

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: September 7, 2023

Subject: Consent Application B/31/2023 – 1189 Lakeshore Road 107

Recommendation

Approve consent application B/31/2023 to sever a lot with an area of approximately 3,051.33 m² (0.754 acres) from 1189 Lakeshore Road 107, subject to the following conditions:

- 1) That the applicants obtain a proper survey and Reference Plan from an Ontario Land Surveyor for the severed and retained parcel of land to the satisfaction of the Municipality, including setbacks of any buildings, septic systems, and existing entrances;
- 2) That all municipal taxes be paid in full prior to the stamping of the Deed;
- 3) That the Deed and a copy for our records be forwarded to the Secretary for stamping;
- 4) That the applicant submit a drawing detailing the surface and subsurface drainage for the entire lands, to the Municipality's satisfaction, prior to the stamping of the Deed;
- 5) That the applicant confirm that the lot to be created will comply with the minimum distance separation formulae to the satisfaction of the Secretary-Treasurer;
- 6) If required, the applicants enter into an Agreement with the Municipality prior to the stamping of the Deed regarding the apportionment of any current or future local improvements or drainage charges levied against the subject property;
- 7) That a Park Fee be imposed on the granting of this Application in the amount subject to the Parkland By-law at the time of payment, and that such fee shall be paid prior to the stamping of the Deed;
- 8) That the vacant residential lot subject to the certificate of consent cancellation in condition 9 be transferred into the same ownership as the subject property (1189 Lakeshore Road 107);

9) That, if required by the Secretary-Treasurer to the Committee of Adjustment, a certificate of consent cancellation be granted by the Committee of Adjustment and registered with respect to the vacant residential lot located adjacent to the subject property to the north on PIN 750110206 (Legal Description: PART LOT 17, CONCESSION 6, WBR, MAIDSTONE, PARTS 1 AND 2, PLAN 12R-13388; SUBJECT TO AN EASEMENT OVER PART 2, PLAN 12R-13388 AS IN MB19396; TOWN OF LAKESHORE), to the satisfaction of the Secretary-Treasurer;

10) That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. 1990 by September 14, 2025. Failure to fulfil the conditions by this date, shall deem the consent refused, as per The Planning Act.

Approve the issuance of a certificate of consent cancellation for the vacant residential lot located adjacent to the subject property to the north on PIN 750110206 (Legal Description: PART LOT 17, CONCESSION 6, WBR, MAIDSTONE, PARTS 1 AND 2, PLAN 12R-13388; SUBJECT TO AN EASEMENT OVER PART 2, PLAN 12R-13388 AS IN MB19396; TOWN OF LAKESHORE);

Purpose

The Municipality of Lakeshore has received an application for a lot creation for the property known as 1189 Lakeshore Road 107, located at the northwest corner of Lakeshore Road 107 and Highway 401. The subject property is designated "Agricultural" in the Lakeshore Official Plan and zoned "Agriculture (A)" in the Lakeshore Zoning By-law 2-2012. The lot to be created will include the existing dwelling and accessory building currently located on the subject property.

In addition, the applicant is requesting that the Committee of Adjustment issue a certificate of consent cancellation for a vacant residential lot located adjacent to the subject property and south of 1165 Lakeshore Road 107 – an aerial photo labeling this existing lot is attached (Appendix C). The owner wishes to cancel the consent that was issued on August 4, 1993 for this vacant residential lot, and apply for the lot creation proposal. If the Committee approves the consent cancellation, the vacant lot will merge with the subject property/farm parcel.

The subject property (1189 Lakeshore Road 107) is approximately 49.68 acres (20.1 hectares). The proposed residential lot will be approximately 0.754 acres (3,051.33 m²) in area with approximately 46.94 metres (154 feet) of frontage along Lakeshore Road 107. The vacant residential lot subject to the proposed consent cancellation is approximately 1,986.08 m². Therefore, following the proposed lot creation and consent cancellation the area of the subject property will be approximately 19.99 hectares.

Summary

Surrounding Land Uses

North: Agriculture and rural residential lots

East: Agriculture and rural residential lots

West: Agriculture

South: Highway 401 and Agriculture

Provincial Policy Statement (PPS 2020)

Section 2.3.4.2 of the PPS states that lot adjustments in prime agricultural areas may be permitted for legal or technical reasons. “Legal or technical reasons” is defined in the PPS as severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot.

It is the opinion of the Planner that the proposal is consistent with this section of the PPS. The proposal is considered a minor boundary adjustment if the Committee approves the issuance of a certificate of consent cancellation for the vacant residential lot adjacent to the subject property and imposes its registration as a condition of approving the proposed lot creation. Registration of the consent cancellation will merge the rural residential lot with the farm parcel if the lands are under the same ownership. Confirmation that the lands are under the same ownership and have merged on title will need to be made a condition of consent approval. If this occurs, the Planner is of the opinion that the proposed lot creation can be interpreted as the relocation of a lot, rather than the creation of a new residential lot which is prohibited in the PPS.

It is noted that the lot to be created will be larger than the vacant residential receiving the consent cancellation - 3,051.33 m² compared to 1,986.08 m². The minimum lot area in the Zoning By-law for a residential lot zoned Agriculture is 3,000 m² to conveniently accommodate a private septic system and building/structures common to the rural area. The difference in lot area is part of the proposed adjustment, complies with zoning regulations, and is deemed appropriate.

Section 2.3.3.3 of the PPS states that new land uses in prime agricultural areas, including the creation of lots and new or expanding livestock facilities, shall comply with the minimum distance separation formulae – a guideline developed by the province to separate uses so as to reduce incompatibility concerns about odour from livestock facilities. The Committee should impose a condition on the approval of the proposed lot creation requiring confirmation that the lot will comply with the minimum distance separation formulae to the satisfaction of the Secretary-Treasurer. It is noted that the applicant has indicated that there are no existing livestock facilities on the severed or retained lot.

Official Plan

Section 6.2.3 of the Lakeshore Official Plan states that a consent to sever may be granted for the following purposes: For minor boundary adjustments or corrections and easements, and in accordance with Sections 50(3) and (5) of the Planning Act, which do not result in the creation of a new lot.

Likewise, the County of Essex Official Plan contains a similar policy with respect to lands designated Agricultural: "lot creation in the "Agricultural" designation is discouraged and will only be permitted in accordance with Provincial Policy, local Official Plan policies and the following: e) Lot adjustments for legal or technical reasons, such as for easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot are also permitted. In order to maintain County-wide consistency in the implementation of this policy, lot line adjustments will be interpreted to prohibit the creation of new residential or non-farm parcels".

For reasons already mentioned, the proposal can be interpreted as a minor boundary adjustment rather than the creation of a "new" lot when it is combined with the approval of the consent cancellation for the vacant residential lot. It is the opinion of the Planner that the proposal conforms to the Lakeshore and County of Essex Official Plan.

Zoning:

The subject property and the rural residential lot receiving the consent cancellation are zoned "Agriculture (A)". The rural residential lot subject to the proposed consent cancellation is approximately 1,986.08 m². This area is deficient under the current Zoning By-law which requires a minimum lot area of 3,000 m². The lot to be created will have an area of 3,051.33 m² and will comply with the Agriculture Zone Regulations. The retained land will meet minimum frontage and area requirements following consent cancellation and lot creation.

Conclusion

The proposed consent application is consistent with the Provincial Policy Statement (PPS), conforms to the Lakeshore Official Plan, and will comply with the Zoning By-law 2-2012 subject to the conditions included in the recommendation section of the report.

Correspondence from external and internal agencies

External and Internal Agencies

The Operations Department states that a new access bridge will have to be installed under the Drainage Act to provide separate access to the farm parcel. This will require an entrance permit and will need to comply with the Corridor Management and Access Control Policy and the Municipality's Development Manual. Full comments can be found in Appendix D.

Essex Region Conservation Authority had no objection to the proposal. Full comments can be found in Appendix E.

The Ministry of Transportation states that they have no concerns with the lot creation proposal. Any new construction will require MTO review/permits. Full comments can be found in Appendix F.

Public Notice Circulation

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

Attachment(s):

Appendix A – Aerial Map
Appendix B – Photos
Appendix C – Drawing & Survey
Appendix D – Operations Department
Appendix E – ERCA
Appendix F – MTO

Prepared by:



Ian Search, BES
Planner I

Report Approval Details

| | |
|----------------------|---|
| Document Title: | B-31-2023 Report.docx |
| Attachments: | <ul style="list-style-type: none">- Appendix A - Aerial Map.pdf- Appendix B - Photos.pdf- Appendix C - Drawing and Survey.pdf- Appendix D - Operations Department.pdf- Appendix E - ERCA.pdf- Appendix F - MTO.pdf |
| Final Approval Date: | Sep 8, 2023 |

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

Kristina Brcic - Sep 8, 2023 - 2:38 PM