

**Municipality of Lakeshore
Committee of Adjustment Report**

Growth & Sustainability

Community Planning



To: Chair and Members of Committee of Adjustment

From: Ian Search, BES, Planner I

Date: November 5, 2024

Subject: Consent Application B/09/2024 – 1370 Lakeshore Road 203

Recommendation

Approve consent application B/09/2024 for the creation of one lot containing an existing dwelling and accessory buildings/structures that will have a lot area of approximately 1.71 acres (approx. 6,920.2 m²) and a lot frontage of approximately 70.1 metres (approx. 230 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 and will provide information about the area of both the severed lot and retained farmland;
- 2) That the applicant provide confirmation to Community Planning at the Municipality of Lakeshore that the private sanitary system for the severed lot will be located on the severed lot and will meet required setbacks from lot lines, to the satisfaction of this Division;
- 3) That all municipal taxes be paid in full prior to the stamping of the Deed;
- 4) 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;
- 5) 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;
- 6) 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;

7) That the applicant submit a drawing detailing the surface and subsurface drainage for the entire lands, to the Municipality's satisfaction, and make any necessary corrections to drainage tiles/drainage tile boundaries so that the retained farmland does not drain through the severed lot, to the satisfaction of the Municipality and prior to the stamping of the Deed;

8) That the Deeds and a copy for our records be forwarded to the Secretary for stamping for both the severed lot and retained land, and that the applicant/their solicitor provide an undertaking that the retained land will be transferred to an individual(s)/company that owns other farm parcel(s) and is acquiring the retained land to expand their farming operation, to the satisfaction of the Community Planning Division at the Municipality of Lakeshore;

9) That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. 1990 by November 14, 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 farm dwelling and its accessory uses from the subject property (1370 Lakeshore Road 203) as a separate rural residential lot. The farm dwelling is considered surplus to a farming operation as the owner of the subject property has entered into a purchase of sale agreement to sell the farm parcel to a farmer who owns multiple farm holdings. The purchase of sale agreement is conditional on completion of the severance. The subject property is located south of Highway 401, north of County Road 46, south of County Road 46, and west of County Road 25 – at the southwest corner of North Rear Road and Lakeshore Road 203 (Appendix A).

The subject property is an approximately 50.42-acre (20.40 hectare) farm lot designated "Agricultural" in the Lakeshore Official Plan and zoned "Agriculture" in the Lakeshore Zoning By-law. It has approximately 260 metres (853 feet) of lot frontage along Lakeshore Road 203, and approximately 539 metres of frontage along North Rear Road.

The consent application is to sever a residence surplus to an agricultural operation as a result of farm consolidation under the Provincial Planning Statement (PPS). Transfer of the retained farmland to the buyer/their farming corporation will need to occur as a condition of consent approval for the application to be consistent with the PPS. As such, a consent certificate for both the lot to be severed and the retained farmland parcel will need to be issued.

The rural residential lot being severed will contain the existing dwelling on the subject property, accessory structures/uses in the rear yard, and surrounding landscaped space (Appendix B). The lot to be severed will have a frontage of approximately 230 feet (approx. 70.1 metres) along Lakeshore Road 203, and a lot area of approximately 1.71 acres (approx. 6,920.2 m²). The retained farmland will be left with approximately 48.7

acres (approx. 19.7 hectares) of lot area and approximately 626 feet (approx. 190.8 metres) of lot frontage along Lakeshore Road 203.

The proposed lot has existing access from Lakeshore Road 203. An existing access is also in place for the retained farmland parcel located just north of the proposed severed lot. The plan of survey to be completed will need to detail this access to ensure it is entirely within the frontage of the retained farmland parcel, while also ensuring that the proposed north side lot line of the severed lot is setback the required distance from the private sanitary system. A septic test report was submitted with the consent application and shared with the Building Department that in turn deemed the report acceptable. The tank and septic bed of a private sanitary system must be setback a minimum of 3.048 metres (10 feet) from a lot line.

The applicant will need to apply for a Zoning By-law Amendment to rezone the retained farmland to prohibit dwellings/additional residential units as a condition of any consent approval granted by the Committee of Adjustment. That future application is to be heard by Lakeshore Council and request for comments with respect to that future application will be circulated at a later date.

Summary

Surrounding Land Uses:

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

Servicing for proposed lot:

Water: Municipal piped water supply
Sanitary: Private sanitary system

Provincial Planning Statement (PPS)

The proposed surplus farm severance is consistent with Subsection 4.3.3 c) which states that lot creation in prime agricultural areas is discouraged and may only be permitted in accordance with provincial guidance for one new residential lot per farm consolidation for a residence surplus to an agricultural operation, 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: The proposed lot to be severed will meet the minimum lot frontage (30 metres/98.4 feet) and lot area (3,000 m²/0.74 acres) required in the Zoning By-law for a residential lot zoned Agriculture. It will be under the maximum 4 hectare/9.88 acre lot area permitted. The proposed severed lot will be limited to the dwelling and accessory

structures/uses, and will not incorporate cultivated farmland based on aerial photography available to administration.

2. *The planning authority ensures that new dwellings and additional residential units are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new dwellings or additional residential units are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches that 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, the Lakeshore Zoning By-law requires a farmland parcel zoned Agriculture (A) to have a minimum lot area of 19 hectares/46.95 acres. The Plan of Survey to be required as a condition of any consent approval of the severance, will also need to verify that the retained farmland parcel meets this minimum lot area regulation. A deficiency could potentially be addressed through the required Zoning By-law Amendment.

Lakeshore Official Plan

The subject property is designated Agricultural in the Official Plan. Subsection 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 subsection 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 residential dwellings/additional residential units.

Zoning

The proposed severed lot will comply with the minimum and maximum lot area and minimum lot frontage regulations in the Zoning By-law for a rural residential lot zoned “A”. A plan of survey 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.

The plan of survey will need to confirm that the retained farmland parcel will meet the minimum lot area requirements in the Zoning By-law for a farm parcel zoned “A”. Any non-compliance could potentially be dealt with through the Zoning By-law Amendment.

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

There is a small portion of land identified as “woodlands” in the Lakeshore Zoning By-law that runs along the proposed south side lot line of the lot to be severed. Some of the retained farmland will also include a small portion of land identified as “woodlands” behind the proposed lot to be severed. According to the Zoning By-law schedule, almost all of this natural heritage feature is located on the neighbouring property to the south – 1376 Lakeshore Road 203. These lands are also recognized as “significant woodlands and other woodlands” in the Lakeshore Official Plan (Appendix C).

Subsection 6.35 of the Lakeshore Zoning By-law contains provisions with respect to these lands, including that “no person shall remove or alter a woodland or other Provincially identified significant natural heritage feature or area except in a manner specified by the Municipality in consultation with the applicable Conservation Authority”, and “Development may be subject to the completion of an Environmental Impact Assessment in accordance with the policies of the Official Plan and shall be subject to approval by the Town in consultation with the applicable Conservation Authority”. It is recognized that the proposed severance is to simply separate the existing dwelling and existing accessory structures/use from the subject property. If in the future there is a

plan to remove or alter the woodland, then the applicant is to contact the Municipality of Lakeshore first – an Environmental Impact Assessment may be required.

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:

Essex Region Conservation Authority (ERCA) commented that they have no objection to the consent application. Their full comment can be found in Appendix D.

The Fire Department commented that they have no comments at this time.

The Chief Building Official commented that they have no concerns at this time.

The Operations Department commented that a drain apportionment agreement will be required. Also, the owner is to confirm that drainage tile boundaries are corrected prior to the severance, and a drainage drawing/map is to be provided to the Operations Division of Lakeshore. Full comment can be found in Appendix F.

No comments were received from the County of Essex at the time of writing this report.

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 – Drawings
- Appendix C – Woodlands
- Appendix D – ERCA
- Appendix E – Photos
- Appendix F – Operations Department

Prepared by:



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Planner I

Report Approval Details

Document Title:	B-09-2024 Report.docx
Attachments:	- Appendix A - Aerial Map.pdf - Appendix B - Drawings.pdf - Appendix C - Woodlands.pdf - Appendix D - ERCA.pdf - Appendix E - Photos.pdf - Appendix F - Operations Department.pdf
Final Approval Date:	Nov 5, 2024

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

Urvi Prajapati - Nov 5, 2024 - 11:32 AM

No Signature - Task assigned to Daniel Mercer was completed by workflow administrator Brianna Coughlin

Tammie Ryall - Nov 5, 2024 - 5:16 PM