

# 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 10, 2024

**Subject:** Consent Applications B/02/2024 & B/03/2024 – 14280 & 14568 Lakeshore Road 311

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### Recommendation

Approve consent application B/02/2024 to sever a farm lot, known as 14280 Lakeshore Road 311, with a lot area of approximately 50 acres and a lot frontage of approximately 303 metres, subject to the following conditions:

- 1) That the applicant 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;
- 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 if required by the Drainage Department, 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;
- 5) That a Parkland Dedication Fee be imposed on the granting of this application in the amount specified in the applicable By-law at the time of payment, and that such fee shall be paid prior to the stamping of the Deed;
- 6) 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.

Approve consent application B/03/2024 to sever a lot addition to add approximately 8 metres of frontage and approximately 0.27 acres of land to an existing residential lot from the farm parcel (14568 Lakeshore Rd. 311), subject to the following conditions:

- 1) That the applicant 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;

- 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 lot addition lands to be severed from the farm parcel be conveyed to and consolidated with the abutting residential parcel, and Subsection 50 (3) or (5) of the Planning Act applies to any subsequent conveyance of or transaction involving the parcel of land;
- 5) That the applicant and/or a Solicitor provide an Undertaking to the Secretary prior to the stamping of the severance Deed(s), in evidence that "Application to consolidate Pins" will be submitted to the Land Titles/ Registry Office for the lot addition and provide proof of the consolidation;
- 6) That if required by the Drainage Department, 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 separate access be established for the retained farm parcel to the satisfaction of the Operations Department at the Municipality of Lakeshore, and that any required permits for the establishment of said access be obtained from the Municipality of Lakeshore;
- 8) 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.

Approve the issuance of a consent cancellation for the rural residential lot receiving the lot addition under consent application B/03/2024, legally described as Part Lot 14, Concession 10 Tilbury Part 1 12R5480; Lakeshore (PIN 75081-0088).

### **Purpose**

14280 & 14568 Lakeshore Rd. 311 were two separate conveyable farm properties but inadvertently merged on title. The Municipality of Lakeshore received a technical consent application to separate the subject land back into two separate farm parcels (file: B/02/2024).

The subject land has frontage on Lakeshore Road 311. It is located east of County Road 37, south of Lakeshore Road 310, on the north side of Lakeshore Road 311. The subject land is zoned Agriculture (A), and designated Agricultural in the Lakeshore Official Plan.

In 1998 a residential lot was severed from 14568 Lakeshore Road 311. According to the applicant, the owner believed that both the farm parcel and the residential lot were transferred into his and his spouse's name at that time. The applicant states that the owner has operated under the assumption that both he and his spouse own this farm parcel.

On February 11, 2016, the owner took title to the neighbouring farm parcel 14280 Lakeshore Rd. 311, in his name alone, from his mother. The owner took title in this manner, verily believing that he and his spouse were on title to 14568 Lakeshore Rd. 311, and he intended to avoid any merger under the Planning Act through common ownership.

When the agent (authorized applicant) to the owner conducted a title search of 14280 Lakeshore Rd. 311, it was determined that title to 14568 Lakeshore Rd. 311 lies solely with the owner, and when the owner also took title to 14280 Lakeshore Rd. 311 in his name alone, both properties merged.

To complete a transfer of 14280 Lakeshore Rd. 311, consent of the Municipality of Lakeshore is required to affect a severance of 14280 Lakeshore Rd. 311 (severed lot). 14568 Lakeshore Rd. 311 will be the retained lot under the technical severance.

Currently the subject land has a lot frontage of approximately 571 metres and a lot area of approximately 101 acres. Following the technical severance to separate the subject land back into separate farm parcels, the severed lot will have a frontage of approximately 303 metres and an area of approximately 50 acres. The retained lot will have a frontage of approximately 266 metres, and an area of approximately 51 acres.

The applicant has also applied for an L-shaped lot addition (file: B/03/2024) to add approximately 8 metres of frontage and approximately 0.27 acres of land to the existing residential lot that was severed from the retained farm parcel (14568 Lakeshore Rd. 311) in 1998. The existing residential lot is located between the east side lot line and west side lot line of 14568 Lakeshore Rd. 311. The purpose of this lot addition is to add yard space and a misplaced driveway onto the residential lot. The retained lot, 14568 Lakeshore Rd. 311, will be approximately 50 acres following the lot addition, and will have a frontage of approximately 258 metres (granted that consent B/02/2024 is approved). The residential lot receiving the lot addition will be approximately 0.77 acres in lot area and will have a frontage of approximately 38 metres.

## Summary

Surrounding Land Uses	Agriculture and low density rural residential dwellings
Official Plan Land Use Designation	Lakeshore Official Plan: Agricultural County of Essex Official Plan: Agricultural
Zoning	"Agriculture" (A)

Buildings/structures	Severed lot (farm split): dwelling, garage, shed, woodshop, barn Retained lot (farm split): None
Servicing	Severed lot (farm split): Municipal water services, private sanitary

### **Provincial Policy Statement, County of Essex and Lakeshore Official Plan**

Section 2.3.4.1 a) of the PPS permits lot creation in prime agricultural areas for agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations.

Comment: As a technical consent, there are no issues of Provincial significance under the PPS for the farm split application. The two farm lots have separate tax roll numbers and municipal addresses, but inadvertently merged on title. The severed and retained lot will both be approximately 50 acres (20.23 hectares) following the farm split severance.

The PPS permits lot adjustments in prime agricultural areas for legal or technical reasons.

Comment: The lot addition application to add an L-shaped parcel of land from 14568 Lakeshore Road 311 to the residential lot will transfer existing landscaped space and a driveway that is used in connection with the residential lot.

There are no issues of conformity with the County of Essex Official Plan. Section 3.3.3.4 e) permits lot adjustments in the Agricultural designation 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.

Comment: The farm split application separates two farm parcels that inadvertently merged on title. The two farm parcels merged inadvertently when 14280 Lakeshore Rd. 311 was put into the same ownership as 14568 Lakeshore Rd. 311 in 2016. It was mistakenly believed that 14568 Lakeshore Rd. 311 was under different ownership, which would have prevented the merger. Indeed, different ownership is indicated under the tax roll records for this property, which is incorrect. The L-shaped lot addition application to add a parcel of land from 14568 Lakeshore Road 311 to the residential lot is considered a minor boundary adjustment under this section of the County of Essex Official Plan.

Section 8.3.5.2 b) of the Lakeshore 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.*

Additionally, Section 6.2.3 e) of the Lakeshore Official Plan states that a consent to sever may be granted for the following purposes in the Agricultural Designation:

*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.*

Comment: The subject land was two separate farm parcels until 2016 when they inadvertently merged on title. The consent application for the farm split is a technical application that corrects this inadvertent merger by separating the subject land back into two conveyable farm parcels. The L-shaped lot addition is a technical consent application for a boundary adjustment which conforms to the Lakeshore Official Plan policies.

The Municipality of Lakeshore Council adopted the Official Plan review for the Municipality of Lakeshore (Official Plan Amendment No. 16) which will require a minimum area of approximately 40 hectares for both the severed and retained lot under a farm split proposal – an increase from the policy requiring 20 hectares in the Lakeshore Official Plan. As Section 1.3.2 b) of the County of Essex Official Plan states, “the trend towards fewer farmers owning larger and a greater number of farms is expected to continue as farming technology and less labour intensive methods continue to evolve affording farmers a greater opportunity to manage larger holdings”.

The County of Essex is the approval authority for the Official Plan Amendment. Subsequent to Council’s adoption of the Official Plan Amendment, the document was forwarded to the County of Essex (Approval Authority) for review and approval. As part of the review process, the County of Essex Planning Department engaged in further circulation and discussions with the local Conservation Authorities and the County Infrastructure Department regarding the policies contained in the Official Plan document. On February 6, 2024 Lakeshore Council reviewed and endorsed proposed modifications to Lakeshore’s Official Plan Amendment from the County of Essex. No modifications to the new farm split policies requiring 40-hectare farm parcels were recommended by the County of Essex as part of that exercise. At this time the Official Plan Amendment has yet to be approved by the County of Essex.

Despite this new policy direction, the farm split application is a technical consent application to correct an inadvertent merger and is therefore supportable. Records available to the Municipality (tax roll) show 14568 Lakeshore Road 311 is under different ownership from 14280 Lakeshore Road 311. It turns out that a title search has revealed that this record is incorrect, and that both addresses are under the same ownership, which resulted in an unintended merger.

### **Consent Cancellation**

The residential lot receiving the L-shaped lot addition (B-03-2024) has an existing consent that will need to be cancelled for the lot addition lands to merge on title with the residential lot. It is recommended that the Committee of Adjustment approve the issuance of a certificate of consent cancellation for the residential lot in accordance with the Recommendation section of this report.

### **Zoning By-law**

The subject land is zoned Agriculture (A). The Lakeshore Zoning By-law 2-2012 requires a minimum lot frontage of 75 metres and a minimum lot area of 19 hectares for a farm parcel zoned "A". It is anticipated that the severed and retained lot will meet the minimum frontage and area requirements in the Zoning By-law. It is also anticipated that the retained farm lot, 14568 Lakeshore Road 311, will meet the minimum frontage and area requirements following the lot addition to the rural residential lot. The land survey to be completed as a condition of consent approval will need to verify this.

### **Conclusion**

The proposed consent applications are consistent with the Provincial Policy Statement (PPS), conforms to the County of Essex and Lakeshore Official Plan. It is recommended that the Committee of Adjustment approve consent applications B-02-2024 and B-03-2024 subject to the conditions in the Recommendation section of the report. It is also recommended that the issuance of a consent cancellation for the rural residential lot receiving the lot addition be granted.

### **Correspondence from external and internal agencies**

#### **External and Internal Agencies**

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

The Building Department did not express any concerns with either consent application. Full comments can be found in Appendix F.

The Operations Department commented that drain apportionment agreements will be required for both consent applications, which has been requested in the recommended conditions. Furthermore, a new separate farm access will be required for the retained farm parcel, 14568 Lakeshore Road 311, due to the lot addition. This has been recommended as a condition of consent approval for B-03-2024. Full comments can be found in Appendix G.

#### **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 – Farm Split Sketches  
Appendix C – Lot Addition Sketch  
Appendix D – Photos  
Appendix E – Photos  
Appendix F – Building Department Comments  
Appendix G – Operations Department

**Prepared by:**



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Ian Search, BES  
Planner I

## Report Approval Details

Document Title:	B-02-2024 and B-03-2024 - Report.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A - Aerial Map.pdf</li><li>- Appendix B - Farm Split Sketches.pdf</li><li>- Appendix C - Lot Addition Sketch.pdf</li><li>- Appendix D - Photos.pdf</li><li>- Appendix E - Photos.pdf</li><li>- Appendix F - Building Department Comments.pdf</li><li>- Appendix G - Operations Department.pdf</li></ul>
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 - 2:50 PM**

**Ryan Donally - Apr 11, 2024 - 7:34 PM**

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

**Tammie Ryall - Apr 12, 2024 - 10:02 AM**