

# Municipality of Lakeshore – Report to Council

## Growth and Sustainability

### Planning Services



**To:** Mayor & Members of Council

**From:** Ian Search, BES  
Planner I

**Date:** May 27, 2024

**Subject:** Zoning By-law Amendments ZBA-04-2023 (1475 O'Brien Sideroad) and ZBA-05-2023 (1162 County Road 46)

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### Recommendation

1) Approve Zoning By-law Amendment Application ZBA-04-2023 (Zoning By-law 2-2012, as amended), to rezone the lands known legally as, Part of the South half of Lot 16, Concession North Middle Road, Maidstone, designated as Parts 3 and 5 on Plan 12R29682, being Part of the Property Identifier Number 75025-0056(LT), and known municipally as 1475 O'Brien Sideroad, from "Agriculture (A)" to "Agriculture Zone Exception 1 (A-1)" zone (indicated as "1475 O'Brien Sideroad Retained Land" on the Key Map, Appendix C), in the Municipality of Lakeshore; and

Direct the Clerk to read By-law 72-2024 during the Consideration of By-laws, all as presented at the June 25, 2024 Council meeting.

2) Approve Zoning By-law Amendment Application ZBA-05-2023 (Zoning By-law 2-2012, as amended), to rezone the lands known legally as Part of the South half of Lot 15, Concession North Middle Road, Maidstone, designated as Part 1 on Plan 12R29682, being Part of the Property Identifier Number 75025-0035 (LT), and known municipally as 1162 County Road 46, from "Agriculture (A)" to "Agriculture Zone Exception 1 (A-1)" zone (indicated as "1162 County Road 46 Retained Land" on the Key Map, Appendix C), in the Municipality of Lakeshore; and

Direct the Clerk to read By-law 73-2024 during the Consideration of By-laws, all as presented at the June 25, 2024 Council meeting.

### Strategic Objectives

This does not relate to a Strategic Objective however it is a core service of the Municipality.

## Background

The Municipality of Lakeshore has received two Zoning By-law Amendment applications from Brian and Karen Fuerth (the “Applicant”), with respect to abutting farm properties known municipally as 1162 County Road 46 and 1475 O’Brien Sideroad. Both farm properties are designated “Agricultural” in the Lakeshore Official Plan and zoned “Agriculture” in the Lakeshore Zoning By-law 2-2012. Both properties are located east of County Road 25, south of Highway 401, at the northwest corner of O’Brien Sideroad and County Road 46.

Two provisional consents (File Nos. B-02-2023 and B-03-2023) were granted by the Lakeshore Committee of Adjustment to sever a surplus farm dwelling from each farm property as separate residential lots. The residential lot to be created at 1475 O’Brien Sideroad will have a frontage of 63 metres and a lot area of 0.99 acres, indicated as Part 4 on Plan 12R-29682. The residential lot to be created at 1162 County Road 46 will have a frontage of 47 metres and a lot area of 1.07 acres, indicated as Part 2 on Plan 12R-29682.

The retained farmland of 1162 County Road 46 (indicated as Part 1 on Plan 12R-29682) and the retained farmland of 1475 O’Brien Sideroad (indicated as Part 3 and Part 5 together on Plan 12R-29682) will merge on title through the land severance process, and in doing so will result in a 69 acres (27.9 hectares) farm parcel that meets the minimum lot area for a farm parcel zoned Agriculture in the Zoning By-law (19 hectares). Part 5 on Plan 12R-29682 is an easement in favour of Union Gas (Enbridge Gas Inc.).

As a condition of both provisional consents (File Nos. B-02-2023 and B-03-2023), the Applicant has applied to rezone the retained farmland of 1475 O’Brien Sideroad (ZBA-04-2023) and the retained farmland of 1162 County Road 46 (ZBA-05-2023) to prohibit residential dwellings, as required in Lakeshore’s Official Plan and the Provincial Policy Statement.

Subject Land: Total area – 28.9 ha (71.39 acres) (1475 O’Brien Sideroad and 1162 County Road 46)  
Existing Use – Agriculture  
Proposed Use – Agriculture and two rural residential lots  
Access — O’Brien Sideroad  
Services — Municipal water, private sanitary services

Surrounding Uses: North: Agriculture  
South: Agriculture, Hydro One corridor  
East: Agriculture  
West: Agriculture

Official Plan: Agricultural

Existing Zoning: Agriculture (A)

## **Comments**

### **Provincial Policy Statement (PPS)**

The proposed rezoning applications are consistent with the PPS. Section 2.3.4.1 of the PPS requires the planning authority to ensure that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance.

Comment: Provisional consents were granted to sever a surplus farm dwelling from each farm parcel as a separate residential lot. As a condition of their provisional consent approvals, the applicants are rezoning the remnant farm parcel of each property to prohibit residential dwellings as required in the PPS.

### **County of Essex Official Plan**

The rezoning applications conform to the County of Essex Official Plan and are consistent with their land use policies:

#### 3.3.3.4 Lot Creation

c) Lot creation to accommodate a habitable residence surplus to a farming operation as a result of farm consolidation is permitted 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.

Comment: The Zoning By-law Amendments prohibit new residential dwellings on the retained farmland parcels created by the severances of the surplus farm dwelling lots.

### **Lakeshore Official Plan**

Both farm properties are designated Agricultural in the Lakeshore Official Plan, and the rezoning applications conform to the Agricultural Designation policies.

#### 6.2.3 Agricultural Lot Creation & Lot Adjustment

A consent to sever may be granted for the following purposes:

- b) Where a previous or current farm acquisition has rendered a habitable farm dwelling surplus to the needs of a farm operation, 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.

Comment: The applications will prohibit the construction of any additional dwellings on the remnant farm parcels in accordance with the Official Plan. The surplus dwelling lots will automatically be recognized in the Zoning By-law for non-farm residential use that cannot accommodate a livestock operation due to their lot size. There are no livestock facilities on the remnant farm parcels and no known livestock facilities in the general area of the severed lots.

### **Lakeshore Zoning By-law**

Both farm properties are currently zoned Agriculture (A), in the Lakeshore Zoning By-law 2-2012, as amended.

The Zoning By-law Amendments will rezone the remnant farm parcels to prohibit residential dwelling units. Specifically, both remnant farm parcels will be rezoned to "Agriculture Zone Exception 1 (A-1)" which prohibits a single detached dwelling. It is important to note that the retained farmland of 1162 County Road 46 (indicated as Part 1 on Plan 12R-29682) and the retained farmland of 1475 O'Brien Sideroad (indicated as Part 3 and Part 5 together on Plan 12R-29682) will merge on title through the land severance process, and in doing so will result in a 69 acre (27.9 hectare) farm parcel that meets the minimum lot area and frontage for a farm parcel zoned "A" in the Zoning By-law. Therefore, a new Agriculture Zone Exception did not need to be established to recognize any lot deficiencies.

The surplus dwelling lots will meet the minimum lot frontage and area for residential lots zoned "A" and do not need to be rezoned.

### **Circulation Comments**

The application was circulated to internal departments and external agencies. Below is a summary of the comments received.

The County of Essex commented that no new access will be permitted along the frontage of the 1475 O'Brien Sideroad farm parcel from County Road 46 – access is to remain from O'Brien Sideroad. Full comments can be found in Appendix E.

Essex Region Conservation Authority (ERCA) stated that they have no objection to the applications. Full comments can be found in Appendix F.

The Lakeshore Operations Department commented that separate farm access should be provided for 1162 County Road 46 along with County approvals. Full comments can be found in Appendix G. The Operations Department was consulted with respect to their

comment, and it was explained that the remnant farmland parcels will merge on title as a condition of consent, with the new merged farm parcel having access from O'Brien Sideroad.

The Fire Department and Building Services did not raise any concerns with the applications.

### **Conclusion**

Based on the foregoing, it is recommended that Council approve ZBA-04-2023 (By-law 72-2024) and ZBA-05-2023 (By-law 73-2024) as per the Recommendation section of this report.

### **Others Consulted**

Notice was given to the general public as required under the provisions of the *Planning Act* and regulations. As of the writing of this report, no comments were received from the public.

### **Financial Impacts**

There are no budget impacts resulting from the recommendation.

### **Attachments**

- Appendix A – Aerial Map – 1475 O'Brien Sideroad
- Appendix B – Aerial Map – 1162 County Road 46
- Appendix C – Key Map – Retained and Severed Lots
- Appendix D – Registered Plan 12R-29682
- Appendix E – County of Essex Comments
- Appendix F – ERCA Comments
- Appendix G – Operations Department

**Report Approval Details**

Document Title:	Zoning By-law Amendments ZBA-04-2023 and ZBA-05-2023.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A – Aerial Map – 1475 O’Brien Sideroad.pdf</li><li>- Appendix B – Aerial Map – 1162 County Road 46.pdf</li><li>- Appendix C – Key Map – Retained and Severed Lots.pdf</li><li>- Appendix D – Registered Plan 12R-29682.pdf</li><li>- Appendix E – County of Essex Comments.pdf</li><li>- Appendix F - ERCA Comments.pdf</li><li>- Appendix G - Operations Department.pdf</li></ul>
Final Approval Date:	Jun 17, 2024

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

Prepared by Ian Search

Submitted by Urvi Prajapati, Ryan Donally and Tammie Ryall

Approved by the Corporate Leadership Team