

# Municipality of Lakeshore - Report to Council

## Community & Development Services

### Development Services



**To:** Mayor & Members of Council  
**From:** Ian Search, Planner I  
**Date:** February 18, 2021  
**Subject:** ZBA-12-2020 – Kenneth and Nicole Byrne, 1437 Lakeshore Road 123

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### Recommendation

Approve Zoning By-law Amendment application ZBA-12-2020 (Byrne, 1437 Lakeshore Road 123), as follows:

- a) To rezone the Retained Farmland from “Agriculture (A) Zone” to a site-specific “Agriculture Zone Exception (A-84)”;
- b) To rezone Surplus Lot from “Agriculture (A) Zone” to a site-specific “Agriculture Zone Exception (A-107)”, as presented in the March 9, 2021 Council report; and

Direct the Clerk to read By-law 12-2021 to amend the Zoning By-law, By-law 2-2012, as presented at the March 9, 2021 Council meeting.

### Background

The subject property is located at 1437 Lakeshore Road 123, in the Community of Rochester.

The subject property is located within Essex Region Conservation Authority's Limit of Regulated Area, and is designated 'Agricultural' and partially designated 'Woodlands' in the Municipality of Lakeshore Official Plan. The property is zoned Agriculture (A) in the Municipality of Lakeshore Zoning By-law.

On August 26, 2020 a provisional consent (File: B/7/2020) was granted to sever a surplus dwelling from the farm parcel. One of the conditions of provisional consent approval requires the applicant to obtain a Zoning By-law amendment respecting the remnant farm parcel to prohibit the construction of a residential dwelling. Additionally, a survey completed by an Ontario Land Surveyor revealed a deficient front yard setback for the existing single unit dwelling on the surplus lot that needs to be legalized through the Zoning By-law amendment. The Municipality of Lakeshore Zoning By-law requires a front yard setback of 15 metres for residential lots zoned A, while only 13.55 metres is provided.

Surplus Dwelling Lot (On Plan 12R-28339)	Lot Area – 0.3 ha (0.74 ac.) Existing Use – single unit dwelling Proposed Use – same Access – existing driveway access Services – municipal water and private septic
Neighbouring Land Uses	North, South, East & West – agricultural lands
Official Plan	‘Agricultural’, ‘Woodlands’
Zoning By-law	Agriculture Zone (A)

## Comments

### Provincial Policy Statement

The PPS (2.3.4.1(c)(2)) permits “a residence surplus to a farming operation as a result of farm consolidation,” to be severed, “provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance.”

Note: It was a condition of the consent File: B/7/2020 which created the surplus dwelling lot, that a zoning by-law amendment application be submitted to the Municipality for the retained lands, following the surplus lot creation to ensure that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance. In addition, the Municipality of Lakeshore Official Plan, Sec 6.2.3(b)(ii) requires that the non-farm parcel will be zoned to recognize the non-farm residential use and will not accommodate a livestock operation. By severing off the surplus lot from the farm lot, the Zoning By-law automatically recognizes the surplus lot’s non-farm use (as a result of the lot’s smaller size).

The Essex Region Conservation Authority (ERCA) was circulated the consent application and stated that they did not object, and advised that the applicant will be required to obtain approval from them prior to any construction or site alteration. ERCA identified the significant woodlands located at the southwest corner of the retained farmland, and stated that development and site alteration would not be permitted in this area unless no negative impacts on the natural feature or its ecological function is demonstrated.

Therefore the proposal is consistent with the PPS.

### County of Essex Official Plan and the Municipality of Lakeshore Official Plan

The proposal conforms to the land use and consent policies of the Agricultural Designations of both the County and Lakeshore Official Plans.

## **Zoning By-law**

In order to satisfy a condition of the provisional consent to sever a surplus dwelling from the farm parcel (File: B/7/2020), the “Retained Farmland” will be re-zoned from “A, Agriculture” to a site-specific “A-84, Agriculture zone” which shall prohibit a single unit dwelling.

The “Surplus Lot” will also need to be re-zoned from “A, Agriculture” to a site-specific “A-107, Agriculture zone” to recognize the deficient front yard setback for the existing single unit dwelling. The Municipality of Lakeshore Zoning By-law requires a front yard setback of 15 metres for residential lots zoned A, while only 13.55 metres is provided.

## **Conclusion**

Administration recommends approval of the Zoning By-law amendment, as it is consistent with the Provincial Policy Statement and conforms to the County of Essex and the Municipality of Lakeshore Official Plans.

## **Others Consulted**

Notice was given to agencies and 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 and no concerns were expressed from any agencies.

## **Financial Impacts**

There are no budget impacts resulting from the recommendation.

## **Attachment(s):**

Appendix A – Key Plan  
Appendix B – Survey Plan

## Report Approval Details

Document Title:	ZBA-12-2020 - Kenneth and Nicole Byrne .docx
Attachments:	- Appendix A - Key Plan.pdf - Appendix B - Survey Plan.pdf
Final Approval Date:	Mar 4, 2021

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

Aaron Hair

Tammie Ryall

Rosanna Pellerito

Kristen Newman

Truper McBride