

Municipality of Lakeshore Committee of Adjustment Report

Growth & Sustainability

Community Planning



To: Chair & Members of Committee of Adjustment

From: Ian Search, BES, Planner I

Date: June 7, 2023

Subject: Minor Variance Application A-21-2023 – 903 W Belle River Road

Recommendation

Approve Minor Variance Application A-21-2023 to permit an existing dwelling to temporarily remain on the lot during the construction of a new dwelling at 903 W Belle River Road, subject to the following conditions:

- 1) The owner of the subject property enter into an agreement with the Municipality of Lakeshore that will require the existing dwelling to be demolished, dismantled, relocated and/or removed (including any and all debris) in accordance with the agreement, and this agreement is to be to the satisfaction of the Municipality of Lakeshore, and registered on title if required by the Municipality of Lakeshore, and all the details of this agreement and requirements of the owner of the subject property under this agreement are to be determined by the Municipality of Lakeshore;
- 2) The existing water service be maintained during construction to the satisfaction of the Operations department;
- 3) The water meter from the existing dwelling be moved from the existing dwelling to the new dwelling when required for completion of the new home to the satisfaction of the Municipality of Lakeshore. If the Municipality of Lakeshore determines that the water meter is not in good condition, the water meter shall be replaced by Lakeshore.

Relief Requested:

The subject property is approximately 5.65 acres in area with approximately 123.8 metres of frontage along W Belle River Road. The applicant is applying to permit an existing dwelling to temporarily remain on the lot during the construction of a new dwelling, and is therefore seeking the following relief from Lakeshore Zoning By-law 2-2012:

- Relief from Section 6.20 Dwelling Units Per Lot to temporarily permit two dwelling units on a lot.

Reasons for and Nature of the Application:

The applicants are requesting to temporarily permit an existing dwelling to remain on the subject property during the construction of their new dwelling. The existing dwelling will provide housing for the applicant during construction of the new dwelling.

Summary:

Location:

The subject property is located south of County Road 42, north of Rogers Road, on the west side of W. Belle River Road in the Community of Maidstone, known municipally as 903 W. Belle River Road (See Attachment A).

Official Plan:

The entire subject property is designated Agricultural and is partially located within the Essex Region Conservation Authority (ERCA) Limit of Regulated Area.

Zoning:

The subject property is zoned Agriculture (A).

Conclusion:

Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

Official Plan:

While the subject property is not included in a settlement area, it borders the Belle River Strip settlement area to the east and therefore its development has influence on the physical design characteristics of its surrounding area. Section 4.2.1 of the Lakeshore Official Plan states that the Municipality will ensure that new development is designed in keeping with the traditional character of the Settlement Areas in a manner that both preserves their traditional community image and enhances their sense of place within the Municipality. One permanent single detached dwelling per lot is considered to be part of the traditional character of the settlement area. Additionally, the subject property is designated Agricultural and Section 6.2.1 b) of the Official Plan permits “a single residential dwelling per lot” – a secondary residence is only permitted on a farm parcel when the size and nature of such operation requires additional employment.

The minor variance proposal meets the general intent and purpose of the Official Plan so long as approval is conditional on the owner entering into a legal agreement with the Municipality to temporarily permit two dwellings on a single lot. Under this agreement, an

owner can apply for a building permit to build a new dwelling on their lot while their existing dwelling remains on the lot during construction. The owner is then required to demolish, dismantle, relocate and/or remove any and all debris of the original dwelling in accordance with the specifications of the agreement. The agreement requires an indemnity deposit of \$20,000.00 as prescribed under the current User Fees By-law, and requires the original dwelling – including any and all debris – to be demolished, dismantled, relocated and/or removed within ninety (90) days of occupancy of the new dwelling.

Zoning By-law:

The intent and purpose of the regulation restricting a lot to only one dwelling is to preserve neighbourhood character from uncontrolled intensification and to mitigate urban sprawl that threatens the efficient use of services throughout the Municipality. It is the opinion of the Planner that the proposal will meet this general intent and purpose if the proposed condition is imposed on approval. The condition will ensure a mechanism to only permit two dwellings on a temporary basis. Under the standard agreement as currently drafted, the original dwelling – including any and all debris – is to be demolished, dismantled, relocated and/or removed within ninety (90) days of occupancy of the new dwelling.

This property is a large rural residential lot that is not located in a typical residential subdivision. There are only a few neighbouring residential dwellings in proximity, and there are natural heritage features located on the east side of W Belle River Road directly across the street. Under this context, there will be little impact to the character of the area in allowing two dwellings on the lot for up to 90 days following occupancy of the new dwelling.

Minor

The minor variance is considered minor. The recommended condition will only permit a deviation from the Zoning By-law for a temporary period, at which point the development will be in full compliance with the Zoning By-law. No impacts to neighbouring properties are anticipated, as the new dwelling will be constructed in an area located south of the existing house, far from any neighbouring dwellings.

Desirability

The minor variance is convenient for the applicant since it will provide them with housing during construction of their new dwelling. The Committee should consider this hardship as an issue of appropriateness. Furthermore, the proposed condition will ensure that existing standards in the immediate area and compatibility with surroundings will be preserved at the end of the process.

It is the opinion of the Planner that the requested variance passes the four tests prescribed under Section 45 (1) of the *Planning Act*.

- i. The variance would be “minor” in nature.

- ii. It would be desirable for the appropriate development or use of the land, building or structure.
- iii. It would maintain the general intent and purpose of the Official Plan.
- iii. It would maintain the general intent and purpose of the Zoning By-law.

It is recommended that the Committee of Adjustment impose the following condition on approval:

1) The owner of the subject property enter into an agreement with the Municipality of Lakeshore that will require the existing dwelling to be demolished, dismantled, relocated and/or removed (including any and all debris) in accordance with the agreement, and this agreement is to be to the satisfaction of the Municipality of Lakeshore, and registered on title if required by the Municipality of Lakeshore, and all the details of this agreement and requirements of the owner of the subject property under this agreement are to be determined by the Municipality of Lakeshore.

Correspondence

External and Internal Agencies

The application was circulated to various external and internal agencies, comments received are summarized below.

ERCA states that they have no objection. 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. Full comments can be found in Appendix C.

Operations has commented that the existing water service must be maintained during construction. The water meter from the existing dwelling shall be moved to the new dwelling when required for completion of the new dwelling. Full comments can be found in Appendix D.

Public Notice Circulation

Notice of Public Meeting and information regarding the requested minor variance application was sent to all property owners within 60 metres of the subject land. At the time of writing, no written comments were received.

Attachments(s):

Appendix A – Aerial Image
Appendix B – Drawings
Appendix C – ERCA Comments
Appendix D – Operations Comments
Appendix E – Site Images

Prepared by:



Ian Search, BES
Planner I

Report Approval Details

Document Title:	A-21-2023 - Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Image.pdf- Appendix B - Drawings.pdf- Appendix C - ERCA Comments.pdf- Appendix D - Operations Comments.pdf- Appendix E - Site Images.pdf
Final Approval Date:	Jun 8, 2023

This report and all of its attachments were approved and signed as outlined below:

Kristina Brcic - Jun 8, 2023 - 3:32 PM