



Committee of Adjustment Meeting Minutes

November 16th 2021, 4:30 PM

Location: Electronic Meeting

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

Present: Percy Dufour, Chair
Brain Gray, Vice Chair
Phil Pocock, Committee Member
Sherry Ducedre, Committee Member
Ray Beneteau, Committee Member

Also Present: Corinne Chiasson, Secretary Treasurer / Assistant Planner
Rita Jabbour, Manager Planning Services
Sarah Aubin, Recording Secretary / Planning Assistant
Shelley Brown, Deputy Clerk

Regrets: None

Absent: None

1. Call to Order

The Chair called the meeting to order at 4:30 PM

2. Declarations of Conflict of Interest

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

3. Adoption of Published Agenda

3.1 Committee of Adjustment Meeting Agenda for November 16th 2021

COA21-11-92

Moved by Member Ducedre

Seconded by Member Pocock

That the published agenda for the November 16th 2021 Meeting be adopted as amended with item 6.4 Application A-22-21 Grace and Edward Dickson 4976 4th Concession (Colchester South, Ward 3). That the relief being requested be amended to state 1.4 acres of relief instead of 2.4 acres of relief.

Carried

4. Adoption of Minutes

4.1 Committee of Adjustment Meeting Minutes for September 21 2021

COA21-11-93

Moved by Member Ducendre

Seconded by Member Beneteau

That the minutes of the Committee of Adjustment Meeting held September 21 2021 be adopted as circulated.

Carried

4.2 Committee of Adjustment Closed Meeting Minutes for October 19 2021

COA21-11-94

Moved by Member Beneteau

Seconded by Vice Chair Gray

That the closed minutes of the Committee of Adjustment Meeting held October 19 2021 be adopted as circulated.

Carried

5. Unfinished Business

5.1 Application B-31-21 Joseph Gorski, Bernard Gorski, James & Linda Fraser (Agent: Jerry Goldberg), Vacant Land on County Road 12, 108 County Road 50 East and 116 County Road 50 East (Colchester South, Ward 3)

At the September 21st 2021 meeting the committee heard application B-31-21. The application was incomplete without an Authorization Form signed by James & Linda Fraser. A to approve the application was presented and defeated by the committee. Application B-31-21 is being brought back for reconsideration with all required authorization forms and clarification on addresses.

Application B-31- 21 Joseph Gorski, Bernard Gorski, James & Linda Fraser (Agent: Jerry Goldberg) Vacant Land on County Road 13, 108 County Road 50 East, 116 County Road 50 East (Colchester South, Ward 3)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at: Vacant Land on County Road 13, 108 and 116 County Road 50 East in the former Township of Colchester South. The applicants are proposing a 519 metre easement of the private sewer line that runs North East to South West over the above noted properties

5.1.1 Public Presentations (if any)

COA21-11-95

Moved by Member Beneteau

Seconded by Member Pocock

That application B 31 21 be reconsidered by the Committee of Adjustment

Carried

Official Plan Designation: "Agricultural"

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

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at: Vacant Land on County Road 13, 108 and 116 County Road 50 East in the former Township of Colchester South. The applicants are proposing a 519 metre easement of the private sewer line that runs northeast to southwest over the above noted properties. The sewer easement will favour the property address identified as 130 County Road 50 East, known as North 42 Winery.

A private sanitary sewer line was installed across the above noted properties. The owners of the above noted lands wish to create an easement to identify North 42 Winery as legally benefitting to the agreement. This private line connects to the municipal sewer line that ends at County Road 13 in the hamlet of Colchester. Currently there are no municipal sanitary sewers that extend along the County Road 50 East. This easement allows the winery's sanitary sewers to be linked directed to the municipal sanitary service, and the agreement will describe rights to the land, should maintenance be required on the sewer line. The applicants listed are in full agreement with establishing the easement.

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 simply to allow right of benefit to an existing private service tying into the municipal sewer line.
- b) *The requirements and policies of the Official Plan for the Town of Essex and the comments of other public authorities and agencies:* The servicing requirement policies in the Official Plan state that full municipal sanitary sewage services are the preferred form of servicing. Upon preconsultation with the Town's Infrastructure Services, sewer reserve was already confirmed available when the Winery property was hooked up to the service.
- 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 County Road 50.

- 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 purpose of this application is to allow and provide legal documentation of access and maintenance rights for the existing private sewer line. No other changes are proposed to the existing services for the subject properties.

Agency and Public Comments

As a result of the giving of public notice, we did not receive any comments from the public as of November 11, 2021.

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections, but identified if works are undertaken within the vicinity of the regulated Tom Wright Drain, an approval will be necessary.

No comments were received from circulated internal departments as of November 11, 2021.

Actions:

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

- a) That at the time the conveyance is prepared for certification, 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 benefitting the property identified as 130 County Road 50 E, be registered on title, and acceptable to the Town of Essex, over the properties identified as Vacant Land on County Road 50 E (375464000013250), 108 County Road 50 East (375464000013150), and 122 County Road 50 E (375464000013100) (also identified by 911 address as 118 & 126 County Road 50 E)
- f) That all of the above conditions be fulfilled on or before November 11, 2022.

Discussion:

Corinne Chiasson, Secretary Treasurer explains the application and advises the members that the authorization form is provided by the Frasers and that the address of the Frasers property 116 County Road 50 does in fact have two 911 addresses such as 118 & 126 County Road 50. She stated that MPAC has the property under 116 County Road 50 therefor that is the address presented.

Member Beneteau questioned if the easement would transfer from owner to owner should any of the three affected properties be sold in the future.

Corinne advised that the easement would stay with the property and not the owners.

Member Gray questioned if the Town of Essex had the right to clear the Tom Wright Drain and if so is that portion of the private drain under ground for access purposes. Chair Dufour stated that the Town of Essex has the right to go onto the properties and clear the Drain without permission.

Martin Gorski, Applicant, advised that the access that the Town of Essex would be utilizing to clear the Tom Wright Drain has the private drain under ground.

Member Pocock stated that he would like to accept the application as is with the conditions as presented by administration.

Chair Dufour requested that it be noted he is not in favour of the application being accepted.

COA21-11-96

Moved by Member Pocock

Seconded by Member Beneteau

That application B-31-21 be **approved** re: a 519 metre easement of the private sewer line that runs North East to South West over the above noted properties; and that the approved application B-31-21 be conditional upon completion of the conditions noted in a) to f) below:

- 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 benefitting the property identified as 130 County Road 50 E, be registered on title, and acceptable to the Town of Essex, over the properties identified as Vacant Land on County Road 50 E (375464000013250), 108 County Road 50 East (375464000013150), and 116 County Road 50 E (375464000013100) (also identified by 911 address as 118 & 126 County Road 50 E)
- f) That all of the above conditions be fulfilled on or before November 11, 2022.

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

Carried

6. Reports from Administration / Applications

6.1 Corinne Chiasson, Assistant Planner RE:

Application A-23- 21 Michel Toupin (Agent Wayne Mills) 837 Erie Blue (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 837 Erie Blue in the former Township of Colchester South. The applicant is requesting relief from the maximum gross floor area requirement for an accessory structure which is 70 square metres (750 square feet) in the Residential District 1.1 (R1.1) Zone. The relief being requested is 12.2 square metres (132 ft²). The applicants are also requesting relief from the accessory structure maximum height requirement of 1 storey, in order to permit a 2nd storey over the addition.

6.1.1. Public Presentations (if any)

Discussion:

Corinne Chiasson, Secretary Treasurer explains the application and that the applicants are seeking only 3 ft in relief and that no fixtures are being proposed in the accessory structure. She also reminded the Committee that should the applicant in the future wish to convert the accessory structure into a Second Dwelling Unit that they would be required to come back to the Committee of Adjustment for a variance. She continued to state that the applicants are seeking the variances due to the multiple vehicles he has.

Ms. Chiasson advises that a letter of support was received from the westerly neighbours stating: To Whom it may concern, as the owners of the properties at 839

and 841, we are writing this to acknowledge that we have no issues and no problem with our neighbour, Mike Toupin, adding a second storey to his existing garage.

Thank you, Bernie & Kathe Campeau

She also advises that an email was provided by neighbours Marvin & Linda Marontate. Please accept this as a letter of concern re: Applicant - Michael Toupin. We own the farmland across from his property. A few years ago, he put in drainage trenches leading to the road. He then put a pipe under the road directing his water into our field. We paid thousands of dollars to put in a berm to protect our land. We are not interested in playing that game again. We contacted Kevin Carter and he came out to assess what was going on. We were told it was a private road. We would like to know where the water is going to run from this new addition. We are looking for some guidance.

Thank you kindly concerning this matter - Marv and Linda Marontate

Member Pocock questioned if the applicants are planning on placing a wash basin in the accessory structure.

Wayne Mills, Applicant Agent, states that no services will be going into the accessory structure.

Vice Chair Gray stated that he has concerns with the septic system and drainage as the addition and the 2nd story could produce a significant amount of water.

Ms. Chiasson advised the members that the applicants are on the water and have an opportunity to drain into the lake.

Member Beneteau stated that the Committee has historically not permitted 2nd story additions in accessory structures.

COA21-11-97

Moved by Member Beneteau

Seconded by Member Ducedre

That application **A-23-21(a)** be **denied** to not accept the relief from the accessory structure maximum height requirement of 1 storey, to permit a 2nd storey over the addition.

Reasons for Decision: The Application **is not** in keeping with the general intent and purpose of the Town of Essex Zoning Bylaw and the prescribed criteria for Minor Variances under subsection 9.8 of the Town of Essex Official Plan:

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

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

Carried

COA21-11-98

Moved by Member Ducendre

Seconded by Member Pocock

That application **A-23-21(b)** be approved relief from the maximum gross floor area requirement for an accessory structure which is 70 square metres (750 square feet) in the Residential District 1.1 (R1.1) Zone. The relief being requested is 12.2 square metres (132 ft²).

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

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

Carried

6.2 Corinne Chiasson, Assistant Planner RE:

Application A-24- 21 Richard and Monique Struhar (Agent Steve Deroose) 344 Erie Street North (Harrow, Ward 4)

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 344 Erie Street North in the former Township of Colchester South. The applicant is requesting relief from the maximum gross floor area permitted for an accessory structure in a Residential R1.1 Zone, which is 70 square metres (750 square feet). The proposed accessory structure would be 92 square metres (990 sq feet), therefore the relief being requested is 22.3 sq metre (240 ft²).

6.2.1. Public Presentations (if any)

Official Plan Designation: Residential

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

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands located at 344 Erie Street North in the former Township of Colchester South. The applicant is requesting relief from the maximum gross floor area permitted for an accessory structure in a Residential R1.1 Zone, which is 70 square metres (750 square feet). The proposed accessory structure would be 92 square metres

(990 sq feet), therefore the relief being requested is 22.3 sq metre (240 ft²).

An *accessory building* is defined under Bylaw 1037 as a completely detached building used for an accessory use. An accessory use means a use which is customarily incidental, subordinate and exclusively devoted to the main use.

The applicant is proposing to replace an existing garage, that has fallen into disrepair. The new larger garage will be utilized to store personal vehicles out of the elements, and allow a work area for fixing them, and storage of items such as lawn equipment. The Zoning By-law states “no accessory building and combination of accessory buildings shall exceed 70 square metres (750 square feet) and 92 square metres (1000 square feet) respectively. The owner wishes to combine the accessory use into one structure, which will be under 1000 square feet. This proposal satisfies all other zoning by-law requirements for this type of development.

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 “Residential” and an accessory structure is permitted with the main use. A detached garage is permitted as an accessory use to the main dwelling under the Residential R1.1 Zone.
- b) *The variance(s) is minor and desirable for the appropriate use of the land:* The detached garage will support the existing main use dwelling for storage of personal vehicles, and lawn equipment. The new garage will be located on the northeast side of the dwelling and will satisfy front, side and rear yard setbacks, and will also fall under the allowable lot coverage provision. The property is directly adjacent to vacant industrial lands, therefore no impacts are anticipated as a result of this proposal.
- c) *The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:* This new garage is proposed to be larger than the maximum gross floor area permitted for one accessory structure, but will be less than 1000 square feet which is permitted for the combination of accessory buildings. The owner wishes to remove the existing garage and smaller temporary structures, due to disrepair and allow clean up of items in the yard. There will be no changes to the access to this property, traffic or parking patterns;
- d) *The variance deals with circumstances particular to the site and development:* The owner wishes to construct a garage that can protect his personal vehicles from the elements, and allow a work area for their maintenance and storage of yard and household items. This structure will replace the existing garage and temporary structures on the site and clean up the yard of storage. Prior to the issuance of a

building permit, the owners must ensure that all run off water be directed to within the property, and not adversely affect neighboring properties.

Public and Agency Comments

Upon circulation to internal departments we did not receive any objections as of November 11th, 2021.

We received no objections from the Essex Region Conservation Authority.

No calls or written correspondence was received from members of the public as of November 11, 2021.

Actions: to be determined by the Committee

Discussion:

Corinne Chiasson, Secretary Treasurer explains the application

COA21-11-99

Moved by Vice Chair Gray

Seconded by Member Beneteau

That application A-24-21 be approved to provide relief from the maximum gross floor area permitted for an accessory structure in a Residential R1.1 Zone, which is 70 square metres (750 square feet). The proposed accessory structure would be 92 square metres (990 sq feet), therefore the relief being requested is 22.3 sq metre (240 ft²) and a condition that the current accessory structures be removed

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

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

Carried

6.3 Corinne Chiasson, Assistant Planner RE:

Application B-33- 21 Grace and Edward Dickson 4976 4th Concession (Colchester South, Ward 3)

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 4976 4th Concession in the former Township of Colchester South. The applicants are proposing to sever a \pm 8.6 Acre parcel from the existing \pm 20.23 Acre parcel. The subject property is within the Residential District 1.2 (R1.2). The applicant is proposing this consent for the purpose of lot creation.

6.3.1. Public Presentations (if any)

Official Plan Designation: "Estate Residential"

Zoning Category: "Residential District (R1.2)" – Pleasant Valley - Estate Residential limited agricultural uses

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 4976 4th Concession in the former Township of Colchester South. The applicants are proposing to sever a + 8.6 Acre parcel from the existing + 20.23 Acre parcel. The subject property is within the Residential District 1.2 (R1.2). The applicant is proposing this consent for the purpose of lot creation.

The Residential 1.2 (R1.2) zone permits single family dwellings as a main use. The R1.2 Zone prescribes a minimum lot area of 4 hectares (10 acres) in size. The applicants previously applied to the Committee of Adjustment in 2011 and received approval (B-15-11), however they were not able to complete the conditions by the appropriate timeline, therefore the approval lapsed and was void. The owners now wish to recreate the new lot as they have an interested purchaser. The proposed severed lot would now however be just under the minimum lot size requirement for Estate Residential due to consideration for the location of the concrete driveway on the retained parcel. The owners are proposing a straight property line to ensure a characteristic linear layout. The proposed severed lot would have a frontage of 200 feet and a depth of 1876 feet, for a total of 8.6 acres in lot area. The lot would have the required area needed for the installation of a septic system, and access to municipal water, opposite the street.

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 land severance policies of the PPS. Section 1.1.5.2 c) states that lot creation on rural residential lands is permitted where it is locally appropriate.
- 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 permits severances within the designated areas of "Estate Residential" provided there are municipal services available. This designation supports new single family residential lots that are characteristic of the surrounding established development patterns.
- c) The continuation of an orderly development pattern:* The creation of this lot will be comparable in width and depth to adjacent lots fronting on 4th Concession Road. The proposed lot area will provide a building and septic envelope that will be able to

satisfy the required setbacks. The resulting retained lot will still satisfy all setback requirements for required yards, and lot width.

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, municipal drains, and there is area available for the installation of a private septic system.

Requirement for Minor Variance A-22-21

The minimum lot area for lots within Agricultural District 1.2 (A1.2) is 4 hectares (10 acres) or as existing. As a result of the severance application (B-33-21) for the creation of a

new lot, the applicant is requesting relief from the minimum lot area provision of 4 ha (10 acres) or as existing, in the R1.2 Zone. The resulting severed parcel would have an area of 8.6 acres, therefore the relief being requested is 2.4 acres.

The applicants are requesting this relief due to the location of existing concrete driveway, the existing large barn location, and to ensure a linear property line.

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 new lots within the area designated “Estate Residential” provided the proposal meets the Provincial Policy Statement (PPS), the lot area meets the minimum size provisions, and allows for municipal services. In accordance with the Town Official Plan, the proposed new lot would have sufficient area to accommodate septic services acceptable to the Town. Municipal water is available on Concession Rd 4, and drainage is provided through municipal roadside drains.

b) The variance(s) is minor and desirable for the appropriate use of the land: Lots in the A1.2 zoning district vary in lot area, with the average being 10 acres in size. Infills severances are encouraged by the Official Plan where appropriate, and where there is no negative impact to the adjacent neighbouring properties.

c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns: The new lot will be of comparable size and layout to properties established on the 4th Concession in the Estate Residential designation. The lot is large and allows for maximum separation from adjacent neighbours. The property contains a manicured grass area, suitable for a building envelope and septic system, and the rear portion is currently under agricultural production.

d) *The variance deals with circumstances particular to the site and development:* The variance is necessary in order to accommodate the proposed new lot creation, and is being requested to accommodate the existing cement driveway location.

Agency and Public Comments

No phone calls or written correspondence have been received from members of the public as of November 11th, 2021.

We received no objections from the Essex Region Conservation Authority (ERCA).

No comments were received from circulated internal agencies as of November 11th, 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) That the owners/purchaser provide an undertaking to the Town of Essex for the installation of a culvert on the severed parcel.
- g) That all of the above conditions be fulfilled on or before November 16, 2022

Discussion:

Corinne Chiasson, Secretary Treasurer explained the application

Member Pocock questioned if a separate access to the severed parcel would be installed and placed as a condition to ensure it was completed.

Corinne advised that the recommendation from administration is that a culvert and access be placed as a condition but that the new owners of the severed parcel be able to choose the location of the access. She continued that should the access not be completed by the one (1) year requirement for the conditions to be completed, that an undertaking can be provided.

COA21-11-100

Moved by Member Beneteau

Seconded by Member Ducedre

That application B-33-21 be approved to sever a \pm 8.6 Acre parcel from the existing \pm 20.23 Acre parcel. The subject property is within the Residential District 1.2 (R1.2). The applicant is proposing this consent for the purpose of lot creation.

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

Carried

- 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) That the owners/purchaser provide an undertaking to the Town of Essex for the installation of a culvert on the severed parcel.**
- g) That all of the above conditions be fulfilled on or before November 16, 2022

6.4 Corinne Chiasson, Assistant Planner RE:

Application A-22- 21 Grace and Edward Dickson 4976 4th Concession (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 4976 4th Concession in the former Township of Colchester South. As a result of a severance application (B-33-21) for the creation of a new lot, the applicant is requesting relief from the minimum lot area provision of 4 ha (10 acres) or as existing, in the R1.2 Zone. The resulting severed parcel would have an area of 8.6 Acres therefore the relief being requested is 1.4 acres

6.4.1. Public Presentations (if any)

Official Plan Designation: "Estate Residential"

Zoning Category: "Residential District (R1.2)" – Pleasant Valley - Estate Residential limited agricultural uses

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 4976 4th Concession in the former Township of Colchester South. The applicants are proposing to sever a + 8.6 Acre parcel from the existing + 20.23 Acre parcel. The subject property is within the Residential District 1.2 (R1.2). The applicant is proposing this consent for the purpose of lot creation.

The Residential 1.2 (R1.2) zone permits single family dwellings as a main use. The R1.2 Zone prescribes a minimum lot area of 4 hectares (10 acres) in size. The applicants previously applied to the Committee of Adjustment in 2011 and received approval (B-15-11), however they were not able to complete the conditions by the appropriate timeline, therefore the approval lapsed and was void. The owners now wish to recreate the new lot as they have an interested purchaser. The proposed severed lot would now however be just under the minimum lot size requirement for Estate Residential due to consideration for the location of the concrete driveway on the retained parcel. The owners are proposing a straight property line to ensure a characteristic linear layout. The proposed severed lot would have a frontage of 200 feet and a depth of 1876 feet, for a total of 8.6 acres in lot area. The lot would have the required area needed for the installation of a septic system, and access to municipal water, opposite the street.

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 land severance policies of the PPS. Section 1.1.5.2

c) states that lot creation on rural residential lands is permitted where it is locally appropriate.

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 permits severances within the designated areas of "Estate Residential" provided there are municipal services available. This designation supports new single family residential lots that are characteristic of the surrounding established development patterns.

c) The continuation of an orderly development pattern: The creation of this lot will be comparable in width and depth to adjacent lots fronting on 4th Concession Road. The proposed lot area will provide a building and septic envelope that will be able to satisfy the required setbacks. The resulting retained lot will still satisfy all setback requirements for required yards, and lot width.

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, municipal drains, and there is area available for the installation of a private septic system.

Requirement for Minor Variance A-22-21

The minimum lot area for lots within Agricultural District 1.2 (A1.2) is 4 hectares (10 acres) or as existing. As a result of the severance application (B-33-21) for the creation of a

new lot, the applicant is requesting relief from the minimum lot area provision of 4 ha (10 acres) or as existing, in the R1.2 Zone. The resulting severed parcel would have an area of 8.6 acres, therefore the relief being requested is 2.4 acres.

The applicants are requesting this relief due to the location of existing concrete driveway, the existing large barn location, and to ensure a linear property line.

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 new lots within the area designated "Estate Residential" provided the proposal meets the Provincial Policy Statement (PPS), the lot area meets the minimum size provisions, and allows for municipal services. In accordance with the Town Official Plan, the proposed new lot would have sufficient area to accommodate septic services acceptable to the Town. Municipal water is

available on Concession Rd 4, and drainage is provided through municipal roadside drains.

b) *The variance(s) is minor and desirable for the appropriate use of the land:* Lots in the A1.2 zoning district vary in lot area, with the average being 10 acres in size. Infills severances are encouraged by the Official Plan where appropriate, and where there is no negative impact to the adjacent neighbouring properties.

c) *The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:* The new lot will be of comparable size and layout to properties established on the 4th Concession in the Estate Residential designation. The lot is large and allows for maximum separation from adjacent neighbours. The property contains a manicured grass area, suitable for a building envelope and septic system, and the rear portion is currently under agricultural production.

d) *The variance deals with circumstances particular to the site and development:* The variance is necessary in order to accommodate the proposed new lot creation, and is being requested to accommodate the existing cement driveway location.

Agency and Public Comments

No phone calls or written correspondence have been received from members of the public as of November 11th, 2021.

We received no objections from the Essex Region Conservation Authority (ERCA).

No comments were received from circulated internal agencies as of November 11th, 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) That the owners/purchaser provide an undertaking to the Town of Essex for the installation of a culvert on the severed parcel.
- g) That all of the above conditions be fulfilled on or before November 16, 2022

Discussion:

Corinne Chiasson, Secretary Treasurer explained the application

COA21-11-101

Moved by Vice Chair Gray

Seconded by Member Ducedre

That application A-22-21 be approved relief from the minimum lot area provision of 4 ha (10 acres) or as existing, in the R1.2 Zone. The resulting severed parcel would have an area of 8.6 Acres therefore the relief being requested is 1.4 acres

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

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

Carried

7. Correspondence

8. New Business

9. Notices of Motion

9.1 Motion by Ray Beneteau at the August 17th 2021 Committee of Adjustment Meeting Committee to be provided clarification on the requirements of a minor variance in an Agricultural Zone.

Corinne Chiasson, Secretary Treasurer explained to the members the two (2) most common requirements for a Minor Variance as a result of a severance in an Agricultural Zone, which are typically to accommodate the resulting undersized lot width and lot area. Under the Agricultural 1.1 (A1.1) zoning it states that the lot width needs to be 200 ft or as existing. If the lot width cannot meet the 200ft requirement that would trigger a minor variance. The other requirement is the Lot Area which is 100 acre or as existing requirement. She continued to state that when you create a surplus property a variance is required as you are minimizing the Agricultural lands. She stated if they cannot meet the 100 acre requirement on either the retained or the severed then a variance is required.

10. Adjournment

COA21-11-102

Moved by Member Ducetre

Seconded by Member Pocock

That the meeting be adjourned at 5:54 PM

11. Future Meetings

December 21 2021 at 4:30 PM

Location: Electronic Meeting