

**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: October 4, 2024

Subject: Consent Application B/10/2024 – 15709 Lakeshore Road 309

Recommendation

Approve consent application B/10/2024 for the creation of one lot containing an existing dwelling and accessory buildings/structures that will have a lot area of approximately 2.8 acres (1.133 hectares) and a lot frontage of approximately 94.49 metres (310.0 feet), subject to the following conditions:

- 1) That the applicant obtains a Reference Plan from an Ontario Land Surveyor for the severed lot to the satisfaction of Community Planning at the Municipality of Lakeshore - the draft plan of survey is to be approved by Community Planning at the Municipality of Lakeshore prior to registration and will detail setbacks of buildings/structures from lot lines;
- 2) That the applicant provide confirmation to Community Planning at the Municipality of Lakeshore that the installed septic system will be located on the severed lot and will meet required setbacks from lot lines without further encroachment onto farmland that is unnecessary, to the satisfaction of this Division;
- 3) That the septic system which has been installed for the severed lot pass a final inspection, to the satisfaction of the Building Division at the Municipality of Lakeshore;
- 4) That all municipal taxes be paid in full prior to the stamping of the Deed;
- 5) 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 payment of cash in lieu of parkland at the time of payment, and that such fee shall be paid prior to the stamping of the Deed;
- 6) That the applicant obtain a Zoning By-law amendment to rezone the retained farmland parcel to prohibit new dwellings/additional residential units and to address any zoning compliance issues (setbacks, etc.);
- 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 October 17, 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 dwelling and accessory buildings/structures from the subject property (15709 Lakeshore Road 309) as a separate rural residential lot. The subject property is located east of County Road 37, west of Richardson Sideroad, south of County Road 46, on the southside of Lakeshore Road 309.

The subject property is a 100-acre (40.46 hectare) farm lot designated "Agricultural" in the Lakeshore Official Plan and zoned "Agriculture" in the Lakeshore Zoning By-law. It has approximately 600 metres (1968.5 feet) of lot frontage along Lakeshore Road 309.

The owner has entered into a purchase of sale agreement with individuals who own multiple farm holdings. Therefore, the consent application is to sever a residence surplus to an agricultural operation as a result of farm consolidation under the Provincial Policy Statement (PPS). Transfer of the retained farmland to these individuals or their farming corporation will need to occur as a condition of consent approval for the application to be consistent with the PPS.

The rural residential lot being severed will contain the existing dwelling on the subject property, accessory building/structures, and a solar panel located at the southeast corner of the proposed lot that contributes to the electricity grid. The rear lot line will be made irregular to accommodate the solar panel and limit unnecessary inclusion of cultivated farmland. A private septic system for the dwelling was installed west of the existing treeline that runs north-south on the subject property west of the dwelling. The proposed lot will include this area to ensure private servicing for the dwelling is located on the same lot.

The proposed lot will have a frontage of approximately 310 feet (94.5 metres) along Lakeshore Road 309, and a lot area of approximately 2.8 acres (1.13 hectares). The retained farmland parcel will be left with approximately 97.2 acres (39.33 hectares) of lot area and approximately 500 metres (1640.42 feet) of lot frontage along Lakeshore Road 309.

There is an open municipal drain that runs along the entire frontage of the subject property. The proposed lot has an existing access bridge and there are two existing

accesses for the retained farmland – one located at the northeast corner of the subject property and one approximately 135 metres (443 feet) from the west side lot line.

The applicant will need to apply for a Zoning By-law Amendment to rezone the retained farmland to prohibit dwellings as a condition of any consent approval granted by the Committee of Adjustment. Request for comments with respect to that future application will be circulated at a later date.

The subject property contains wind turbines close to the rear lot line and is subject to a lease for wind power generation which will remain in place following registration of the proposed lot.

Summary

Surrounding Land Uses:

North: Agriculture
West: Agriculture
East: Agriculture, rural residential lots
South: Agriculture

Servicing for proposed lot:

Water: Municipal piped water supply
Sanitary: Private sanitary system

Provincial Policy Statement (PPS)

The proposed surplus farm severance is consistent with Section 2.3.4.1 c) for the lot creation of a residence surplus to a farming operation because of farm consolidation in prime agricultural areas. That subsection permits such severance, provided that:

1. *“the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;*

Comment: A private septic system for the dwelling was installed west of the existing treeline that runs north-south on the subject property west of the dwelling. The proposed lot will include this area to ensure private servicing for the dwelling is located on the same lot. Its accommodation will result in the inclusion of some land currently used for agriculture to maintain a regular lot shape in general. The remainder of the lot boundaries (front, rear, and east side lot line) for the proposed lot will not incorporate cultivated farmland into the severed lot. The rear lot line will be made irregular to accommodate the solar panel and limit unnecessary inclusion of cultivated farmland.

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”

Comment: As a condition of consent approval, the applicant will need to rezone the retained farmland parcel to prohibit new residential dwellings/additional residential units on that parcel of land in accordance with the PPS.

County of Essex Official Plan

Subsection 3.3.3.4 c) of the County of Essex Official Plan states the following:

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. In order to maintain County-wide consistency in the implementation of this policy, farm consolidation will be interpreted to permit both contiguous and non-contiguous farm parcel consolidations. Local municipalities may establish a minimum lot size for the remnant farm parcel in accordance with this Policy.

Comment: The consent application conforms to this policy as long as the retained farm parcel is rezoned as a condition of consent approval to prohibit the construction of any new residential dwellings/additional residential units. A minimum lot size for the retained farmland parcel is not established in the Lakeshore Official Plan, however it is noted that the parcel will meet the minimum lot size regulations (frontage/area) in the current Lakeshore Zoning By-law.

Lakeshore 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.*

Comment: 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. The Zoning By-law will automatically recognize the proposed lot as a

rural residential lot that does not permit agricultural use – including livestock operations. As a condition of provisional consent approval, the retained farm parcel will need to be rezoned to prohibit the construction of any additional dwellings.

Zoning

The proposed severed lot will comply with the minimum and maximum lot area regulations, and minimum lot frontage regulations, in the Zoning By-law for a rural residential lot zoned “Agriculture”. A proper survey and Reference Plan will be required as a condition of consent approval to confirm compliance under the Zoning By-law, including setbacks of buildings/structures. Any non-compliance will need to be rectified or included in the Zoning By-law Amendment that will be required as a condition of consent approval.

Confirmation that the septic system will be located on the proposed lot with required setbacks from lot lines will be made a condition of consent approval.

The retained farmland parcel will meet the minimum lot area and frontage requirements in the Zoning By-law for a farm parcel zoned “Agriculture”.

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 Drainage Division requested confirmation that the bridges along the retained farmland are to be used for the farmland parcel. Solicitor for the owner was contacted and confirmed that the existing access located west of the proposed severed lot is currently utilized for access to the farmland for farming practices, and there is also an access available in the northeast corner of the subject property.

The Drainage Division commented that a drainage apportionment agreement will be required for the consent. It is recommended that the Committee of Adjustment include the requirement for this agreement as a condition of consent approval.

The Fire Department commented that they have no concerns with the application.

The Chief Building Official commented that they have no comments on the application.

The Operations Department commented that they have no comments on this file.

Lower Thames Valley Conservation Authority stated that they have no objection to the application. They note in their comment that an application from their office is required prior to any works/construction taking place within the regulated area. The full comment can be found in Appendix E.

Conclusion

The proposed consent application is consistent with the Provincial Policy Statement (PPS), conforms to the County of Essex and Lakeshore Official Plan, 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 – Zoomed in Map
Appendix C – Sketch of Proposed Lot
Appendix D – Photos
Appendix E – LTVCA comment

Prepared by:



Ian Search, BES
Planner I

Report Approval Details

Document Title:	B-10-2024 - Report.docx
Attachments:	- Appendix A - Map.pdf - Appendix B - Zoomed in Map.pdf - Appendix C - Sketch of Proposed Lot.pdf - Appendix D - Photos.pdf - Appendix E - LTVCA Comment.pdf
Final Approval Date:	Oct 9, 2024

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

Urvi Prajapati - Oct 7, 2024 - 3:08 PM

No Signature - Task assigned to Ryan Donally was completed by workflow administrator Brianna Coughlin

Ryan Donally - Oct 8, 2024 - 9:11 AM

Tammie Ryall - Oct 8, 2024 - 4:54 PM

No Signature found

Ian Search - Oct 9, 2024 - 10:01 AM

Daniel Mercer - Oct 9, 2024 - 1:54 PM