach slightly into this required yard by 8.5 feet due to the irregular triangular shaped lot.

#### 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 this Plan and the Zoning Bylaw are maintained:* A single detached dwelling is a permitted main use for lands designated "Agricultural" and under the A1.1 zoning district. An attached garage is permitted as an accessory to the main use of the dwelling. An accessory use is defined as use which is customarily incidental, subordinate and exclusively devoted to the main use and is carried on with such main use on the same lot. In accordance with Bylaw 1037, an accessory use may be situated within the main building (dwelling).
- b) *The variance(s) is minor and desirable for the appropriate use of the land:* The garage addition will support the existing main use dwelling. The garage addition will be located on the north side of the dwelling to ensure County of Essex County Road 11 setbacks, Town of Essex front and side yard setbacks, and ERCA's setbacks from the Plante Drain are satisfied. The addition to the dwelling will also fall within the lot coverage provisions for the A1.1 zoning district.
- c) *The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:* Neighbouring properties contain attached and detached accessory structures of relative size and use. There will be no changes to the use of this property, or the access to this property, and therefore no adverse effects to traffic patterns are anticipated;
- d) *The variance deals with circumstances particular to the site and development:* Due to the configuration of the property being triangular in shape, the required rear yard setback is restrictive. The northwest corner of the proposed addition will have a 41.5 ft setback from the rear lot line. As this property is located within the agricultural zoning category, with no immediate adjacent neighbours no negative impacts are anticipated.

#### Public and Agency Comments

Upon circulation to internal departments we did not receive any objections as of June 15th, 2021.

Comments were received from the Essex Region Conservation Authority, they noted that the property does fall within the regulated area of the Plante Drain, however due to the location of the proposed addition, they had no objections.

Comments were received from the County of Essex, and they have no objections.

They stated that the minimum setback must be 85 feet from the centre of the original ROW of County Road 11. Permits are necessary for any changes to existing structures

or the construction of new structures or changes to the existing entrances or the construction of new entrances.

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 July 15, 2021.

**Actions: to be determined by the Committee**

**Discussion:**

Corinne Chiasson, Secretary Treasurer explains the application

**COA21-07-58**

Moved by Member Pocock

Seconded by Member Ducedre

**That** application A-13-21 be **granted** to construct a + 83.61 square metre (900 square foot) addition to the existing dwelling for the purposes of a garage. As a result, the rear yard depth will be reduced to + 12.6 metres (41.5 feet). Thus the applicants are requesting a variance to accommodate a + 2.5 metre (8.5 foot) reduction in the rear yard depth.

**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 B-17- 21 Harkirat Bhullar (Agent: Tracey Pillon Abbs) 469 King Street (County Rd 20) (Harrow, Ward 4) (Previously Deferred at the May 18<sup>th</sup> 2021 meeting)**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 469 King St, in Harrow. The applicants are proposing to sever a ± 786.88 square metre (± 8470 sq ft) parcel from the existing ± 2330.9 square metre (±25089.60 sq ft) residential lot for the purposes of lot creation. The retained parcel would result in an area of ± 1544.10 square metres (±16,620.56 sq ft).

#### **6.4.1. Public Presentations (if any)**

**Official Plan Designation:** "Residential"

**Zoning Category:** "Residential District (R1.1)" – Low density housing on urban lots  
A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 469 King St, in Harrow. The applicants are proposing to sever a + 8470 square foot parcel (+ 786.88 square metre) from the existing + 25,090.56 square foot (0.576 acre) residential lot for the purposes of lot creation. The retained parcel would result in an area of +16,620.56 square foot (+1544.10 square metres).

Note: An application for consent has also been received for the subject lands (File Number: B-18-21).

The Residential 1.1 (R1.1) zone permits single family dwellings as a main use. The proposed severed lot would have a frontage of 77 feet and a depth of 110 feet, for a total of 8470 square feet in lot area. The proposed lot would therefore satisfy the minimum lot area required for an R1.1 Zone which is 5000 square feet and the minimum lot width provision of 50 feet.

This application was previously deferred at the request of the Committee, pending further information regarding the ownership of the Sunset Garden's subdivision sign, and whether there is an easement or maintenance agreement between the owner of the property and the owner of the Sunset Gardens Subdivision sign, shown on Part 1 of the draft 12R survey plan. The owner of the property has submitted an agreement which states: "The parties agree that the signage and supporting columns presently situated on the Lands shall remain in place

and undisturbed throughout the term of this Agreement", and further, " This Agreement shall remain in full force and effect for a period of 21 years less a day from the date of execution hereof and shall be binding upon all successors, assigns, and subsequent owner or owners of the lands until the date of the expiration of the term herein." This Agreement has been registered on the title of the property as of March 29, 2021. The agreement will run with the title of the property if this lot is created and sold.

Proposal Conformity with Town of Essex Official Plan Policies

In accordance with section 6.4 of the 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. The PPS does promote mixed

density in urban areas. Higher density in core areas, promote attractive walkable neighbourhoods, accessibility, and connectivity to community amenities.

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". Increased density in core areas minimize urban sprawl and promote compact urban forms that encourage accessibility, walkability, and maximize efficiency of services.

c) The continuation of an orderly development pattern: The creation of this lot will be comparable in width to adjacent lots fronting along King Street. The proposed lot area will provide a modest sized building envelope that will be able to satisfy the required setbacks and amenity areas. The resulting retained lot will still satisfy all requirements for required yards and zoning provisions.

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 will have access to municipal water, storm and sanitary sewers.

#### Agency and Public Comments

As a result of the giving public notice, we received comments from a neighbouring landowner, Ms. Sheri Dzudovich who sent comments on July 5, 2021 which are as follows:

"Please be advised that I am hoping my letter that was sent about same stipulations etc(RULES) apply to the new owner that applied to all of us who are in this subdivision, as well be understand that I still currently hold the agreement in my hands.

I am all for growth and HAVE no issue with severing of land I just want to make sure that same RULES apply."

Comments send previously by Mr. Dzudovich, May 14, 2021:

"As a property owner in Sunset Subdivision of 22 years I would just like to comment and have some assurance as to a sever on property at 469 Queen.

1. I would like to make sure if this property is SOLD the new owner of the property has to follow all SPECIFIC bylaws that were set out in the agreement package for all adjacent properties I'm our subdivision.

#### Meaning

House built has to be 1100 square foot in size without variance, house has to be 60% brick, 40% siding, driveway must be complete in the 2 yrs after to build.

Sorry but we were all given these at the purchase of land and I believe all rules should apply regardless of how many years it's been and who now may own property.

As well regardless if you are planning to sell and sever it is your responsibility to keep property up and maintained and I don't believe any of us should have to look at an eye sore. We all pay approximately \$2500 a year and we do care what it looks like.

A response would be appreciated as to that all acquired by laws of the Subdivision will be followed.

Thank you in advance

Sheri Dzudovich

1 Briarwood Cr

I have attached pictures of the weed infestation we are all currently looking at now with this email."

No further phone calls or written correspondence have been received from members of the public as of July 15, 2021.

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

Comments were received from the County of Essex, stating this property is within the Town of Essex jurisdiction.

No further comments were received from circulated internal agencies as of July 15, 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, one hard copy 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 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) Register sign agreement on title to the satisfaction of the Town of Essex
  - g) That all of the above conditions be fulfilled on or before July 20, 2022.



**Discussion:**

Corinne Chiasson, Secretary Treasurer explains the application

**COA21-07-59**

Moved by Member Ducedre

Seconded by Member Pocock

**That** application B-17-21 be **granted** to to sever a  $\pm 786.88$  square metre ( $\pm 8470$  sq ft) parcel from the existing  $\pm 2330.9$  square metre ( $\pm 25089.60$  sq ft) 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 and subsection 6.5 Consents in Areas Designated "Agricultural".

**Actions:**

- a) That at the time the conveyance is prepared for certification, one hard copy 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 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) Register sign agreement on title to the satisfaction of the Town of Essex
- g) That all of the above conditions be fulfilled on or before July 20, 2022.

**6.5 Corinne Chiasson, Assistant Planner RE:**

**Application B-18- 21 Harkirat Bhullar (Agent: Tracey Pillon Abbs) 469 King Street (County Rd 20) (Harrow, Ward 4) (Previously Deferred at the May 18<sup>th</sup> 2021 meeting)**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 469 King St, in Harrow. The applicants are proposing to sever a  $\pm 776.67$  square metre ( $\pm 8360$  sq ft) parcel from the existing  $\pm 2330.98$  square metre ( $\pm 25090.56$  sq ft) residential lot for the purposes of lot creation. The retained parcel would result in an area of  $\pm 1554.32$  square metres ( $\pm 16730.56$  sq ft).

#### **6.5.1. Public Presentations (if any)**

**Official Plan Designation:** "Residential"

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

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 469 King St, in Harrow. The applicants are proposing to sever a  $\pm 8360$  square foot parcel ( $\pm 776.67$  square metres) from the existing  $\pm 25090.56$  square foot ( $\pm 2330.98$  square metres) residential lot for the purposes of lot creation. The retained parcel would therefore be reduced to an area of  $\pm 16,730.56$  square feet ( $\pm 1554.32$  square metres).

**Note:** An application for Consent has also been received for the subject lands (**File Number: B-17-21**).

The Residential 1.1 (R1.1) zone permits single family dwellings as a main use. The proposed severed lot would have a frontage of 55 feet and a depth of 152 feet, for a total of 8360 square feet ( $\pm 776.67$  square metres). The proposed lot would therefore satisfy the minimum lot area required for an R1.1 Zone which is 5000 square feet, and the minimum width provision of 50 feet will also be satisfied. This lot would access Sunset Drive, and support a modest sized building envelope.

#### Proposal Conformity with Town of Essex Official Plan Policies

In accordance with section 6.4 of the 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. The PPS does promote mixed density in urban areas. Higher density in core areas, promote attractive walkable neighbourhoods, accessibility, and connectivity to community amenities. This property is located within the settlement area of Harrow, on King Street which is the Main Street.

*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". Increased density in core areas minimize urban sprawl and promote compact urban forms that encourage accessibility, walkability, and maximize efficiency of services.

*c) The continuation of an orderly development pattern:* The creation of this lot is comparable to the adjacent lot sizes within the Sunset Gardens Subdivision located just south of the subject lands. This severance would provide a continuation of an existing orderly development pattern, and does comply with the minimum residential lot area and width provisions.

*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 will have access to municipal water, storm and sanitary sewers.

#### Agency and Public Comments

As a result of the giving public notice, we received comments from a neighbouring landowner, Ms. Sheri Dzudovich who sent comments on July 5, 2021 which are as follows:

"Please be advised that I am hoping my letter that was sent about same stipulations etc(RULES) apply to the new owner that applied to all of us who are in this subdivision, as well be understand that I still currently hold the agreement in my hands.

I am all for growth and HAVE no issue with severing of land I just want to make sure that same RULES apply."

Comments send previously, May 14, 2021:

"As a property owner in Sunset Subdivision of 22 years I would just like to comment and have some assurance as to a sever on property at 469 Queen.

1. I would like to make sure if this property is SOLD the new owner of the property has to follow all SPECIFIC bylaws that were set out in the agreement package for all adjacent properties I'm our subdivision.

Meaning

House built has to be 1100 square foot in size without variance, house has to be 60% brick, 40% siding, driveway must be complete in the 2 years after to build.

Sorry but we were all given these at the purchase of land and I believe all rules should apply regardless of how many years it's been and who now may own property.

As well regardless if you are planning to sell and sever it is your responsibility to keep property up and maintained and I don't believe any of us should have to look at an eye sore. We all pay approximately \$2500 a year and we do care what it looks like.

A response would be appreciated as to that all acquired by laws of the Subdivision will be followed.

Thank you in advance

Sheri Dzudovich

1 Briarwood Cr

I have attached pictures of the weed infestation we are all currently looking at now with this email."

No further phone calls or written correspondence have been received from members of the public as of June 15, 2021.

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

Comments were received from the County of Essex, stating this property is under Town of Essex jurisdiction.

No further comments were received from circulated internal agencies as of June 15, 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, one hard copy 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 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) Removal of accessory structure.
  - g) That all of the above conditions be fulfilled on or before July 20, 2022.

**Discussion:**

Corinne Chiasson, Secretary Treasurer explains the application

**COA21-07-60**

Moved by Member Ducedre

Seconded by Member Pocock

**That** application B-18-21 be **granted** sever a  $\pm 776.67$  square metre ( $\pm 8360$  sq ft)

parcel from the existing  $\pm 2330.98$  square metre ( $\pm 25090.56$  sq ft) 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 and subsection 6.5 Consents in Areas Designated "Agricultural".

**Actions:**

- a) That at the time the conveyance is prepared for certification, one hard copy 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 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) Removal of Accessory Structure
- g) That all of the above conditions be fulfilled on or before July 20, 2022.

**6.6 Corinne Chiasson, Assistant Planner RE:**

**Application B-20- 21 Louis & Dobrila Stankovich (Agent: David Morgan) 15485 County Road 8 (Colchester North, Ward 2)**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 15485 County Road 8 in the former township of Colchester North. The applicants are proposing to sever a  $\pm 0.77$  acre parcel from the existing  $\pm 50.90$  acre Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being surplus to the needs of the farming operation.

**6.6.1. 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 15485 County Road 8 in the former township of Colchester North. The applicants are proposing to sever a ± 0.77 acre (0.31 ha) parcel from the existing ± 50.90 acre (20.60 ha) Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being 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 3 farm outbuildings. The retained parcel contains one existing single detached dwelling, and one small accessory structure. Access to the severed and retained lot will continue to be by way of County Road 8. Access to the farm field will be via an existing access located just east of the dwellings, off of County Road 8. As there is no drainage crossing or culvert required on this property, the owners are proposing to widen the existing shared driveway, so that each dwelling will have proper legal access, without the need for an easement. Both the existing dwellings are in habitable condition.

#### 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 main agricultural operation located in the Town of Lakeshore on Old Tecumseh Road. This application for consent is therefore 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). The owner has advised that it is their intention to replace both septic systems on this property.

*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 or the retained. No livestock facilities will be impacted by the proposed development;

*e) the severed dwelling lot has frontage on a public road:* the severed dwelling lot has frontage on County Road 8, a public road which is owned and assumed by the County of Essex.

*f) the surplus dwelling is in habitable condition, as determined by the Town or certified by a qualified building inspector:* no objections to the application were received from the Building Department.

---

#### **Requirement for Minor Variance A-14-21**

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 20.67 hectares to 20.30 hectares as a result of the severed parcel being 0.31 hectares. Relief is also required to recognise the 0.31 ha severed parcel.

Additionally, minimum lot width for lots within Agricultural District 1.1 (A1.1) is 60 metres (200 feet) or as existing. The width of the proposed severed lot is 33.72 metres (110.62 ft), therefore relief of 26.26 metres (86.15 feet) is being requested.

#### **Proposal Conformity with Town of Essex 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 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 July 15, 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 July 15, 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, one hard copy 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 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 July 20, 2022.

**Discussion:**

Corinne Chiasson, Secretary Treasurer explains the application

**COA21-07-61**

Moved by Member Pocock

Seconded by Member Ducedre

**That** application B-20-21 be **granted** severe a  $\pm$  0.77 acre parcel from the existing  $\pm$  50.90 acre Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being surplus to the needs of the farming operation.

**Carried**

**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, one hard copy 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 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 July 20, 2022.

#### **6.7 Corinne Chiasson, Assistant Planner RE:**

##### **Application A-14- 21 Louis & Dobrila Stankovich (Agent: David Morgan) 15485 County Road 8 (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 15485 County Road 8 in the former township of Colchester North. 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  $\pm 33.72$  metres, therefore the relief being requested is 26.26 metres. The lot area for the severed and retained parcel will be reduced from  $\pm 50.90$  acres to  $\pm 0.77$  acres and  $\pm 50.16$  acres, respectively. The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

##### **6.7.1. 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 15485 County Road 8 in the former township of Colchester North. The applicants are proposing to sever a  $\pm 0.77$  acre (0.31 ha) parcel from the existing  $\pm 50.90$  acre (20.60 ha) Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being 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 3 farm outbuildings. The retained parcel contains one existing single detached dwelling, and one small accessory structure. Access to the severed and retained lot will continue to be by way of County Road 8. Access to the farm field will be via an existing access located just east of the dwellings, off of County Road 8. As there is no drainage crossing or culvert required on this property, the owners are proposing to widen the

existing shared driveway, so that each dwelling will have proper legal access, without the need for an easement. Both the existing dwellings are in habitable condition.

#### 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 main agricultural operation located in the Town of Lakeshore on Old Tecumseh Road. This application for consent is therefore 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). The owner has advised that it is their intention to replace both septic systems on this property.

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 or the retained. No livestock facilities will be impacted by the proposed development;

e) *the severed dwelling lot has frontage on a public road:* the severed dwelling lot has frontage on County Road 8, a public road which is owned and assumed by the County of Essex.

f) *the surplus dwelling is in habitable condition, as determined by the Town or certified by a qualified building inspector:* no objections to the application were received from the Building Department.

---

#### **Requirement for Minor Variance A-14-21**

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 20.67 hectares to 20.30 hectares as a result of the severed parcel being 0.31 hectares. Relief is also required to recognise the 0.31 ha severed parcel.

Additionally, minimum lot width for lots within Agricultural District 1.1 (A1.1) is 60 metres (200 feet) or as existing. The width of the proposed severed lot is 33.72 metres (110.62 ft), therefore relief of 26.26 metres (86.15 feet) is being requested.

#### **Proposal Conformity with Town of Essex 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 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 July 15, 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 July 15, 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, one hard copy 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 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 July 20, 2022.

**Discussion:**

Corinne Chiasson, Secretary Treasurer explains the application

**COA21-07-62**

Moved by Member Pocock

Seconded by Member Ducedre

**That** application A-14-21 be **granted** as a result of a proposed severance for surplus dwelling, the lot width for the severed parcel is proposed to be  $\pm 33.72$  metres, therefore the relief being requested is 26.26 metres. the lot area for the severed and retained parcel will be reduced from  $\pm 50.90$  acres to  $\pm 0.77$  acres and  $\pm 50.13$  acres,

respectively. The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

**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

#### **6.8 Corinne Chiasson, Assistant Planner RE:**

##### **Application B-21- 21 Roger & Linda Baldwin(Agent Gordon Daniher, Solicitor Aaron Farough) 8901 8<sup>th</sup> Concession (Colchester North, Ward 2)**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 8901 8<sup>th</sup> Concession in the former township of Colchester North. The applicants are proposing to sever a  $\pm 1.04$  acre parcel from the existing  $\pm 50.75$  acre Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being surplus to the needs of the farming operation.

##### **6.8.1. 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 8901 8<sup>th</sup> Concession in the former township of Colchester North. The applicants are proposing to sever a  $\pm 1.04$  acre parcel from the existing  $\pm 50.75$  acre Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being 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 8<sup>th</sup> Concession Road, and access to the retained farm lot will continue to be over an existing culvert located just east of the dwelling via 8<sup>th</sup> Concession 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 purchaser of the retained lands, Gordon Daniher, owns several other agricultural operations located throughout Essex County. The applicants have submitted a purchase agreement, and a farm lot consolidation form in order to provide evidence that this application meets the criteria under 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 8<sup>th</sup> Concession 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-15-21**

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 50.75 acres to 49.75 acres as a result of the severed parcel being 1.04 acres. Relief is required to recognise the 1.0 ha severed parcel and the resulting 49.75 acre farm parcel.

**Proposal Conformity with Provincial and Town of Essex 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 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 July 15, 2021.

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

No comments were received from circulated internal agencies as of July 15, 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, one hard copy 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 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 July 20, 2022.

**Discussion:**

Corinne Chiasson, Secretary Treasurer explains the application

Member Sherry Ducedre questioned if the severed property would require a variance due to lot coverage overage. She stated that the severed property has several accessory structures that may exceed the permitted lot coverage for the zoning.

Corinne advised that during the application process the lot coverage was not calculated as it was an oversight.

Member Ducedre stated that she would like administration to review lot coverage and return to committee at a later meeting for review.

**COA21-07-63**

Moved by Member Ducedre

Seconded by Member Pocock

**That** application B-21-21 be **Deferred**

**Carried**

## **6.9 Corinne Chiasson, Assistant Planner RE:**

### **Application A-15-21 Roger & Linda Baldwin (Agent Gordon Daniher, Solicitor Aaron Farough) 8901 8<sup>th</sup> Concession (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 8901 8<sup>th</sup> Concession in the former township of Colchester North. As a result of a proposed surplus dwelling severance, 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  $\pm 47.2$  metres, therefore the relief being requested is 12.8 metres. The lot area for the severed and retained parcel will be reduced from  $\pm 50.75$  acres to  $\pm 1.04$  acres and  $\pm 49.75$  acres, respectively. The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

#### **6.9.1. 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 8901 8<sup>th</sup> Concession in the former township of Colchester North. The applicants are proposing to sever a  $\pm 1.04$  acre parcel from the existing  $\pm 50.75$  acre Agricultural 1.1 (A1.1) farm lot. The applicant is proposing this consent due to the existing dwelling being 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 8<sup>th</sup> Concession Road, and access to the retained farm lot will continue to be over an existing culvert located just east of the dwelling via 8<sup>th</sup> Concession 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 purchaser of the retained lands, Gordon Daniher, owns several other agricultural operations located throughout Essex County. The applicants have submitted a purchase agreement, and a farm lot

consolidation form in order to provide evidence that this application meets the criteria under 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 8<sup>th</sup> Concession 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-15-21**

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 50.75 acres to 49.75 acres as a result of the severed parcel being 1.04 acres. Relief is required to recognise the 1.0 ha severed parcel and the resulting 49.75 acre farm parcel.

#### **Proposal Conformity with Provincial and Town of Essex 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 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 July 15, 2021.

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

No comments were received from circulated internal agencies as of July 15, 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, one hard copy 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 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 July 20, 2022.

**Discussion:**

Corinne Chiasson, Secretary Treasurer explains the application

**COA21-07-64**

Moved by Member Ducedre

Seconded by Member Pocock

**That** application A-15-21 be **deferred**

**Carried**

**6.10 Corinne Chiasson, Assistant Planner RE:**

**Application B-22- 21 Mark, Diane & John Morris (Agent: Richard Wolf) 1048 Mole Side Road (Colchester North, Ward 2)**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 1048 Mole Side Road in the former township of Colchester North. The applicants are proposing a 469 square metre (0.116 acres) easement/right of way along the south side of the subject property in favour of the abutting property at 1042 Mole Side Road, for the purpose of accessing the existing dwelling at 1042 Mole Side Road.

**6.10.1.Public Presentations (if any)**

**Official Plan Designation:** "Agricultural"

**Zoning Category:** Agricultural 1.1 (A1.1) – General agricultural and farm production support activities, and Natural Environment 1.1 (NE1.1) – Provincially Significant Natural Environment

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 1048 Mole Side Road in the former township of Colchester North. The applicants are proposing a 469 square metre (0.116 acres) easement/right of way along the south side of the subject property in favour of the abutting property at 1042 Mole Side Road, for the purpose of accessing the existing dwelling at 1042 Mole Side Road. No development is proposed on the subject property or on the adjacent southern property identified as 1042 Mole Side Road, as a result of this application.

The property identified as 1042 Mole Side Road, is naturally divided by the Colenutt Drain, which has a wide floodplain and contains Provincially Significant Wetland which is designated "Natural Environment" in the Official Plan. This portion of the property is also zoned Natural Environment (NE1.1) which limits development. Due to the location of the drain, the western portion of 1042 Mole Side Road which contains the dwelling, is technically landlocked, with no legal access. Due to the significant natural feature, potential for endangered species habitat, and the location of the floodplain hazard, installation of a new culvert and driveway access through 1042 Mole Side Road, would pose a significant financial hardship for the owners to overcome due to engineering costs, and required environmental studies and prohibitions. As a result, the estate of 1042 Mole Side Road has utilized the access driveway of 1048 Mole Side Road since the 1970's. For estate planning purposes, the owners of 1042 Mole Side Road approached the owners of 1048 Mole Side Road to legally establish an easement, to prepare 1042 Mole Side Road for potential sale. The applicants are in full agreement with establishing the easement as they are understanding of the undue hardship a culvert installation would be on the owners of 1042 Mole Side Road.

#### Proposal Conformity with Town of Essex Official Plan Policies

In accordance with section 6.4 of the 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 because the purpose of this application is to avoid development (installation of a culvert) within an identified Provincially Significant Wetland and floodplain hazard. Section 2.1.4 of the PPS states that "development and site alteration shall not be permitted in: a) significant wetlands". The PPS further states that natural features and areas shall be protected for the long term. Section 3.1 Natural Hazards states that "development and site alteration shall not be permitted within: d) a *floodway* regardless of whether the area of inundation contains high points of land not subject to flooding". Establishment of the proposed easement would avoid the financial hardships associated with the

undertaking of engineering assessments and environmental studies to demonstrate no negative impacts.

- 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 has designated the natural features located on 1042 Mole Side Road as "Natural Environment" which supports the prohibition of development and site alteration in accordance with the policies of the PPS. As installation of any access through the natural area and hazard lands located at 1042 Mole Side Road would result in a negative impact, support of an easement is recommended to satisfy the Official Plan policies.
- c) *The continuation of an orderly development pattern:* The creation of this easement will not change the development pattern of the existing lots, or affect traffic patterns on Mole Side Road.
- d) *The adequate provision of potable water supply, sanitary sewage treatment and disposal and stormwater management in accordance with the Official Plan and to the satisfaction of the Town and the statutory approval authority having jurisdiction:* The subject lot, and the adjacent lot at 1042 Mole Side Road have access to municipal water, have stormwater outlet to the Colenutt Drain, and have private septic systems. No changes are proposed to the services as a result of this application for access easement.

#### Agency and Public Comments

As a result of the giving of public notice, we did not receive any comments from the public as of July 15, 2021.

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections because the purpose of the application is for the establishment of an access easement, which will avoid any interference to the identified natural heritage and natural hazard features located on 1042 Mole Side Road.

No comments were received from circulated internal departments as of June 15, 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, one hard copy 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 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 an easement acceptable to the Town of Essex be registered to the title of 1048 Mole Side Road.
- f) That all of the above conditions be fulfilled on or before July 20, 2022.

**Discussion:**

Corinne Chiasson, Secretary Treasurer explains the application

**COA21-07-65**

Moved by Member Pocock

Seconded by Member Ducedre

**That** application B-22-21 be **granted** a 469 square metre easement/right of way along the south side of the subject property in favour of the abutting property at 1042 Mole Side Road, for the purpose of accessing the existing dwelling at 1042 Mole Side Road.

**Carried**

**Reason for Decision:** The Application **is** in keeping with subsection 6.1 of the Town of Essex Official Plan respecting consents

**Actions:**

- a) That at the time the conveyance is prepared for certification, one hard copy 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 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 an easement acceptable to the Town of Essex be registered to the title of 1048 Mole Side Road.

f) That all of the above conditions be fulfilled on or before July 20, 2022.

**7 Correspondence**

**8 New Business**

**9 Notices of Motion**

Co Chair Brian Gray advised administration that he would like the Committee members to be provided with a presentation at the August 17<sup>th</sup> 2021 meeting with regards to the new Ontario Land Tribunal (OLT) formally the Local Planning Appeal Tribunal (LPAT).

**10 Adjournment**

**COA21-07-66**

Moved by Member Ducedre

Seconded by Member Pocock

**That** the meeting be adjourned at 5:19 PM.

**11 Future Meetings**

August 17 2021 at 4:30 PM

Location: Electronic Meeting