

Municipality of Lakeshore – Report to Council

Growth and Sustainability

Community Planning



To: Mayor & Members of Council

From: Ian Search, BES
Planner I

Date: September 15, 2023

Subject: ZBA-6-2022 – OLT Decision

Recommendation

This report is for information only.

Background

On July 6, 2022, Council refused a Zoning By-law Amendment application (ZBA-6-2022) to remove the h9 Holding Symbol from a 51.13 acre farm parcel located north of Highway 401 on the east side of County Road 27 in the Community of Rochester (see Appendix 1). Hydro One lands intersect the subject property north-south so that there are two separate conveyable lots – one east of the Hydro One lands (approx. 40.23 acres), and one west of the Hydro One lands with frontage on County Road 27 (approx. 10.17 acres).

The subject land was split zoned Residential Waterfront-Watercourse (RW1) and Agriculture Holding Symbol h9 (A(h9)) (see Appendix 2). The RW1 zone only applies to a small portion of the land that fronts County Road 27.

The h9 Holding Symbol only permitted existing uses on the portion of the subject land zoned A(h9) and it could not be removed under the Zoning By-law until a subdivision agreement was executed and subdivision approval granted. However, with agriculture being the current and intended future use of this land, the applicant applied to remove the Holding Symbol to allow the development of permitted uses under the Agriculture (A) zone. For the lot west of the Hydro One lands with frontage on County Road 27, this includes residential uses such as one single detached dwelling.

The entirety of the subject land is designated Agricultural in the County of Essex Official Plan and Lakeshore Official Plan. Subdivision development is not permitted within this designation outside a settlement area.

At a public meeting a couple of residents (1724 County Road 27 and 1692 County Road 27) raised concerns over privacy and perceived impact to the rural atmosphere of the

area if a single detached dwelling was permitted to be developed on the subject property west of the Hydro One lands.

In November 2019 an easement/right-of-way was registered between the owners of the subject land at the time and the owners of 1716 County Road 27 and 1706 County Road 27. The easement is in favour of 1716 County Road 27 and 1706 County Road 27 for no other purpose or use other than egress and ingress of persons and vehicles over a part of the subject land fronting County Road 27 – Part 1 and 2, Plan 12R-27886 (see Appendix 3).

The resident at 1706 County Road 27 raised a number of concerns at a public meeting related to the shared access/easement registered on title, and the impact to same if the Zoning By-law application were approved and a dwelling permitted to be developed on the subject land.

Following Council's refusal of the Zoning By-law Amendment application, the applicant appealed the decision to the Ontario Land Tribunal (OLT) under the Planning Act. The OLT heard the appeal and ordered that the appeal is allowed, and the Lakeshore Zoning By-law is amended as set out in Attachment 1 (By-law) to the Order (see Appendix 4).

The Tribunal authorized the municipal clerk to assign a number to this By-Law for record keeping purposes. It has been assigned as By-law 77-2023. The Municipality of Lakeshore's Zoning By-Law No. 2-2012 is hereby amended.

Financial Impacts

The Municipality incurred costs of approximately \$33,380 in defending this appeal.

Attachments

- Appendix 1 – Subject Lands
- Appendix 2 – Zoning Map
- Appendix 3 – Easement
- Appendix 4 – OLT Decision
- Appendix 5– By-law 77-2023 (approved by OLT)

Report Approval Details

Document Title:	ZBA-6-2022 - OLT Decision.docx
Attachments:	<ul style="list-style-type: none">- Appendix 1 - Subject Lands.pdf- Appendix 2 - Zoning Map.pdf- Appendix 3 - Easement Lands.pdf- Appendix 4 - OLT Decision.pdf- Appendix 5 – By-law 77-2023
Final Approval Date:	Sep 21, 2023

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

Prepared by Ian Search

Submitted by Kristina Brcic and Sahar Jamshidi

Approved by Justin Rousseau and Truper McBride