

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: April 9, 2024

Subject: Consent Application B/01/2024 – 12100 Lakeshore Road 303

Recommendation

Approve consent application B/01/2024 to sever a surplus dwelling with a lot area of approximately 3.21 acres and a lot frontage of approximately 85.34 metres, subject to the following conditions:

- 1) That the applicant obtains a proper survey and Reference Plan from an Ontario Land Surveyor for the severed and retained lot to the satisfaction of Community Planning at the Municipality of Lakeshore - the draft survey is to be approved by Community Planning at the Municipality of Lakeshore prior to registration and will detail setbacks of structures from lot lines;
- 2) That all municipal taxes be paid in full prior to the stamping of the Deed;
- 3) That a Park Fee be imposed on the granting of this application in the amount specified by the By-law to provide for the dedication of Parkland or the Payment of Cash in Lieu Thereof at the time of payment, and that such fee shall be paid prior to the stamping of the Deed;
- 4) That the applicant obtain a Zoning By-law amendment to rezone the retained farmland to prohibit dwellings and to address zoning compliance issues (lot area, frontage, etc.);
- 5) That the applicant complete the septic test report attached to the consent application to the satisfaction of the Municipality of Lakeshore for the existing septic system on the lot to be created, and if deemed required by the Municipality of Lakeshore, install a new septic system on the severed lot to the satisfaction of the Municipality of Lakeshore, prior to the stamping of the Deed;
- 6) That the applicant enter into an Agreement with the Municipality of Lakeshore to be registered on title prior to the stamping of the Deed, to pay any applicable water rates or fees with respect to the subject lands;

- 7) That the applicant enters 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;
- 8) 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 Deeds;
- 9) That the Deed and a copy for our records be forwarded to the Secretary for stamping;
- 10) That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. 1990 by April 18, 2026. Failure to fulfil the conditions by this date, shall deem the consent refused, as per the Planning Act.

Purpose

The Municipality of Lakeshore has received a consent application to sever a surplus farm dwelling from the subject property (12100 Lakeshore Road 303) as a separate rural residential lot. The subject property is a corner farm lot designated "Agricultural" in the Lakeshore Official Plan and zoned "Agriculture" in the Lakeshore Zoning By-law. It is approximately 23.42 acres in lot area and has approximately 160 metres of lot frontage along Gracey Sideroad (County Road 37) and approximately 600 metres of frontage along Lakeshore Road 303.

The surplus farm dwelling severance will create a rural residential lot containing the existing dwelling on the subject property, an accessory building and a solar panel. The lot to be created will have a frontage of approximately 280 feet (85.34 metres) along Lakeshore Road 303, and a lot area of approximately 3.21 acres (1.3 hectares). The retained farmland will be left with approximately 20.18 acres of lot area and approximately 514 metres of lot frontage along Lakeshore Road 303. It will maintain approximately 160 metres of lot frontage along Gracey Sideroad (County Road 37) as a corner farm lot. The applicant states that there is an existing access to the retained farmland from Lakeshore Road 303, near the corner of Lakeshore Road 303 and Gracey Sideroad.

If the severance is approved by the Committee of Adjustment, then the applicant will need to apply for a Zoning By-law Amendment to rezone the retained farmland to prohibit dwellings. The Zoning By-law Amendment will be recommended as a condition of any consent approval. That Zoning By-law Amendment will also need to recognize the deficient lot area of the retained farmland, since the minimum lot area for a farm parcel zoned Agriculture (A) is 19 hectares (46.95 acres) in the Zoning By-law. Request for comments with respect to that future application will be circulated at a later date.

The Subject Property today is Parts 1, 2 and 3 together on Plan 12R5779 (Appendix X). There are multiple easements on the subject property:

- 1) A pipeline easement across the southeast corner of the subject property in favour of Plains Midstream Canada ULC

2) A pipeline easement across the northwest corner of the subject property in favour of Enbridge Gas

3) A private waterline agreement with adjoining property owners – the servient lands are a 15' corridor located at the east limit of the property

Summary

Location:

The subject property is located at the northwest corner of County Road 37/Gracey Sideroad and Lakeshore Road 303, south of the Canadian Pacific Limited right-of-way, north of Highway 401.

Surrounding Land Uses:

North: Agriculture, Canadian Pacific Limited right-of-way

West: Agriculture

East: Agriculture

South: Agriculture

Provincial Policy Statement (PPS)

The applicant has entered into a purchase of sale agreement to acquire the subject property. They own multiple farm holdings and the dwelling is rendered surplus to their needs. The proposed surplus farm severance is consistent with Section 2.3.4.1 c) lot creation in prime agricultural areas:

1. *“the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and*
2. *the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective”*

The lot to be severed, as depicted on the sketch submitted with the application, will incorporate a dwelling, private septic system, accessory building, and solar panel. Surrounding landscaped space, including a pond and trees, will be included as part of the severed lot. Little to no cultivated farmland will be included. The proposed east side lot line of the severed lot will be irregular to fully incorporate the solar panel onto the severed lot while maintaining cultivated farmland on the retained lot. As a condition of consent approval, the applicant will need to rezone the retained land to prohibit new residential dwellings on that parcel of land in accordance with the PPS.

Official Plan

The subject property is designated Agricultural in the Official Plan. Section 6.2.3 b) of the current Lakeshore Official Plan permits a surplus farm severance in areas designated Agricultural subject to the following conditions:

- i) the remnant farm parcel will be zoned so as to prohibit the construction of any additional dwellings;*
- ii) the non-farm parcel will be zoned to recognize the non-farm residential use and will not accommodate a livestock operation;*
- iii) any livestock facilities to remain on the retained parcel will not be made unsuitable for further livestock operations if the Minimum Distance Separation I provisions cannot be met; and*
- iv) the implementing Zoning By-law will not impose a setback on nearby expanding livestock operations greater than that required by the application of Minimum Distance Separation II Formula including the Minimum Distance Separation Guidelines.*

The lot creation proposal conforms to this section of the Lakeshore Official Plan. There are no livestock facilities on the subject property or in the area according to the application, and the Zoning By-law will automatically prohibit agricultural use – including livestock facilities – on the lot to be severed due to its lot area. As a condition of provisional consent approval, the retained farm parcel will need to be rezoned to prohibit the construction of any additional dwellings.

There are no issues of County significance raised by the application, and the proposal conforms to the County of Essex Official Plan. Section 3.3.3.4 c) of the County Official Plan permits lot creation to accommodate a habitable residence surplus to a farming operation as a result of farm consolidation subject to the local Zoning By-law being amended to prohibit new residential dwellings on the vacant remnant parcel of farmland created by the severance. Farm consolidation is interpreted to permit both contiguous and non-contiguous farm parcel consolidations in the County of Essex Official Plan.

Zoning

The proposed severed lot will have a frontage of approximately 85.34 metres along Lakeshore Road 303, and a lot area of approximately 3.21 acres (1.3 hectares). The retained farmland will be left with approximately 20.18 acres of lot area and approximately 514 metres of lot frontage along Lakeshore Road 303.

The proposed severed lot will have a lot area that falls within the minimum and maximum lot area requirements of a rural residential lot zoned “A” in the Lakeshore Zoning By-law.

The Zoning By-law requires a farm parcel zoned “A” to have a minimum lot area of 19 hectares and a minimum lot frontage of 75 metres. Therefore, the Zoning By-law Amendment required to rezone the retained lot to prohibit dwellings as a condition of consent approval, will also need to recognize the deficient area of the retained farmland.

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 Operations Department commented that a drain apportionment will be required for this application. It is recommended that a drain apportionment agreement be required as a condition of consent approval. Full comments can be found in Appendix E.

The County of Essex states that no access will be permitted off County Rd 37. The setback from the County Road 37 is 85 feet from the centre of the right of way. Permits are necessary for any changes to existing structures, or the construction of new structures. Full comments can be found in Appendix F.

Enbridge Gas Inc, commented that they have service lines running within the area which may or may not be affected by the proposed severance. Should the proposed severance impact these services, it may be necessary to terminate the gas service and relocate the line according to the new property boundaries. Any Service relocation required due to a severance would be at the cost of the property owner. Also, should future gas service be required to either the severed or retained parcel, a request for gas service needs to be submitted to the District Office. Full comments can be found in Appendix G.

Essex Region Conservation Authority (ERCA) commented that they have no objection to B-01-2024. Full comments can be found in Appendix H.

The Building Department stated that they have no concerns.

Conclusion

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

Public Notice Circulation

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

Attachment(s):

Appendix A – Aerial Map
Appendix B – Sketches

Appendix C – Easements
Appendix D – Photos
Appendix E – Operations Department
Appendix F – County of Essex
Appendix G – Enbridge Gas Inc
Appendix H – ERCA
Appendix I – Building Department

Prepared by:



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Planner I

Report Approval Details

Document Title:	B-01-2024 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Map.pdf- Appendix B - Sketches.pdf- Appendix C - Easements.pdf- Appendix D - Photos.pdf- Appendix E - Operations Department.pdf- Appendix F - County of Essex.pdf- Appendix G - Enbridge Gas Inc.pdf- Appendix H - ERCA.pdf- Appendix I - Building Department.pdf
Final Approval Date:	Apr 12, 2024

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

Urvi Prajapati - Apr 10, 2024 - 3:10 PM

Ryan Donally - Apr 11, 2024 - 7:35 PM

No Signature - Task assigned to Tammie Ryall was completed by workflow administrator Brianna Coughlin

Tammie Ryall - Apr 12, 2024 - 10:03 AM