

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: Consent Application B/13/2023 – 1972 County Road 27

Recommendation

Approve Consent Application B/13/2023 to establish an easement on 1972 County Road 27 (over Part 1 on Plan 12R-29378) in favour of the farming parcel abutting the rear of the property known municipally as 0 County Rd 27, and legally as Part of Lot 17, Concession 1, East Belle River Rochester; Part of West Half of Lot 18, Concession 1, East Belle River Rochester, designated as Part 1 on 12R10450, except Parts 1 and 2 on 12R17791; save and except Part 1 on Plan 12R28139; together with R1107956; Lakeshore, subject to the following conditions:

- 1) That the applicant(s) obtain a proper survey and Reference Plan from an Ontario Land Surveyor to the satisfaction of the Municipality;
- 2) That all municipal taxes be paid in full prior to the stamping of the Deed;
- 3) That the Deed and Easement Agreement be prepared to the satisfaction of Municipality and be forwarded to the Secretary for Stamping;
- 4) That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. 1990 by June 15, 2025. Failure to fulfil the conditions by this date shall deem the consent refused, as per the Planning Act.

Purpose

The applicants are proposing to establish an easement on the subject property over Part 1 on Plan 12R-29378 (Appendix B) in favour of the farming parcel abutting the rear of the property known municipally as 0 County Rd 27, and legally as Part of Lot 17, Concession 1, East Belle River Rochester; Part of West Half of Lot 18, Concession 1, East Belle River Rochester, designated as Part 1 on 12R10450, except Parts 1 and 2 on 12R17791; save and except Part 1 on Plan 12R28139; together with R1107956; Lakeshore.

The easement is to provide gas and hydro utilities through the subject property to the farming parcel abutting the rear of the property. Specifically, the sketch submitted with the application (Appendix B) indicates that new gas and hydro services will be provided to a “work shed” and a “new grain bin with dryer” on the farm parcel. The easement lands will be approximately 5 meters wide and will be adjacent to the northern interior lot line of the subject property totalling approximately 303.93 m².

Summary

Location:

The subject property is known municipally as 1972 County Road 27, located on the east side of County Road 27, south of Highway 401, and north of County Road 46.

Surrounding Land Uses:

Directly east of the subject property is the agricultural parcel that is the beneficiary of the proposed easement. North, south and west of the subject property are residential properties containing single detached dwellings.

Lakeshore Official Plan and Zoning By-law

1972 County Road 27 was severed from the farm parcel as a surplus farm dwelling lot a few years ago (file: B/23/2019). At the time of the severance, an existing farm building traversed the proposed rear lot line of the surplus farm dwelling lot, and the applicant was required to demolish a section of that building to bring the severed lot (1972 County Road 27) and retained land into compliance with required setbacks under the Zoning By-law. Following that partial demolition, a separate accessory structure/shed was left on the severed lot – located in the northeast corner of the lot – and a larger farm building containing a work shed remained on the retained land.

The applicant at the time simply complied with conditions of the surplus farm dwelling severance, which were recommended by Lakeshore’s Community Planning Division and imposed by the Committee of Adjustment. This created the situation of having farm buildings/structures on the farm parcel located near the rear lot line of the subject lot.

Section 8.3.5.2 b) of the Official Plan states “Notwithstanding any other provisions of this Official Plan, a consent for technical or legal purposes may be permitted where a separate lot is not being created (such as a boundary adjustment, easement or right-of-way). The lots that are the subject of that type of application and any retained lands will comply with the Zoning By-law, or the By-law will be amended or a minor variance granted as a condition of the consent”. This policy is included in the Official Plan to address scenario scenarios like the proposed application. Granting the application will permit an easement in favour of the abutting farm parcel so that hydro and gas services can be supplied to a work shed and a new grain bin with dryer on that property. The subject property is a residential lot so the services in the easement lands can be installed without displacing/using any cultivated farmland.

The proposed easement provides direct and pragmatic connection to the structures on the farm parcel given that the structures currently exist or will be constructed directly behind 1972 County Road 27 – in an area far from any road frontage where servicing could otherwise be supplied directly.

The easement lands will be approximately 5 meters wide and will be adjacent to the northern interior lot line of the subject property as shown in Appendix B, totalling approximately 303.93 m². The proposed location is ideal as the easement lands will be in a space between an existing line of trees/vegetation and the north interior lot line of the subject property where there are no buildings and structures. Additionally, it will have very little impact on any future development of the subject lot since a 3-metre interior side yard setback is required for main buildings/structures. The plans do not detail any additional accessory buildings to be constructed on the subject lot, and there is already a relatively large accessory building on the property plus alternative spaces to accommodate any new structures outside the easement lands.

An Easement Agreement will need to be prepared and submitted to the Municipality as a condition of consent prior to registering the easement.

Conclusion

There are no issues of Provincial significance raised by the application. The application conforms to the Lakeshore Official Plan, complies with the Zoning By-law 2-2012 and it is recommended that approval be subject to the conditions included in the recommendation section of this report.

Correspondence from external and internal agencies

External and Internal Agencies

The applications were circulated to various external and internal agencies, comments received from them are summarized below.

The County of Essex states that they have no objection to the proposal. They advise that the applicant will be required to comply with County Road regulations and will be required to obtain any necessary permits. Full comments can be found within Appendix C.

The Operations Department has requested that the easement language shall include verbiage on keeping the easement lands free and clear of any structures that may limit access to the easement for future maintenance works. This comment is addressed under condition 3 of the application. The full comment can be found in Appendix D.

The Ministry of Transportation (MTO) states that MTO review/permits are required for any new structure/building. The full comment can be found in Appendix E.

Public Notice Circulation

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

Attachment(s):

Appendix A – Aerial Map
Appendix B – Survey and Drawings
Appendix C – County of Essex Comments
Appendix D – Operations Department Comments
Appendix E – MTO Comment
Appendix F – Site Images

Prepared by:



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Report Approval Details

Document Title:	B-13-2023 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Map.pdf- Appendix B - Survey and Drawing.pdf- Appendix C - County of Essex Comments.pdf- Appendix D - Operations Department Comments.pdf- Appendix E - MTO Comments.pdf- Appendix F - Site Images.pdf
Final Approval Date:	Jun 9, 2023

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

Kristina Brcic - Jun 9, 2023 - 11:48 AM