

**TOWN OF LAKESHORE  
COMMITTEE OF ADJUSTMENT  
WEDNESDAY, DECEMBER 9, 2020 @ 5:45 P.M.**

The meeting opened at 6:00 P.M. with the following members present:

Chairman	- Mark Hacon
Members	- Steve Diemer
	- Ron Barrette
	- Robert Sylvestre
Secretary-Treasurer & Planner I	- Ian Search
Planner III	- Aaron Hair
Director of Community and Development Services –	Tammie Ryall

The Chair introduced the Committee members and support staff and provided a brief outline of the process followed through the hearings.

The Chair also inquired if there were any disclosures of pecuniary interest and the general nature thereof with the applications proposed to be heard at tonight's Committee meeting.

- There were no disclosures of pecuniary interests at this time.

<b>APPLICATION:</b>	<b>B/25, 26/2020 &amp; A/38/2020</b>
<b>APPLICANT:</b>	<b>Clarence Nussey Estate, c/o David French (Storey Samways Planning Ltd.)</b>
<b>PROPERTY LOCATION:</b>	<b>0 Lakeshore Rd. 303 (Con 2 S Pt Lot 17 RP 127557 Parts 5 &amp; 7) (Community of Tilbury North)</b>

## **PURPOSE OF APPLICATION**

The subject land is located on the north side of Lakeshore Road 303 in the former Community of Tilbury North and has 97.13 metres of frontage and an overall area of 2.82 hectares (6.98 acres). The applicant is applying to sever two lot additions. One lot addition (B/26/2020) consists of landscaped open space and has an area of 0.96 acres and a frontage of 39.41 metres and is to be added to a residential property (17700 Lakeshore Rd. 303). The other lot addition (B/25/2020) consists of landscaped open space and multiple accessory structures, and has an area of 0.87 acres and a frontage of 24.6 metres, and will be added to another residential property (17500 Lakeshore Rd. 303). The subject lands are designated "Agricultural" and zoned "A, Agriculture". Additionally, a 1 foot by 1 foot square will be conveyed from the residential property

(17500 Lakeshore Rd 303) to the Town to become part of the Town's road allowance. This alters the original residential parcel that received a consent certificate, so that the lot can be merged with the lot addition lands.

- The applicant is also seeking relief from Section 8.9 (A, Agriculture) zone of the Lakeshore Zoning By-law 2-2012 to permit a minimum lot area of 2 ha (4.94 acres) and a minimum lot frontage of 26 metres (85.3 feet) for the retained farmland;

**Section 8.9, (A, Agriculture) zone of the Lakeshore Zoning By-law 2-2012 requires a minimum lot area of 19 ha (46.9 acres) and a minimum frontage of 75 metres for a farmland parcel.**

## **PRESENT AT MEETING**

David French (Storey Samways Planning Ltd.), Authorized Applicant

## **CORRESPONDENCE RECEIVED**

1. Lakeshore Building Dept. – No comments
2. Lakeshore Drainage Dept. – There is a municipal drain that runs north and south in the middle of this property, but this should not adversely affect this application
3. Lakeshore Engineering Dept. – Water is in the Wheatley/Tilbury Water Service area. Applicant should contact Chatham/Kent for policy on water connection and applicable fees if applicant is ever interested in connecting to municipal water.
4. Lakeshore Fire – No comments
5. Lakeshore Planning Dept. –

The subject property is located within the Lake St Clair floodprone designation and was circulated to Lower Thames Valley Conservation Authority for comment. There is a municipal drain, the Upstream Macklem Creek Drain, which runs north-south on the subject property adjacent to the west side lot line north of the parcels to be severed. The application was circulated to the Drainage Department for comment.

The subject property is designated 'Agricultural' in the Town of Lakeshore Official Plan and zoned A, Agriculture in the Town of Lakeshore Zoning By-law 2-2012, as amended, which permits a single detached dwelling and accessory uses. Currently, there is no single detached dwelling on the property.

The 0.87 acre parcel proposed to be severed and merged with the adjacent property to the west, 17500 Lakeshore Road 303, consists of landscaped open space and several accessory structures. It also includes the driveway that is currently being utilized by the

residents of 17500 Lakeshore Road 303, which provides technical justification for the lot addition. No farmland is being transferred or coming out of production. Because 17500 Lakeshore Road 303 was created through consent, the survey will need to detail a 1 foot by 1 foot square as a Part on the reference plan that will be conveyed from this residential property to the Town to become part of the Town's road allowance. This alters the original residential parcel that received the consent certificate, so that the lot can be merged with the lot addition lands.

The 0.96 acre parcel proposed to be severed and merged with the adjacent property to the east, 17700 Lakeshore Road 303, consists of landscaped open space and one accessory structure. It also includes the well that the residents at 17700 Lakeshore Road 303 utilize for water supply. Currently, the single detached dwelling located at 17700 Lakeshore Road 303 encroaches onto the subject property – 0 Lakeshore Road 303. This proposed lot addition will remedy that situation and provides technical justification for the lot addition. No farmland is being transferred or coming out of production.

Both the 2020 Provincial Policy Statement and the County and Town's Official Plan permit minor lot adjustments of this nature in prime agriculture areas. In accordance with Section 6.2.3 d) of the Official Plan, the lot additions do not threaten the viability of the retained land as a farm parcel and sufficient need has been demonstrated for the proposed enlargements. Measures will be taken to ensure the lands do in fact merge.

The variance for deficient lot area and frontage of the retained parcel is considered minor. The current area of the subject property is only 6.98 acres, which is already severely deficient compared to the minimum lot area required (46.95 acres) for an agriculture lot in the zoning by-law. The lot additions will reduce the size of the parcel to 4.94 acres but no farmland is being transferred or coming out of production. While the lot additions propose to eliminate 64 metres of the subject property's lot frontage, none of that frontage is used to access any of the farmland. Access to the farmland is provided through the 26 metre frontage east of 17700 Lakeshore Road 303 which will remain following the lot additions.

Therefore, the Planner is of the opinion that the requested variance meets the following four tests prescribed under Section 45 (1) of the *Planning Act*.

- i. The variance would be "minor" in nature.
- ii. It would be desirable for the appropriate development or use of the land, building or structure.
- iii. It would maintain the general intent and purpose of the Official Plan.
- iv. It would maintain the general intent and purpose of the Zoning By-law.

If the Committee decides to approve this application, they are advised that the proposed consent would be consistent with the Provincial Policy Statement (PPS), conforms to the Lakeshore Official Plan, subject to the following conditions of consent:

1. That the applicant obtain a proper Survey and Reference Plan from an Ontario Land Surveyor for the severed parcels of land and all buildings that confirms compliance with additional zone provisions and detail a 1' x 1' square from the original lot at 17500 Lakeshore Road 303. The 1' x 1' square will be conveyed to the municipality and will become part of the road allowance. Data shall also be provided in the format of a projection (NAD 83) UTM Zone 17.
  2. That minor variance application A/38/2020 be approved, final and binding
  3. That all municipal taxes be paid in full prior to the stamping of the Deeds.
  4. That the applicant enter into an Agreement with the municipality prior to the stamping of the Deeds regarding the apportionment of any current or future local improvements or drainage charges levied against the subject property.
  5. That the Deed for the lot additions be prepared and a copy for our records be forwarded to the Secretary for stamping.
  6. That Section 50(3) and (5) of The Planning Act shall apply to the severances and that the property shall be conveyed & merged to Roll #375169000002100 (B/25/2020) and Roll #375169000001900 (B/26/2020)
  7. That the applicant produce a Deed and/or a Solicitor's Undertaking to the Secretary prior to the stamping of the severance Deeds, in evidence that the severed parcel and the abutting parcel will be registered in the same name(s) in satisfaction that all parcels will merge.
  8. 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 each lot addition and provide proof of the consolidation.
  9. That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. by **December 11, 2021**. Failure to fulfil the conditions by this date, shall deem the consent refused, as per The Planning Act.
6. Lower Thames Valley Conservation Authority– No objections

## **APPLICANTS AMENDMENTS**

- None

## **DISCUSSION**

The Chair inquired if anyone in the audience wished to speak to the application. No response was received.

David French stated that he had no issue with the recommendation or recommended conditions

**Moved by Member Sylvestre  
2<sup>nd</sup> by Member Barrette**

That Combined Minor Variance and Consent Application B/25, 26/A/38/2020 by David French (Storey Samways Planning Ltd.) be approved subject to the recommended conditions from the Planning Department.

**- Carried -**

<b>APPLICATION:</b>	<b>B/24/2020</b>
<b>APPLICANT:</b>	<b>Custom Quality Built iHomes Inc. c/o Tracey Pillon-Abbs</b>
<b>PROPERTY LOCATION:</b>	<b>1022 County Rd. 22 (Community of Maidstone)</b>

#### **PURPOSE OF APPLICATION**

The applicant has submitted a consent application for the subject land that is located on the north side of County Road 22, in the Community of Maidstone. The applicants have decided to split the lands (severed & retained residential lots), with the severed lot having a frontage of 17.59 metres and an area of 864.24 m<sup>2</sup>, and the retained lot having a frontage of 19.87 metres and an area of 743.29 m<sup>2</sup>. The subject lands are zoned "Residential Type 1 Zone Exception 13" (R1-13) (h8) and is designated "Mixed Use" in the Official Plan.

**If approved, the severed and retained lot will comply with the Zoning By-law (lot frontage/ area)**

#### **PRESENT AT MEETING**

Tracey Pillon-Abbs, Applicants

#### **CORRESPONDENCE RECEIVED**

1. Lakeshore Building Dept. – No comments
2. County of Essex – No objection

3. Lakeshore Engineering Dept. – Any new entrances will require an entrance permit from the County of Essex. The Town of Lakeshore will require confirmation of the location of sanitary and water services to each lot to be verified and shown on a 12R plan. Services could be located in the field through Ontario One Call or perhaps the builder.
4. Lakeshore Drainage Dept. – No comments
5. Lakeshore Fire Dept. – No comments
6. Essex Region Conservation Authority – No objection
7. Lakeshore Planning Dept. –

The subject property is designated "Mixed Use" and is within the Conservation Authority's "Limit of Regulated Area" in the Town's Official Plan and is zoned "Residential Type 1 Zone Exception 13 (R1-13) (h8)". The subject property is also located in the County Road 22 Special Planning Area.

A dwelling containing two dwelling units was constructed on the subject property earlier this year, and the applicant is now applying to sever the dwelling along the vertical common wall that separates the dwelling units. The severance will establish two semi-detached dwellings (a dwelling attached by a vertical common wall to only one other semi-detached dwelling, and each semi-detached dwelling is on a separate lot).

Both the 2020 Provincial Policy Statement and the County and Town's Official Plan permit lot severances of this nature in settlement areas. The subject property is designated Primary Settlement Area in the County Official Plan. Development, including lot creation, is to be directed to Primary Settlement Areas. All new development within Primary Settlement Areas is to occur on full municipal water services and municipal sewage services.

The subject property is designated Mixed Use in the Town of Lakeshore Official Plan. The proposal to establish two semi-detached dwellings through a severance, which is a housing form identified as a medium density residential use in the zoning by-law, does not conflict with the policies of the Mixed Use designation. The R1-13 (h8) zone permits semi-detached dwellings and both the retained and severed lot will meet the minimum lot area and frontage. The h8 holding symbol will be removed in the future when the land is rezoned to accommodate a mixed use development proposal. It does not preclude the development of permitted uses on the subject property, including the semi-detached dwellings which were constructed earlier this year.

If the Committee decides to approve this application, they are advised that the proposed consent would be consistent with the Provincial Policy Statement (PPS), conforms to the Lakeshore Official Plan, subject to the following conditions of consent:

1. That the applicant obtain a proper Survey and Reference Plan from an Ontario Land Surveyor for the severed and retained parcel of land and all buildings that confirms compliance with additional zone provisions. The location of the sanitary and water service connections for both the severed and retained parcel is to be detailed on the survey. Data shall also be provided in the format of a projection (NAD 83) UTM Zone 17.
2. That the applicant confirm water service and/or sanitary service connections for the severed and retained lot are in front of the lot that they are intended to service, and if not in front of the lot they are intended to service, relocate the water and/or sanitary service connections for the served and/or retained lot, at their own expense, to be in front of the lot that they are intended to service.
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 of \$1,200.00 and that such fee shall be paid prior to the stamping of the Deed.
5. That the applicant enter into an Agreement with the municipality to be registered on title at the expense of the applicant prior to the stamping of the Deeds, to pay any applicable water rates or fees with respect to the subject lands.
6. That the applicant 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 the applicant enter into an Agreement with the municipality to be registered on title at the expense of the applicant prior to the stamping of the Deed that a Sanitary Sewer connection be provided for all severed and retained property in the Sanitary Sewer area at the expense of the applicant according to the requirements of the Ministry of the Environment
8. That the Deed and a copy for our records be forwarded to the Secretary for stamping.
9. That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. 1990 by December 11, 2021. Failure to fulfil the conditions by this date, shall deem the consent refused, as per The Planning Act.

## **APPLICANTS AMENDMENTS**

- None

## **DISCUSSION**

The Chair inquired if anyone in the audience wished to speak to the application. No response was received

Tracey Pillon-Abbs stated she supported the recommendation and recommended conditions

Member Diemer asked if each lot would have a separate driveway. Ian Search said each lot would have a separate driveway

**Moved by Member Barrette  
2<sup>nd</sup> by Member Diemer**

That Consent Application B/24/2020 by Tracey Pillon-Abbs be approved subject to the conditions recommended by the Planning Department

- Carried-

<b>APPLICATION:</b>	<b>A/37/2020</b>
<b>APPLICANT:</b>	<b>Cathy Williams c/o Mark Campeau</b>
<b>PROPERTY LOCATION:</b>	<b>1642 Caille Ave. (Community of Belle River)</b>

## **PURPOSE OF APPLICATION**

The applicant is seeking relief from the Lakeshore Zoning By-law 2-2012 to permit a new accessory structure for the following relief:

- Relief from Section 6.5 a) ix) and 6.5 a) xi) of Lakeshore Zoning By-law 2-2012 to permit a gross floor area of 115.53 m<sup>2</sup> (1,243.6 ft<sup>2</sup>) and a height of 6.66 metres (21.83 feet)
- Relief from Section 6.41.4 a) to permit the driveway on the subject property to have a maximum width of 11.28 metres at the lot line and at the curb, edge of pavement, or edge of the travelled portion of the road
- Relief from Section 6.5 a) vii) to permit a setback of 0.76 metres from the east side lot line
- Relief from Section 6.42 d) to permit the cornices and eaves to encroach 1.35 metres into the east side yard setback

**Section 6.5 a) ix) of the Lakeshore Zoning By-law 2-2012, restricts accessory buildings in an R1, R2, R3, RW1, RW2, RM or HR zone to not exceed a gross floor area of 55 m<sup>2</sup> (592 ft<sup>2</sup>)**

**Section 6.5 a) xi) restricts accessory structures to not exceed a height of 5 metres unless within an Agriculture Zone.**



**Section 6.41.4 a) restricts driveways for a residential use to have a maximum width of 7.6 m at the lot line and at the curb, edge of pavement, or edge of the travelled portion of the road**

**Section 6.5 a) vii) requires accessory structures to not be built closer than 1.5 m from any lot line**

**Section 6.42 d) permits cornices and eaves to encroach up to 1 metre into any yard setback**

## **PRESENT AT MEETING**

Mark Campeau, Applicant

## **CORRESPONDENCE RECEIVED**

2. Lakeshore Building Dept. – No comments
3. Lakeshore Engineering Dept. – Owner must maintain a maximum 7.6 metre driveway width at the right of way/edge of payment. EIS does not support increasing driveway to 11.28 metre at the right of way/edge of pavement. The driveway can be wider once north of property line/right of way limit. Construction of the accessory buildings should not adversely impact the rear yard drainage or adjacent neighbouring lands.
4. Lakeshore Drainage Dept. – No concerns
5. Lakeshore Fire Dept. – No comments
6. Lakeshore Planning Dept. –

### *Gross Floor Area*

The purpose of the zoning by-law provision limiting the gross floor area of accessory structures is to ensure that these structures are compatible with the characteristics of a typical residential area. Lakefront properties on Caille Avenue have considerable depth. Dwellings are generally located near rear lot lines while accessory structures are sited in the front yard much closer to the right-of-way. In congruence with this pattern, the detached garage is proposed to be located 32 metres south of the existing dwelling in the front yard where the massing of the structure will have little to no impacts on neighbouring property owners. There are no residential properties on the south side of Caille Avenue.

While the applicant is seeking relief for an accessory structure to have a gross floor area of 115.53 m<sup>2</sup>, is it important to note that this is due to the fact the structure is a two-storey building. The building footprint will only be 62.43 m<sup>2</sup>. There are numerous accessory structures in the area with similar massing that vary in architectural design.

The dwelling on the subject property has a gross floor area of 148.64 m<sup>2</sup> so the proposed accessory structure is considered subordinate and accessory.

### *Height*

The accessory structure is proposed to be built with a gable roof and dormers. The Building Department will measure the height of the accessory structure from grade to the midpoint of the dormers which has required the applicant to seek relief for a 6.66 metre high building. The accessory structure is only 5.29 metres from grade to the midpoint of the gable roof. This architectural design seems to mitigate the appearance of the building's height, especially from the front and rear. There are multiple examples of two-storey accessory structures in the area, including some that were constructed in the last five years. Location is a consideration when evaluating the impacts of a building's height, and the proposed location of the accessory structure is deemed unoffensive with respect to neighbouring property owners.

The applicant has indicated that the second storey of the accessory structure will be used as additional lounge space for the residents. If the Committee decides to approve the minor variance, it is recommended the Committee impose a condition that the accessory structure will not contain a kitchen. This will prevent the accessory structure from being used as a dwelling unit, which is not a permitted use.

### *Setback*

The purpose of the setback regulation is to ensure light and air circulation, privacy, maintenance and fire prevention. Light and air circulation and privacy are not considered an issue in this case. Fire prevention is a matter that will be reviewed through the Building Code and Fire Code at the time of permit issuance. The applicant may find it difficult to maintain the eaves trough on the east side of the building given the reduced setback, and has indicated that gutter guards will be installed as a result. If the Committee decides to approve the minor variance, it is recommended the Committee impose a condition to ensure any runoff/drainage is kept/maintained on the property and does not cause any problems to adjacent properties. In terms of existing standards in the area, there are other accessory structures in the area that are setback a similar distance from side lot lines.

### *Driveway*

The purpose of the provision limiting the width of driveways is to maintain open space in the front yard of a property for landscaping and aesthetics. The property has large depth and plenty of space will remain for landscaping between the house and accessory structure. The proposal does not disrupt uniformity of appearance in the area as many properties on Caille Avenue have the driveway extending across the front lot line to accommodate a detached garage in the front yard. To facilitate future road improvements, the Engineering Department has commented that a maximum 7.6 metre driveway width at the right-of-way/edge of pavement must be maintained. They do not

support increasing the driveway to 11.28 metres at the right-of-way/edge of pavement. The driveway can be 11.28 metres wide once north of the property line/right-of-way limit.

None of the above issues appear to cause a concern and the variance is considered minor.

Therefore, the Planning Department is of the opinion that the requested variance meets the following four tests prescribed under Section 45 (1) of the *Planning Act*.

Condition(s):

- Satisfaction of the applicable Conservation Authority, if required by the Authority;
- That the accessory structure will not contain a kitchen
- That runoff/drainage is kept/maintained on the subject property and does not cause any problems to adjacent properties
- That the driveway is maximum 7.6 metres wide at the right-of-way/edge of pavement
  - i. The variance would be “minor” in nature.
  - ii. It would be desirable for the appropriate development or use of the land, building or structure.
  - iii. It would maintain the general intent and purpose of the Official Plan.
  - iv. It would maintain the general intent and purpose of the Zoning By-law.

7. ERCA – No objection. The property owner will be required to obtain a permit and/or clearance from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

## **APPLICANTS AMENDMENTS**

- None

## **DISCUSSION**

The Chair inquired if anyone in the audience wished to speak to the application. No response was received.

Mark Campeau stated he had no issue with the recommendation and recommended conditions

Member Barrette asked if there was sanitary services. Mark Campeau said there was sanitary servicing.

Member Sylvestre asked for clarification regarding the location of the accessory structure. Mark Campeau stated it would be 6 metres from the front lot line.

**Moved by Member Diemer  
2<sup>nd</sup> by Member Sylvestre**

That Minor Variance Application A/37/2020 by Mark Campeau be approved subject to the recommended conditions of the Planning Department

- Carried-

<b>APPLICATION:</b>	<b>V/1/2020</b>
<b>APPLICANT:</b>	<b>Jill Christina Bouma c/o Pearsall, Marshall, Halliwill &amp; Seaton LLP</b>
<b>PROPERTY LOCATION:</b>	<b>208 Pierre Ave (Pt Lt 3 Plan 1514) (Community of Maidstone)</b>

## **PURPOSE OF APPLICATION**

The purpose of the application is a request for a Certificate of Validation. 208 Pierre Avenue, was held by Lloyd Clickner, as sole titled owner. 206 Pierre Avenue was owned by Lloyd Clickner and his late wife Doris Theresa Clickner (Abutting land), likely to avoid merger of the two parcels. Mrs. Doris Theresa Clickner passed away before Lloyd Clickner on September 27, 2017. Immediately upon Mrs. Clickner's death, there was a technical merger under the *Planning Act* as 206 and 208 were held by the sole surviving beneficial owner of both parcels, Lloyd Clickner. After Mrs. Clickner's passing, 208 Pierre was transferred out of Lloyd's name into Jill Christina Boumas' name on May 2<sup>nd</sup> 2018 after Mrs. Clickner's death. As it was not a whole lot on a registered plan, and title was technically merged with abutting lands, consent was required under the *Planning Act* to properly convey this parcel in accordance with the Act.

## **PRESENT AT MEETING**

Amanda Camlis (Pearsall, Marshall, Halliwill & Seaton LLP), Applicant

## **CORRESPONDENCE RECEIVED**

1. Lakeshore Planning Dept. –

The Committee of Adjustment may issue a Certificate of Validation in respect of land described in the certificate, providing that the contravention of section 50 does not have

and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land.

Section 57 (6) of the Planning Act states that in considering whether to issue a certificate, regard shall be had to the prescribed criteria, and Section 57 (7) states no certificate shall be issued by a council unless the land described in the certificate conforms with the prescribed criteria. The prescribed criteria are in Ontario Regulation 144/95 and are addressed below:

Criteria (Ontario Regulation 144/95):

No certificate under section 57 of the Act shall be issued by a council unless the certificate conforms with,

(a) any official plan in effect in the municipality

The subject land is designated Residential in the Town of Lakeshore Official Plan. The Residential Designation permits a variety of residential dwelling types, including single detached dwellings. Uses accessory to any of the permitted uses in the Residential Designation are also permitted. The Validation Certificate will validate the conveyance of land that includes a single detached dwelling and an above ground swimming pool as an accessory use. The Validation Certificate does not create a new lot, but merely validates the conveyance of land that was a residential lot on its own prior to the technical merger under the *Planning Act*. The residential lot is not irregular and it fits in with existing lot pattern of the surrounding community.

(b) the zoning by-law of the municipality

The subject land is zoned Residential-Low Density (R1). The R1 zone permits the single detached dwelling and accessory uses on the subject land. The residential lot will comply with the minimum lot frontage and area of the R1 zone.

Fairness should also be a factor in reviewing a request for a Certificate of Validation. In this particular case, the parcel of land already exists as a separate parcel of land. It is being assessed under a separate tax roll number, municipal address and has been used and serviced as a separate parcel of land. The issue is essentially one of fixing title or ownership. In considering whether to issue a certificate, The Committee of Adjustment is required to have regard to matters of health, safety, convenience and welfare of the present and future inhabitants of the local municipality and other considerations under Section 51 (24). These considerations are not germane to this particular request involving land that has existed as a separate parcel of land and been assessed as such.

If the Committee decides to approve this application, they are advised that the Planner is of the opinion that the land to be described in the certificate conforms with the prescribed criteria.

## **APPLICANTS AMENDMENTS**

- None

## **DISCUSSION**

Member Diemer asked how old the house was. Amanda Camlis said it was built in the 1980's.

**Moved by Member Barrette  
2<sup>nd</sup> by Member Diemer**

That Certificate of Validation Application V/1/2020 by Pearsall, Marshall, Halliwill & Seaton LLP be approved

- **Carried-**

<b>APPLICATION:</b>	<b>V/2/2020</b>
<b>APPLICANT:</b>	<b>Dennis Matthew Diemer and Mary Ann Elizabeth Diemer c/o Peggy Golden</b>
<b>PROPERTY LOCATION:</b>	<b>1360 South Middle Road (Community of Maidstone)</b>

## **PURPOSE OF APPLICATION**

The purpose of the application is a request for a Certificate of Validation. A title search of the subject land revealed that the original conveyance of this property on June 29, 1972 from Stanley Diemer and Bertha Diemer to Bertha Diemer, violated the Planning Act as no Consent Certificate is attached to the Deed. Subsequent to the transfer of the lands to Bertha Diemer, on May 28, 1991, Bertha Diemer transferred the land to Dennis Matthew Diemer and Mary Ann Elizabeth Diemer. Consequently, there have also been mortgages registered on the title to the property in violation of the Planning Act.

## **PRESENT AT MEETING**

Peggy Golden, Authorized Applicant

## **CORRESPONDENCE RECEIVED**

1. Lakeshore Planning Dept. –

The Committee of Adjustment may issue a Certificate of Validation in respect of land described in the certificate, providing that the contravention of section 50 does not have

and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land.

Section 57 (6) of the Planning Act states that in considering whether to issue a certificate, regard shall be had to the prescribed criteria, and Section 57 (7) states no certificate shall be issued by a council unless the land described in the certificate conforms with the prescribed criteria. The prescribed criteria are in Ontario Regulation 144/95 and are addressed below:

Criteria (Ontario Regulation 144/95):

No certificate under section 57 of the Act shall be issued by a council unless the certificate conforms with,

(a) any official plan in effect in the municipality

The subject land is designated Agricultural in the Town of Lakeshore Official Plan. The Agricultural Designation permits one single detached dwelling per lot. Uses accessory to any of the permitted uses in the Agricultural Designation are also permitted. The Validation Certificate will validate the conveyance of land that includes a single detached dwelling and an accessory structure. The Validation Certificate does not create a new lot, but merely validates the conveyance of this residential lot that breached the Planning Act close to 50 years ago, as well as the subsequent mortgages registered on the title to the property. The residential lot is not irregular and it fits in with existing lot pattern of the surrounding community.

(b) the zoning by-law of the municipality

The subject land is zoned Agriculture (A). The A zone permits the single detached dwelling and accessory uses on the subject land. The residential lot will comply with the minimum lot frontage and area of the A zone for a residential lot.

Fairness should also be a factor in reviewing a request for a Certificate of Validation. In this particular case, the parcel of land already exists as a separate parcel of land. It is being assessed under a separate tax roll number, municipal address and has been used and serviced as a separate parcel of land. The issue is essentially one of fixing title or ownership. In considering whether to issue a certificate, The Committee of Adjustment is required to have regard to matters of health, safety, convenience and welfare of the present and future inhabitants of the local municipality and other considerations under Section 51 (24). These considerations are not applicable to this particular request involving land that has existed as a separate parcel of land in the rural area of the Town, and has been assessed as such.

## **APPLICANTS AMENDMENTS**

- None

## **DISCUSSION**

Member Sylvestre asked if the validation certificate was for the residential lot, and not the farm. Ian Search said it would be for the residential lot in the southwest corner of the farm parcel. Peggy Golden agreed and said that granting the certificate would cure Planning Act issues for both the residential lot and farm parcel.

**Moved by Member Sylvestre**  
**2<sup>nd</sup> by Member Hacon**

That Certificate of Validation Application V/2/2020 by Peggy Golden be approved

**Moved by Member Barrette**  
**2<sup>nd</sup> by Member Sylvestre**

That the minutes of November 18, 2020 be adopted as printed and distributed.

**- Carried –**

**Moved by Member Sylvestre**  
**2<sup>nd</sup> by Member Barrette**

THAT the meeting adjourn at 7:08 p.m.

**- Carried –**

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Mark Hacon  
Chairman

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Ian Search  
Secretary-Treasurer