

**The Corporation of the Town of Essex**  
**Minutes of Regular Committee of Adjustment Meeting**  
**Tuesday February 25<sup>th</sup>, 2020**

A regular meeting of the Town of Essex Committee of Adjustment was held on Tuesday, February 25<sup>th</sup>, 2020 at 4:00 PM in the Community Room at the Harrow Community Centre, 243 McAfee Street, Harrow ON

**1. Roll Call:**

Members Present	Percy Dufour, Chair Brian Gray, Vice Chair Phil Pocock Ray Beneteau
Also Present	Rita Jabbour, Secretary Treasurer/Manager, Planning Services Corinne Chiasson, Assistant Planner Sarah Aubin, Planning Assistant
Regrets:	Dan Boudreau

**2. Declaration of Conflict of Interest**

None

**3. Adoption of Published Agenda**

**3.1** That the published agenda for the February 25<sup>th</sup>, 2020 meeting of the Committee of Adjustment be adopted as circulated.

Moved by: Ray Beneteau

Seconded by: Brian Gray

**(COA-2020-02-19)** That the published agenda for February 25<sup>th</sup>, 2020 meeting of the Committee of Adjustment be adopted as circulated.

**"Carried"**

**4. Adoption of Minutes**

**4.1** That the minutes of the January 21<sup>st</sup>, 2020 Committee of Adjustment meeting be adopted with amendments.

Moved by: Ray Beneteau

Seconded by: Phil Pocock

**(COA-2020-02-20)** That the Regular Minutes from the Committee of Adjustment Meeting of January 21<sup>st</sup>, 2020 be adopted with the amendment to page 45 with regards to Brian Gray being added as a seconder to resolution CAO-2020-01-10.

**"Carried"**

## **5. Reports / Applications**

### **5.1 Rita Jabbour, Planner RE:**

#### **Application B-07-20 J. Brush Farms LTD (Agent: Peggy Golden), 3259 County Road 11 (Colchester South, Ward 3)**

A consent application has been received by the Town of Essex Committee of Adjustment for the vacant lands located at 3259 County Road 11 in the former township of Colchester South. The applicant is proposing to sever a  $\pm 0.76$  acre parcel from the existing  $\pm 1.87$  acre lot. The applicant is proposing this consent for the purpose of a lot addition. The severed parcel is proposed to be merged with the agricultural lands located directly to the West and identified as 3235 County Road 11. The retained parcel is proposed to have an area of  $\pm 1.09$  acres

**Note:** An application for consent has also been received for the subject lands (File Number: A-07-20). The public notice for the minor variance application has been included with this notice.

#### **5.1.1 Public Presentations (if any)**

##### **Rita Jabbour, Planner wrote:**

Official Plan Designation: "Rural Residential"

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

An application for consent and minor variance has been submitted for the vacant lands located at 3259 County Road 11 in the former township of Colchester South. The subject property is designated "Rural Residential" under the Town of Essex Official Plan and zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities under Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are proposing to sever a  $\pm 0.76$  acre parcel from the existing  $\pm 1.87$  acre lot. The applicants are proposing this consent for the purpose of a lot addition. The severed parcel is proposed to be merged with the agricultural lands located directly to the West and identified municipally as 3235 County Road 11. The severed parcel is vacant and is actively farmed by the operators of the farm to the West. No new buildings are proposed to be constructed on the severed parcel. It will continue to be used for agricultural purposes.

Access to the retained parcel will continue to be by way of County Road 11. The proposed severance will have no adverse impact on access to the retained lot. The retained lot will continue to be held for the construction of a future single detached residential dwelling. The retained parcel is proposed to have an area of  $\pm 1.09$  acres (+47,480 square feet).

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

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

- a) the proposal's consistency with Provincial legislation, policies and guidelines;
- b) The requirements and policies of the Official Plan for the Town of Essex and the comments of other public authorities and agencies:

Section 6.4 of the Town of Essex Official Plan states that consents should only be granted for lot adjustments or minor boundary changes provided both parcels comply with the provisions of the implementing zoning bylaw or such variances granted through the Committee of Adjustment, and the consent is granted in accordance with section 50(3) of the Planning Act.

The applicant has submitted for a variance to accommodate the reduction in lot area for the retained parcel (see below). Comments were received from the Essex Region Conservation Authority (ERCA). They have no objections to the consent or accompanying application for minor variance. No additional comments were received from other public authorities or agencies as of Friday February 21, 2020.

- c) The continuation of an orderly development pattern:  
The lot addition will not result in the creation of an irregular parcel. The lot addition will actually result in straighter dimensions for the retained lot.
- d) The adequate provision of potable water supply, sanitary sewage treatment and disposal and stormwater management in accordance with the Official Plan and to the satisfaction of the Town and the statutory approval authority having jurisdiction:  
Water supply, sanitary sewage treatment and stormwater management is not required as the proposal will not result in the creation of a new vacant buildable lot.

#### Requirement for Minor Variance

The minimum lot area required for lots zoned A1.1 under Bylaw 1037 is the lesser of 40 hectares (100 acres) or the existing lot size. As a result of the proposed severance, the lot area for the retained farm parcel will be reduced from +1.87 acres, the existing lot size, to +1.09 acres. As such, a variance to accommodate a reduction in lot area for the retained farm parcel is required.

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

- a) The general intent of this Plan and the Zoning Bylaw are maintained:  
The main use of the retained farm parcel will remain agricultural.
- b) The variance(s) is minor and desirable for the appropriate use of the land:  
The variance will not have any adverse impact on adjoining land uses.
- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:

Agricultural lot sizes vary greatly in the agricultural district. The variance will not result in any adverse impact on traffic or parking patterns.

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

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

#### Public Comment

As a result of the giving of public notice, no written correspondences have been received from members of the public as of Friday February 21, 2020.

#### **Actions:**

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

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That the severed parcel be consolidated with the lands located at 3235 County Road 11. In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.
- f) That all of the above conditions be fulfilled on or before February 25, 2021.

#### **Additional comments resulting from circulation:**

**Mike Nelson, Watershed Planner, Essex Region Conservation Authority (ERCA), wrote**

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

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

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Mulder Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

ERCA has no regulatory concerns associated with this application for consent or minor variance.

## **WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

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

### **SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

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

## **PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS**

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the

PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

## **FINAL RECOMMENDATION**

ERCA has no objection to this application for consent or application for minor variance.

### **Discussion:**

Rita Jabbour, Secretary-Treasurer/Manager of Planning Services, explains the nature of the application.

Peggy Golden, the applicant's agent, introduces Chris Brush, resident of 3235 County Rd 11. Brian Gray questions the rural residential designation in the official plan and if it was previously designated as such under the Official Plan for Colchester South.

Rita advises that some designations were carried forward from the Colchester Official Plan into the Town of Essex Official Plan.

Brian questions if the property would be buildable even with the zoning of Agricultural.

Rita advises that the parcel will be buildable given the Official Plan Designation.

Ray asks if access to the severed parcel will be from the 4<sup>th</sup> concession.

Rita advises that the roads department will have to review and advise of the appropriate access location.

Percy asks if a subdivision agreement will be required in the future and what the limit is for the committee on granting severances before the applicant must be required to go before Council.

Rita advises that the application before them deals with a lot addition, not a lot creation. She states that a subdivision agreement is not required at this time, and that the Committee can consider any application that comes forward.

She continues to advise that if services are available and can support development then an application would come to the Committee of Adjustment for approval.

Moved by: Phil Pocock

Seconded by: Brian Gray

**(CAO-2020-02-21)** That application B-07-20 be granted to sever a +0.76 acre parcel from the existing +1.87 acre agricultural lot and be merged with 3235 County Rd 11 subject to the following conditions:

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That the severed parcel be consolidated with the lands located at 3235 County Road 11. In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant

shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.

f) That all of the above conditions be fulfilled on or before February 25, 2021.

**"Carried"**

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

**5.2 Rita Jabbour, Planner RE:**

**Application A-07-20 J. Brush Farms LTD (Agent: Peggy Golden), 3259 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 3259 County Road 11 in the former township of Colchester South. As a result of a proposed severance for lot addition, the lot area for the retained parcel will be reduced from  $\pm 1.87$  acres to  $\pm 1.09$  acres. The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

**Note:** An application for consent has also been received for the subject lands (File Number: B-07-20). The public notice for the consent application has been included with this notice.

**5.2.1 Public Presentations (if any)**

**Rita Jabbour, Planner wrote:**

Official Plan Designation: "Rural Residential"

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

An application for consent and minor variance has been submitted for the vacant lands located at 3259 County Road 11 in the former township of Colchester South. The subject property is designated "Rural Residential" under the Town of Essex Official Plan and zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities under Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are proposing to sever a  $\pm 0.76$  acre parcel from the existing  $\pm 1.87$  acre lot. The applicants are proposing this consent for the purpose of a lot addition. The severed parcel is proposed to be merged with the agricultural lands located directly to the West and identified municipally as 3235 County Road 11. The severed parcel is vacant and is actively farmed by the operators of the farm to the West. No new buildings are proposed to be constructed on the severed parcel. It will continue to be used for agricultural purposes.

Access to the retained parcel will continue to be by way of County Road 11. The proposed severance will have no adverse impact on access to the retained lot. The retained lot will continue to be held for the construction of a future single detached residential dwelling. The retained parcel is proposed to have an area of  $\pm 1.09$  acres (+47,480 square feet).

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

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

- e) the proposal's consistency with Provincial legislation, policies and guidelines;
- f) The requirements and policies of the Official Plan for the Town of Essex and the comments of other public authorities and agencies:

Section 6.4 of the Town of Essex Official Plan states that consents should only be granted for lot adjustments or minor boundary changes provided both parcels comply with the provisions of the implementing zoning bylaw or such variances granted through the Committee of Adjustment, and the consent is granted in accordance with section 50(3) of the Planning Act.

The applicant has submitted for a variance to accommodate the reduction in lot area for the retained parcel (see below). Comments were received from the Essex Region Conservation Authority (ERCA). They have no objections to the consent or accompanying application for minor variance. No additional comments were received from other public authorities or agencies as of Friday February 21, 2020.

- g) The continuation of an orderly development pattern:

The lot addition will not result in the creation of an irregular parcel. The lot addition will actually result in straighter dimensions for the retained lot.

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

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

### Requirement for Minor Variance

The minimum lot area required for lots zoned A1.1 under Bylaw 1037 is the lesser of 40 hectares (100 acres) or the existing lot size. As a result of the proposed severance, the lot area for the retained farm parcel will be reduced from +1.87 acres, the existing lot size, to +1.09 acres. As such, a variance to accommodate a reduction in lot area for the retained farm parcel is required.

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

- e) The general intent of this Plan and the Zoning Bylaw are maintained:  
The main use of the retained farm parcel will remain agricultural.
- f) The variance(s) is minor and desirable for the appropriate use of the land:  
The variance will not have any adverse impact on adjoining land uses.
- g) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:



Agricultural lot sizes vary greatly in the agricultural district. The variance will not result in any adverse impact on traffic or parking patterns.

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

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

#### Public Comment

As a result of the giving of public notice, no written correspondences have been received from members of the public as of Friday February 21, 2020.

#### **Actions:**

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

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That the severed parcel be consolidated with the lands located at 3235 County Road 11. In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.
- f) That all of the above conditions be fulfilled on or before February 25, 2021.

#### **Additional comments resulting from circulation:**

**Mike Nelson, Watershed Planner, Essex Region Conservation Authority (ERCA), wrote**

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

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

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Mulder Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

ERCA has no regulatory concerns associated with this application for consent or minor variance.

## **WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

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

### **SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

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

## **PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS**

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the

PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

## **FINAL RECOMMENDATION**

ERCA has no objection to this application for consent or application for minor variance.

### **Discussion:**

Rita Jabbour, Secretary-Treasurer/Manager of Planning Services, explains the nature of the application.

Moved by: Ray Beneteau

Seconded by: Phil Pocock

**(CAO-2020-02-22)** That application A-07-20 be granted to accommodate a lot area of  $\pm 1.09$  acres for the retained farm lot.

## **"Carried"**

### **Reasons:**

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

### **5.3 Rita Jabbour, Planner RE:**

#### **Application B-08-20 J. Brush Farms LTD (Agent: Peggy Golden), 3235 County Road 11 (Colchester South, Ward 3)**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 3235 County Road 11 in the former township of Colchester South. The applicants are proposing to sever a  $\pm 1.23$  acre parcel from the existing  $\pm 19$  acre agricultural lot. The retained parcel is proposed to have an area of  $\pm 17.9$  acres. The applicants are proposing this consent for the purpose of creating a new lot. The severed lot will be occupied by an existing dwelling, accessory building and accompanying infrastructure.

**Note:** An application for minor variance has also been received for the subject lands (File Number: A-08-20). The public notice for the minor variance application has been included with this notice.

#### **5.3.1 Public Presentations (if any)**

#### **Rita Jabbour, Planner wrote:**

Official Plan Designation: "Agricultural" and "Rural Residential"

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

An application for consent and minor variance has been submitted for the agricultural lands located at 3235 County Road 11 in the former township of Colchester South. The subject property is designated "Agricultural" and "Rural Residential" under the Town of Essex Official Plan and zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities under Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are proposing to sever a  $\pm 1.23$  parcel from the existing  $\pm 19$  acre agricultural lot. The severed parcel will be occupied by an existing single detached dwelling, one (1) accessory building and accompanying infrastructure (i.e. water service connection, septic

system and access area). The retained parcel is proposed to have an area of +17.9 acres and will continue to be used for agricultural purposes.

Access to the severed parcel will be by way of County Road 11 via an existing access area.

Access to the retained parcel will continue to be way of 4<sup>th</sup> Concession Road via a separate existing access area.

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

The applicants are proposing this consent for the purpose of creating a new lot. The portion of the property to be severed is designated "Rural Residential" on Schedule A-3 of the Town of Essex Official Plan. In accordance with Town of Essex Official Plan policies, the "Rural Residential" land use designation recognized pockets of existing, zoned residential development situated throughout the agricultural area generally without an agricultural component. New development parcels within the "Rural Residential" designation must conform to the land division policies contained within Section 6 of the Official plan.

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

- a) the proposal's consistency with Provincial legislation, policies and guidelines;
- b) The requirements and policies of the Official Plan for the Town of Essex and the comments of other public authorities and agencies:

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections to the application for consent or accompanying application for minor variance. No further comments were received from other public authorities or agencies as of Friday February 21, 2020.

- c) The continuation of an orderly development pattern:

The proposed lot is not of a shape that would hinder adjoining land uses.

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

The proposed lot has access to municipal water and is serviced by the Mulder Drain. The applicants will be required to obtain satisfactory confirmation that the existing septic system(s) meets Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the consent certificate.

#### Requirement for Minor Variance

As a result of the proposed severance, the lot area for the severed and retained lots will decrease in size from +19 acres, the existing lot area, to +1.23 acres and 17.9 acres, respectively. The lot width of the severed parcel will also be reduced to +160 feet. The minimum lot area required for lots zoned A1.1 under Bylaw 1037 is the lesser of 40 hectares

(100 acres) or as existing. The minimum lot width required for lots zoned A1.1 under Bylaw 1037 is 60 metres (200 feet).

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

- a) The general intent of this Plan and the Zoning Bylaw are maintained:  
Consent for new development parcels are permitted for lands designated "Rural Residential" under the Town of Essex Official Plan;
- b) The variance(s) is minor and desirable for the appropriate use of the land:  
Lot areas in the agricultural district vary greatly. Additionally, no agricultural land will be taken out of production;
- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:  
The dwelling and accompanying infrastructure are existing. Thus, no new entrances or buildings that would impact traffic patterns or neighbouring lots are proposed to be constructed;
- d) The variance deals with circumstances particular to the site and development:  
The variance is necessary in order to accommodate a consent application.

#### Public Comment

As a result of the giving of public notice, no phone calls or written correspondence objecting to the severance have been received from members of the public as of Friday February 21, 2020.

#### **Actions:**

1. Should the Committee choose to approve this application, approval should be subject to satisfying the following conditions:
  - a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
  - b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
  - c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
  - d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;

- e) That 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;
  - f) That all of the above conditions be fulfilled on or before February 25, 2021.
2. That, prior to the granting of this consent, the requested variance should be granted by the Committee of Adjustment to accommodate the reduction in minimum lot width for the severed parcel and minimum lot area for the severed and retained parcel.

**Additional comments resulting from circulation:**

**Mike Nelson, Watershed Planner, Essex Region Conservation Authority (ERCA),**  
**wrote**

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

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

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Mulder Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

ERCA has no concerns associated with these applications from a regulatory perspective.

**WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

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

**SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

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

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

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the

PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our

review, we have no objection to the application with respect to natural heritage policies.

**FINAL RECOMMENDATION**

ERCA has no objection to the application for consent or the application for minor variance.

**Discussion:**

Rita Jabbour, Secretary-Treasurer/Manager of Planning Services, explains the nature of the application.

Brian Gray leaves the bench and attends a phone call at 4:31 p.m.

Percy asks what the lot line separation is for the subject property and the property to the south.

Chris Brush, 3235 County Rd 11, advises that the distance is 20 – 25 feet.

Moved by: Ray Beneteau

Seconded by: Phil Pocock

**(CAO-2020-02-23)** That application B-08-20 be granted to sever a +1.23 acre parcel from the existing +19 acre agricultural lot. The severed parcel will be occupied by an existing dwelling, accessory building and accompanying infrastructure subject to the following conditions:

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That 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;
- f) That all of the above conditions be fulfilled on or before February 25, 2021.

**“Carried”**

**Reason:** The Application is in keeping with subsection 1.1.5 of the Provincial Policy Statement (PPS) respecting development on rural lands in municipalities and subsections 5.11 and 6.4 of the Town of Essex Official Plan respecting development on lands designated “Rural Residential”, and consents.

Brian Gray returns to the bench at 4:35 p.m.

#### **5.4 Rita Jabbour, Planner RE:**

##### **Application A-08-20 J. Brush Farms LTD (Agent: Peggy Golden), 3235 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 3235 County Road 11 in the former township of Colchester South. As a result of a proposed severance, the lot width of the severed lot will be reduced to +160 feet. The lot area for the severed and retained parcel will be reduced from  $\pm 19$  acres to  $\pm 1.23$  acres and 17.9 acres, respectively. The minimum lot width for lots within Agricultural District 1.1 (A1.1) is 60 metres (200 feet). The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

**Note:** An application for consent has also been received for the subject lands (File Number: B-08-20). The public notice for the consent application has been included with this notice.

#### **5.4.1 Public Presentations (if any)**

##### **Rita Jabbour, Planner wrote:**

Official Plan Designation: "Agricultural" and "Rural Residential"

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

An application for consent and minor variance has been submitted for the agricultural lands located at 3235 County Road 11 in the former township of Colchester South. The subject property is designated "Agricultural" and "Rural Residential" under the Town of Essex Official Plan and zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities under Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are proposing to sever a +1.23 parcel from the existing +19 acre agricultural lot. The severed parcel will be occupied by an existing single detached dwelling, one (1) accessory building and accompanying infrastructure (i.e. water service connection, septic system and access area). The retained parcel is proposed to have an area of +17.9 acres and will continue to be used for agricultural purposes.

Access to the severed parcel will be by way of County Road 11 via an existing access area. Access to the retained parcel will continue to be way of 4<sup>th</sup> Concession Road via a separate existing access area.

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

The applicants are proposing this consent for the purpose of creating a new lot. The portion of the property to be severed is designated "Rural Residential" on Schedule A-3 of the Town of Essex Official Plan. In accordance with Town of Essex Official Plan policies, the "Rural Residential" land use designation recognized pockets of existing, zoned residential



development situated throughout the agricultural area generally without an agricultural component. New development parcels within the "Rural Residential" designation must conform to the land division policies contained within Section 6 of the Official plan.

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

- e) the proposal's consistency with Provincial legislation, policies and guidelines:
- f) The requirements and policies of the Official Plan for the Town of Essex and the comments of other public authorities and agencies:  
Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections to the application for consent or accompanying application for minor variance. No further comments were received from other public authorities or agencies as of Friday February 21, 2020.
- g) The continuation of an orderly development pattern:  
The proposed lot is not of a shape that would hinder adjoining land uses.
- h) The adequate provision of potable water supply, sanitary sewage treatment and disposal and stormwater management in accordance with the Official Plan and to the satisfaction of the Town and the statutory approval authority having jurisdiction:  
The proposed lot has access to municipal water and is serviced by the Mulder Drain. The applicants will be required to obtain satisfactory confirmation that the existing septic system(s) meets Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the consent certificate.

#### Requirement for Minor Variance

As a result of the proposed severance, the lot area for the severed and retained lots will decrease in size from +19 acres, the existing lot area, to +1.23 acres and 17.9 acres, respectively. The lot width of the severed parcel will also be reduced to +160 feet. The minimum lot area required for lots zoned A1.1 under Bylaw 1037 is the lesser of 40 hectares (100 acres) or as existing. The minimum lot width required for lots zoned A1.1 under Bylaw 1037 is 60 metres (200 feet).

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

- e) The general intent of this Plan and the Zoning Bylaw are maintained:  
Consent for new development parcels are permitted for lands designated "Rural Residential" under the Town of Essex Official Plan;
- f) The variance(s) is minor and desirable for the appropriate use of the land:  
Lot areas in the agricultural district vary greatly. Additionally, no agricultural land will be taken out of production;
- g) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:

The dwelling and accompanying infrastructure are existing. Thus, no new entrances or buildings that would impact traffic patterns or neighbouring lots are proposed to be constructed;

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

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

#### Public Comment

As a result of the giving of public notice, no phone calls or written correspondence objecting to the severance have been received from members of the public as of Friday February 21, 2020.

#### **Actions:**

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

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

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

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

d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;

e) That 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;

f) That all of the above conditions be fulfilled on or before February 25, 2021.

2. That, prior to the granting of this consent, the requested variance should be granted by the Committee of Adjustment to accommodate the reduction in minimum lot width for the severed parcel and minimum lot area for the severed and retained parcel.

#### **Additional comments resulting from circulation:**

**Mike Nelson, Watershed Planner, Essex Region Conservation Authority (ERCA), wrote**

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

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

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Mulder Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

ERCA has no concerns associated with these applications from a regulatory perspective.

#### **WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

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

#### **SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

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

#### **PLANNING ADVISORY SERVICE TO MUNICIPALITIES - NATURAL HERITAGE POLICIES OF THE PPS**

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the

PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

#### **FINAL RECOMMENDATION**

ERCA has no objection to the application for consent or the application for minor variance.

#### **Discussion:**

Rita Jabbour, Secretary-Treasurer/Manager of Planning Services, explains the nature of the application.

Moved by: Phil Pocock

Seconded by: Brian Gray

**(CAO-2020-02-24)** That application A-08-20 be granted to accommodate a lot area of  $\pm 1.23$  acres and  $\pm 17.9$  acres for the severed lot and retained farm lot, respectively, and to accommodate a lot width of  $\pm 160$  feet for the severed lot.

**"Carried"**

**Reasons:** 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

**5.5 Rita Jabbour, Planner RE:**

**Application B-09-20 J. Brush Farms Limited (Agent: Peggy Golden) 3235 County Road 11 (Colchester South, Ward 3)**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands located at 3235 County Road 11 in the former township of Colchester South. The applicants are proposing to sever a  $\pm 1.5$  acre parcel from the existing  $\pm 19$  acre agricultural lot. The retained parcel is proposed to have an area of  $\pm 16.5$  acres. The applicants are proposing this consent for the purposes of creating a new lot. The severed lot will be occupied by an existing dwelling, accessory building and accompanying infrastructure.

**Note:** An application for minor variance has also been received for the subject lands (File Number: A-09-20). The public notice for the minor variance application has been included with this notice.

**5.5.1 Public Presentations (if any)**

**Rita Jabbour, Planner wrote:**

Official Plan Designation: "Agricultural" and "Rural Residential"

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

An application for consent and minor variance has been submitted for the lands located at 3235 County Road 11 in the former township of Colchester South. The subject property is designated "Agricultural" and "Rural Residential" under the Town's Official Plan and zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities under Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are proposing to sever a  $\pm 1.5$  acre parcel from the existing  $\pm 19$  acre agricultural lot. The severed parcel will be occupied by an existing single detached dwelling, one (1) outbuilding and accompanying infrastructure (i.e. water service connection, septic

system and access area). The retained parcel is proposed to have an area of +16.5 acres and will continue to be used for agricultural purposes.

Access to the severed parcel will remain by way of County Road 11 via the existing access area. Access to the retained parcel will be by way of the 4<sup>th</sup> Concession Road via an existing access bridge.

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

The applicants are proposing this consent for the purpose of creating a new lot. The portion of the property to be severed is designated "Rural Residential" on Schedule A-3 of the Town of Essex Official Plan. In accordance with Town of Essex Official Plan policies, the "Rural Residential" land use designation recognized pockets of existing, zoned residential development situated throughout the agricultural area generally without an agricultural component. New development parcels within the "Rural Residential" designation must conform to the land division policies contained within Section 6 of the Official plan.

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

- i) the proposal's consistency with Provincial legislation, policies and guidelines:
- j) The requirements and policies of the Official Plan for the Town of Essex and the comments of other public authorities and agencies:

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections to the application for consent or accompanying application for minor variance. No further comments were received from other public authorities or agencies as of Friday February 21, 2020.

- k) The continuation of an orderly development pattern:

The proposed lot is not of a shape that would hinder adjoining land uses.

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

The proposed lot has access to municipal water and is serviced by the Mulder Drain. The applicants will be required to obtain satisfactory confirmation that the existing septic system(s) meets Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the consent certificate.

#### Requirement for Minor Variance

As a result of the proposed severance, the minimum lot area for the severed and retained parcel will be reduced from +19 acres to +1.5 acres, respectively. The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

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:

- m) The general intent of this Plan and the Zoning Bylaw are maintained:  
Consent for new development parcels are permitted for lands designated "Rural Residential" under the Town of Essex Official Plan;
- n) The variance(s) is minor and desirable for the appropriate use of the land:  
Lot areas in the agricultural district vary greatly. Additionally, no agricultural land will be taken out of production;
- o) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns:  
The dwelling and accompanying infrastructure are existing. Thus, no new entrances or buildings that would impact traffic patterns or neighbouring lots are proposed to be constructed;
- p) The variance deals with circumstances particular to the site and development:  
The variance is necessary in order to accommodate a consent application.

#### Public Comment

As a result of the giving of public notice, no phone calls or written correspondence objecting to the severance have been received from members of the public as of Friday February 21, 2020.

#### **Actions:**

1. Should the Committee choose to approve this application, approval should be subject to satisfying the following conditions:
  - a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
  - b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
  - c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
  - d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
  - e) That 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;
  - f) That all of the above conditions be fulfilled on or before February 25, 2021.

2. 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 severed and retained parcel.

**Additional comments resulting from circulation:**

**Mike Nelson, Watershed Planner, Essex Region Conservation Authority (ERCA), wrote**

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

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

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Mulder Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

ERCA has no concerns with either of the applications from a regulatory perspective.

**WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

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

**SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

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

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

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the

PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

**FINAL RECOMMENDATION**

ERCA has no objection to either of the applications.

**Discussion:**

Rita Jabbour, Secretary-Treasurer/Manager of Planning Services, explains the nature of the application.

Moved by: Phil Pocock

Seconded by: Brian Gray

**(CAO-2020-02-25)** That application B-09-20 be granted to sever a  $\pm 1.5$  acre parcel from the existing +19 acre agricultural lot. The severed parcel will be occupied by an existing dwelling, accessory building and accompanying infrastructure. Subject to the following conditions:

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That 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;
- f) That all of the above conditions be fulfilled on or before February 25, 2021.

**"Carried"**

**Reasons:** The Application is in keeping with subsection 1.1.5 of the Provincial Policy Statement (PPS) respecting development on rural lands in municipalities and subsections 5.11 and 6.4 of the Town of Essex Official Plan respecting development on lands designated "Rural Residential", and consents.

## **5.6 Rita Jabbour, Planner RE:**

### **Application A-09-20 J. Brush Farms LTD (Agent: Peggy Golden), 3235 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 3235 County Road 11 in the former township of Colchester South. The lot area for the severed and retained parcel will be reduced from  $\pm 19$  acres to  $\pm 1.5$  acres. The minimum



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

**Note:** An application for consent has also been received for the subject lands (File Number: B-09-20). The public notice for the consent application has been included with this notice.

#### **5.6.1 Public Presentations (if any)**

**Rita Jabbour, Planner wrote:**

Official Plan Designation: "Agricultural" and "Rural Residential"

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

An application for consent and minor variance has been submitted for the lands located at 3235 County Road 11 in the former township of Colchester South. The subject property is designated "Agricultural" and "Rural Residential" under the Town's Official Plan and zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities under Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are proposing to sever a +1.5 acre parcel from the existing +19 acre agricultural lot. The severed parcel will be occupied by an existing single detached dwelling, one (1) outbuilding and accompanying infrastructure (i.e. water service connection, septic system and access area). The retained parcel is proposed to have an area of +16.5 acres and will continue to be used for agricultural purposes.

Access to the severed parcel will remain by way of County Road 11 via the existing access area. Access to the retained parcel will be by way of the 4<sup>th</sup> Concession Road via an existing access bridge.

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

The applicants are proposing this consent for the purpose of creating a new lot. The portion of the property to be severed is designated "Rural Residential" on Schedule A-3 of the Town of Essex Official Plan. In accordance with Town of Essex Official Plan policies, the "Rural Residential" land use designation recognized pockets of existing, zoned residential development situated throughout the agricultural area generally without an agricultural component. New development parcels within the "Rural Residential" designation must conform to the land division policies contained within Section 6 of the Official plan.

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

- a) the proposal's consistency with Provincial legislation, policies and guidelines:
- b) The requirements and policies of the Official Plan for the Town of Essex and the comments of other public authorities and agencies:

Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections to the application for consent or accompanying application for

minor variance. No further comments were received from other public authorities or agencies as of Friday February 21, 2020.

c) The continuation of an orderly development pattern:

The proposed lot is not of a shape that would hinder adjoining land uses.

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

The proposed lot has access to municipal water and is serviced by the Mulder Drain.

The applicants will be required to obtain satisfactory confirmation that the existing septic system(s) meets Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the consent certificate.

Requirement for Minor Variance

As a result of the proposed severance, the minimum lot area for the severed and retained parcel will be reduced from +19 acres to +1.5 acres, respectively. The minimum lot area for lots within Agricultural District 1.1 (A1.1) is 40 hectares (100 acres) or as existing.

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

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

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

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

Lot areas in the agricultural district vary greatly. Additionally, no agricultural land will be taken out of production;

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

The dwelling and accompanying infrastructure are existing. Thus, no new entrances or buildings that would impact traffic patterns or neighbouring lots are proposed to be constructed;

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

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

Public Comment

As a result of the giving of public notice, no phone calls or written correspondence objecting to the severance have been received from members of the public as of Friday February 21, 2020.

**Actions:**

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

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That 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;
- f) That all of the above conditions be fulfilled on or before February 25, 2021.

2. 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 severed and retained parcel.

**Additional comments resulting from circulation:**

**Mike Nelson, Watershed Planner, Essex Region Conservation Authority (ERCA), wrote**

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

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

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Mulder Drain. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

ERCA has no concerns with either of the applications from a regulatory perspective.

**WATERSHED BASED RESOURCE MANAGEMENT AGENCY**

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

**SECTION 1.6.6.7 Stormwater Management (PPS, 2014)**

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

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

The following comments are provided from our perspective as a service provider to the Municipality on matters related to natural heritage and natural heritage systems as outlined in Section 2.1 of the

PPS. The comments in this section do not necessarily represent the provincial position and are advisory in nature for the consideration of the Municipality as the planning authority.

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance as defined by the Provincial Policy Statement (PPS). Based on our review, we have no objection to the application with respect to natural heritage policies.

**FINAL RECOMMENDATION**

ERCA has no objection to either of the applications.

**Discussion:**

Rita Jabbour, Secretary-Treasurer/Manager of Planning Services, explains the nature of the application

Moved by: Ray Beneteau

Seconded by: Phil Pocock

**(CAO-2020-02-26)** That application A-09-20 be granted to accommodate a lot area of +1.5 acres and ±16.5 acres for the severed lot and retained farm lot, respectively

**“Carried”**

**Reasons:** 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

**5.7**

**Rita Jabbour, Planner RE:**

**Application B-10-20 Atlas Tube Validation Certificate, 516 Roseborough & 374 Clark Street (Harrow Centre, Ward 4)**

A consent for a Certificate of Validation under Section 57 (1) of the Planning Act, R.S.O 1990, c.P. 13, has been received by the Town of Essex Committee of Adjustment for the property at 516 Roseborough & 374 Clark Street in Harrow Centre, Ward 4.

The applicants are seeking approval in order to re-establish the previous property boundaries that existed for 516 Roseborough Road and 374 Clark Street prior to July 22, 2019, when they subsequently merged as a result of a registered transfer. In particular, the validation would allow for the separation of Parts 1 and 2 on 12R4912 from the remained of the property.

#### **5.7.1 Public Presentations (if any)**

**Rita Jabbour, Planner wrote:**

Official Plan Designation: "Industrial"

Zoning: Manufacturing District 2.1 (M2.1) General Industrial Uses

An application for Certificate of Validation has been submitted for the lands located at 516 Roseborough Road and 374 Clark Street in the township of Harrow. The subject property is designated "Industrial" under the Town's Official Plan and zoned Manufacturing District 2.1 (M2.1) for general industrial uses under Town of Essex Zoning Bylaw, Bylaw 1037.

The applicant is applying for a certificate of validation under Section 57(1) of the *Planning Act* in order to re-establish the previous property boundaries that existed for 516 Roseborough Road and 374 Clark Street. As recently as July 2019, the parcels were under separate ownership but through a transfer registered on July 22, 2019, they merged on title.

The validation would allow for the separation of Parts 1 and 2 on 12R4912 (516 Roseborough Road) from the remainder of the property (374 Clark Street). Both of these parcels are independently serviced and have their own separate access areas.

In considering whether to issue a certificate of validation, no certificate under Section 57 of the Act shall be issued by a Council unless the certificate conforms to the following:

- a) The official plan in effect in the municipality;
- b) The zoning bylaw of the municipality;
- c) The absence of any ministerial order prohibiting the granting of a consent (there are no such orders concerning Essex);
- d) Conformity to the criteria set out in Section 51(24) of the Planning Act R.S.O. 1990, c.P. 13, for the subdivision of land.

For lands designated "Industrial", section 5.16 (e) of the Official Plan maintains that residential dwellings existing at the date of adoption of the Official Plan (2009), may be recognized in the implementing Zoning By-law. Bylaw 1037 does not recognize a dwelling as a lawfully existing use under Manufacturing District 2.1 (M2.1). As noted in the applicant submission, however, the purpose of the validation is not to create a new lot,

but only to restore previously existing lot lines that were inadvertently lost through the consolidation of two parcels of land in the summer of 2019. (516 Roseborough is noted as a separate lot on Zoning Map 14).

No public notice is required for an application for Certificate of Validation.

**Actions:**

To be determined by the Committee.

**Discussion:**

Rita Jabbour, Secretary-Treasurer/ Manager of Planning Services, explains the nature of the application.

Amanda Camils, the applicant's agent, advises the members that the parcel was merged due to the two subject parcels being registered under the same name.

Brian Gray asks if the property at 516 is currently rented. He states that he believes noise is a concern due to the close proximity to the Atlas Tube Centre.

Amanda advises that at this time the residence is vacant. She states that the residence at 516 Roseborough is near a mill and that the property was purchased in good faith.

Moved by: Ray Beneteau

Seconded by: Phil Pocock

**(CAO-2020-02-27)** To grant an application for a Certificate of Validation under Section 57 (1) of the Planning Act, R.S.O 1990, c.P. 13 for the property at 516 Roseborough & 374 Clark Street in Harrow, Ward 4, in order to re-establish the previous property boundaries that existed for 516 Roseborough Road and 374 Clark Street prior to July 22, 2019, when they subsequently merged as a result of a registered transfer.

**"Carried"**

**Reasons for Decision:** The Application is in keeping with the prescribed criteria for issuing a certificate of validation under Ontario Regulation 144/95. In rendering their decision, the Committee of Adjustment for the Town of Essex had regard to the matters described under subsection 51(24) of the *Planning Act*.

**6. Unfinished Business**

**7. Correspondence**

**8. New Business**

**8.1 Introduction to new assistant planner**

Rita introduces Corinne Chiasson, Assistant Planner and future Secretary-Treasurer for the Committee of Adjustment.

The Committee members welcome Corinne to the Planning Department and the Committee of Adjustment.

## **8.2 General Discussion of evaluating lot severances in agricultural areas**

Moved by: Brian Gray

Seconded by: Ray Beneteau

**(CAO-2020-02-28)** that **New Business item 8.2** be deferred until the March 17<sup>th</sup> Committee of Adjustment meeting.

**"Carried"**

## **8.3 Local Planning Appeal Tribunal (LPAT) appeal B-04-20 | A-04-20**

Percy Dufour advises the members that the applicants on consent application B-04-20 & A-04-20 (1241 South Malden Road) have appealed the decision to the Local Planning Appeal Tribunal (LPAT).

Ray Beneteau asks if an outside Planner will be called to review the appeal and speak on the application.

Rita advises that she has spoken with the committee members and has advised that Percy Dufour, Phil Pocock, and Brian Gray be placed as witnesses that can speak to the application and the committee's decision at the meeting of LPAT.

She advises that she will speak with the Director of Development Services about obtaining an outside Planner for LPAT appeals. She continues to state that she does feel she is capable of attending the appeal and speaking to the application as it is a planning exercise and speaking to policy.

Ray advises that the Secretary Treasurer should stand behind the Committee's decision for the application and should be able to speak on behalf of the committee.

Rita advises that she will refer to the appropriate policy matters if asked to speak on the application by the LPAT.

## **9. Notices of Motion**

## **10. Adjournment**

Moved by: Phil Pocock

Seconded by: Brian Gray


**(CAO-2020-02-29)** That the meeting be adjourned at 5:10 p.m.

## **11. Next Meeting**

**11.1** March 17<sup>th</sup>, 2020 in the Large Meeting Room, 33 Talbot St. S, Town Hal



Chair

  
Secretary-Treasurer