

**MUNICIPALITY OF LAKESHORE
COMMITTEE OF ADJUSTMENT
WEDNESDAY, MARCH 17, 2021 @ 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
	- Michael Hoffman
Secretary-Treasurer/Planner I	- Ian Search
Planner/Interim Manager of Development Services – Aaron Hair	
Planner II	- Ayusha Hanif

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.

APPLICATION:	A/10/2021
APPLICANT:	Mike McMahon c/o Dan Lazar
PROPERTY LOCATION:	383 & 385 Matese Street (Community of Maistone)

PURPOSE OF APPLICATION

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

- Relief from Section 9.2.22 b) viii) of Lakeshore Zoning By-law 2-2012 to permit a south exterior side yard setback of 2.78 metres (9.12 feet)

Section 9.2.22 b) viii) of Lakeshore Zoning By-law 2-2012 requires a minimum exterior side yard setback of 4.5 metres (14.76 feet) for main buildings

PRESENT AT MEETING

Dan Lazar, Authorized Applicant

CORRESPONDENCE RECEIVED

1. Lakeshore Building Dept. – No concerns
2. Lakeshore Drainage Dept. – No concerns
3. Lakeshore Engineering Dept. – No comments
4. Lakeshore Fire – No comments
5. Lakeshore Planning Dept. –

Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

In review of the application, staff considered the intent and purpose of the Official Plan and are satisfied that the variance meets the intent as residential uses are permitted within this designation.

Staff took into consideration the intent and purpose of the zoning by-law. The purpose of the exterior side yard setback provision in the Zoning By-law is to provide the following:

- Maintenance of existing streetscape – It is anticipated the variance will have little to no impact on the maintenance of the streetscape
- Maneuvers and sight lines required for vehicle turning – It is not anticipated that permitting this variance will affect sight triangles required for vehicle turning.

Therefore, staff are of the opinion that the variance meets the intent and purpose of the zoning by-law.

Staff are of the opinion that the variance is also minor in nature; the test is not solely based on quantitative calculations with respect to the request, but also includes qualitative considerations such as impacts and consistency. Staff are of the opinion that the variance has little to no impact on the neighbourhood, and therefore fulfills this test as well.

The final test regards the appropriateness and desirability of the use. Staff are of the opinion that a reduced exterior side yard setback will not compromise the desirability of the property with the surrounding neighbourhood. In the opinion of staff, the proposed variance is appropriate and desirable for the use of land.

Therefore, the requested variance meets the following four tests prescribed under Section 45 (1) of the *Planning Act* and staff are recommending approval of Minor Variance A/10/2021.

- 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.

6. ERCA – No objection to this application, however the applicant must obtain a Section 28 Permit from ERCA.

APPLICANTS AMENDMENTS

- None

DISCUSSION

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

Dan Lazar stated that the minor variance was due to the easement on the north half of the subject property

Member Diemer asked if they would have to sever the property at a later date. Dan confirmed this was the case.

**Moved by Member Diemer
2nd by Member Barrette**

That Minor Variance application A/10/2021 by Mike McMahon c/o Dan Lazar be approved

- Carried –

APPLICATION:	B/6/2021
APPLICANT:	MGV Developments Inc. c/o Dillon Consulting Ltd.
PROPERTY LOCATION:	1467 County Rd. 22 (Part Lot 1 Con BTN River Puce & Belle River Maidstone Designated as Part 1 & 2 on 12R21086; Lakeshore) (Community of Maidstone)

PURPOSE OF APPLICATION

The subject land is located on the south side of County Road 22 in the Community of Maidstone. The applicant has applied to sever a 1299.04 m² (0.321 acre) residential lot containing an existing dwelling off the north-west extent of the subject land that will have 24.6 metres (80.7 feet) of frontage. The retained land will then have 74.1 metres (243.11 feet) of frontage on County Road 22, and an overall area of 13.22 acres (5.35 hectares). The subject property is zoned Residential Type 1 (R1) (4170-ZN-94), and designated Mixed Use in the Official Plan. The retained land is split zoned R1 (4170-ZN-94) and Mixed Use, and is designated Mixed Use in the Official Plan.

PRESENT AT MEETING

Dillon Consulting Ltd. c/o Josh Hurley-Burns, Authorized Applicant

CORRESPONDENCE RECEIVED

1. Lakeshore Building Dept. – No concerns
2. Lakeshore Engineering Dept. – The Dennis St. Pierre sanitary treatment plant has had flows significantly above its rated capacity. As a result, any intensification on the existing lot will have to be deferred until the plant expansion has occurred approx. spring 2023. Intensification of the existing property should be combined with adjacent land to the south to limit the amount of entrances on County Road 22.
3. Lakeshore Drainage Dept. – No concerns
4. Lakeshore Fire Dept. – No comment
5. Lakeshore Planning Dept. –

The subject land is designated Mixed Use and Site Specific Policy Area 3.4.3.1 in the Official Plan (see Attachment C). It appears that the lot to be severed may have existed as a separate lot in the past since it has its own Property Identification Number and legal description. However, the applicant has indicated that the lot has merged with the retained land to the south, most likely due to common ownership. A consent certificate is now required to separate the lot so it can be transferred.

The Mixed-Use designation policies permit low density residential uses on existing lots of record, encourage the consolidation of land to create large and more comprehensive development blocks, and prohibit the division of land into smaller parcels for the creation of low-density residential uses. This proposal is not a lot creation to introduce a new low-density residential use, but instead is a proposal to sever an existing single detached dwelling from the subject land. The severance will enable the retained land to

fully merge into a single large parcel with lots to the east for future mixed-use development. For these reasons, the application does not conflict with the policies of the Mixed-Use designation.

The subject land is zoned Residential Type One (R1) from the Maidstone By-law adopted by Council prior to amalgamation, and based on the sketch provided by the applicant (See Attachment B), the lot will comply with the minimum lot frontage and area required under this zone. It is recommended that if the Committee chooses to approve this application, that they impose a condition requiring the applicant to demolish/partially demolish any structures that do not comply with zone regulations or have any non-compliance of the structures legalized through a minor variance.

The subject land is partially located in the Lake St. Clair flood prone area. Essex Region Conservation Authority (ERCA) was circulated the proposal for comment.

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:

- That the applicant obtain a proper survey and Reference Plan from an Ontario Land Surveyor for the severed parcel of land, including any buildings along the new lot lines. Data shall also be provided in the format of a projection (NAD 83) UTM Zone 17.
- That all municipal taxes be paid in full prior to the stamping of the Deed.
- The applicant demolish/partially demolish any buildings or structures that do not comply with zone regulations, or legalize their non-compliance through a minor variance
- That the applicant enter into an Agreement with the municipality to be registered on title prior to the stamping of the Deed, to pay any applicable water rates or fees with respect to the subject lands
- 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
- That the applicant submit a drawing detailing the surface and subsurface drainage for the entire lands prior to the stamping of the Deeds.
- 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.

- That the Deeds and a copy for our records be forwarded to the Secretary for stamping
 - That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. 1990 by **March 19, 2022**. Failure to fulfil the conditions by this date, shall deem the consent refused, as per The Planning Act.
6. ERCA – With the review of background information and aerial photography, ERCA has no objection with this application for consent.
7. County of Essex – If property is subject to change of land use and not to remain residential, review and consultation will be required from the County of Essex. Permits are necessary for any changes to existing structures and entrances, or the construction of new structures and entrances.

APPLICANTS AMENDMENTS

- None

DISCUSSION

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

Josh Hurley-Burns had no questions or concerns and stated that he was in agreement with the conditions

Member Barrette asked if the rear lot line would match the other lots. Josh Hurley-Burns stated that it would.

Member Diemer asked if this was the final dwelling to be severed from the retained land. Josh Hurley-Burns confirmed that it was.

Member Sylvestre asked if the structures would be demolished. Josh Hurley-Burns said they may need to be to bring the lot into conformity with the by-law.

Moved by Member Barrette
2nd by Member Diemer

That Consent Application B/6/2021 be approved subject to the recommended conditions from the Planning Department

- **Carried-**

APPLICATION:	A/11/2021
APPLICANT:	Jeremy and Cassondra Pillon
PROPERTY LOCATION:	355 & 359 Honey Lane (Community of Rochester)

PURPOSE OF APPLICATION

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

- Relief from Section 6.52 a) of Lakeshore Zoning By-law 2-2012 to permit a 14.86 metres (48.77 feet) setback from the centreline of the private road
- Relief from Section 8.3 to permit a front yard setback of 6.09 metres (20 feet)
- Relief from Section 6.42 d) to permit the eaves to encroach 9.31 metres (30.55 feet) into the required front yard setback

Section 6.52 a) Setbacks on Streets of the Lakeshore Zoning By-law 2-2012, requires buildings or structures to be setback 10.0 metres from the centerline of the private road or driveway providing access to multiple lots, plus the lesser of 6.0 metres or the front yard or exterior side yard setback for that zone.

Section 8.3 Residential Waterfront Zone Regulations requires a minimum front yard setback of 15 metres where municipal sanitary servicing is unavailable

Section 6.42 d) Permitted Encroachments in Yard Setbacks permits the eaves to encroach 1 metre into any required yard setback

PRESENT AT MEETING

Jeremy and Cassondra Pillon, Applicant

CORRESPONDENCE RECEIVED

1. Lakeshore Building Dept. – No concerns
2. Lakeshore Engineering Dept. – No comment
3. Lakeshore Drainage Dept. – No concerns
4. Lakeshore Fire Dept. – No comment
5. Lakeshore Planning Dept. – Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

In review of the application, staff considered the intent and purpose of the Official Plan and are satisfied that the variance meets the intent as residential uses are permitted within this designation.

Staff took into consideration the intent and purpose of the zoning by-law. The purpose of setbacks from the street and front yard setbacks in the Zoning By-law is to provide the following:

- Separation of travelled portion of abutting road allowance from residential uses (or uses occurring in a building)
- Separation from activities associated with a public street
- Sufficient area for landscaping purposes
- 3 metre setback required to provide for the construction and maintenance of public services within the road allowance.

The purpose of limiting encroachments into yards is to provide the following:

- To provide space for the construction and maintenance of public services located in a road allowance.

Staff are of the opinion that the variance meets the intent and purpose of the zoning by-law.

Staff are of the opinion that the variance is also minor in nature; the test is not solely based on quantitative calculations with respect to the request, but also includes qualitative considerations such as impacts and consistency. Staff are of the opinion that the variance has little to no impact on the neighbourhood, and therefore fulfills this test as well.

The final test regards the appropriateness and desirability of the use. Staff are of the opinion that a reduced distance to the centre line of the road, a reduced front yard setback and eaves encroaching into the front yard do not compromise the desirability of the property with the surrounding neighbourhood. In the opinion of staff, the proposed variance is appropriate and desirable for the use of land.

Therefore, the requested variance meets the following four tests prescribed under Section 45 (1) of the *Planning Act* and staff are recommending approval of Minor Variance A/11/2021.

- 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.
6. ERCA – With the review of background information and aerial photography, ERCA has no objection to this application for minor variance

APPLICANTS AMENDMENTS

- None

DISCUSSION

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

Jeremy and Cassondra Pillon had no comments or concerns

Dave Sabolick (357 E. Ruscom River Road) questioned the eaves projection. Ian Search clarified that the eaves projection is based on the required setback in the by-law and that the entire building is moving closer to the lot line.

Member Sylvestre asked if setbacks are different on private roads. Ian Search confirmed that greater setbacks are required on private roads.

**Moved by Member Sylvestre
2nd by Member Hoffman**

That Minor Variance Application by Jeremy and Cassondra Pillon be approved

- **Carried-**

APPLICATION:	A/12/2021
APPLICANT:	John and Linda Fontes c/o Edwin Hooker
PROPERTY LOCATION:	0 Oriole Park Drive (Con 1 Pt Lot 17 RP 12R17119 Part 2) (Community of Maidstone)

PURPOSE OF APPLICATION

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

- Relief from Section 8.9 Agriculture Zone Regulations of Lakeshore Zoning By-law 2012 to permit a minimum front yard setback of 7.62 metres (25 feet) and to permit a minimum rear yard setback of 7.62 metres (25 feet)
- Relief from Section 6.42 g) of Lakeshore Zoning By-law 2-2012 to permit a porch to encroach 9.51 metres (31.2 feet) into the required rear yard setback

Section 8.9 Agriculture Zone Regulations of the Lakeshore Zoning By-law 2-2012, requires a minimum 15 metre front yard setback and minimum 15 metre rear yard setback for main buildings

Section 6.42 g) Permitted Encroachments in Yard Setbacks permits porches to encroach 2.5 metres into the required rear yard setback

PRESENT AT MEETING

Edwin Hooker, Authorized Applicant
John and Linda Fontes, Applicant

CORRESPONDENCE RECEIVED

1. Lakeshore Building Dept. – Applicant should be advised that a septic permit shall be required prior to issuance of a permit. It should be made a condition that the location and size of the septic system be detailed on the site plan drawing.
2. Lakeshore Engineering Dept. – Construction should not adversely impact the rear yard and side yard drainage or adjacent neighbouring lands
3. Lakeshore Drainage Dept. – Upon reviewing the above application, I feel that this application should be deferred until we can establish if there are legal rights for neighbouring lands to drain into the Hostine Drain and Branches, and to confirm the legal status of the road culvert that is currently on Oriole Park Drive.
4. Lakeshore Fire Dept. – No comment
5. Ministry of Transportation – MTO does not object to the proposed buildings. However, the property is within the MTO Permit Control Area, as such, an MTO Building & Land Use Permit will be required. All building/structures (including septic systems) shall be offset a minimum 14 metres from the highway property limit. Wells shall be setback 30 metres from the highway property limit.
6. Lakeshore Planning Dept. – Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

The purpose of the front yard setback provision in the Zoning By-law is to provide the following:

- i) Adequate separation between the road allowance and residential uses occurring in a building: Oriole Park Drive is a rural road with little traffic and the dwelling is

located at the north end of this road. The dwelling is proposed to be located 7.5 metres (25 feet) from the front lot line.

- ii) Sufficient area for landscaping purposes: The visible landscaped open space from the road allowance remains largely unaffected given that the lot has over 173 metres (570 feet) of lot frontage.
- iii) Separation required to provide for the construction and maintenance of public services within the road allowance: If approved the front yard setback would be 7.5 metres (25 feet). The Engineering Department was circulated for comment with respect to construction and maintenance of public services.

In general, the purpose of the rear setback is to provide sufficient amenity space for the resident, as well as privacy and open space between units. Constructing the dwelling so that it is 7.62 metres (25 feet) from the rear lot line, and the attached covered porch so that it is 5.48 metres (18 feet) from the rear lot line, will not significantly impact the ability of the rear yard to provide amenity space. The lot area is 1.47 acres which will provide plenty of space for outdoor amenity. Privacy is not a concern as the dwelling backs onto farmland and a woodlot.

In this particular context, reducing the rear yard setback to 7.62 metres (25 feet) for the main dwelling and 5.48 metres (18 feet) for the rear porch, could be incompatible with the agricultural use located on the parcel immediately to the east. It appears this farm parcel is currently cultivated close to the mutual lot line that the reduced setback pertains to, which may result in impacts from farm machinery used in close proximity. Section 2.3.6.2 of the Provincial Policy Statement states that impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands are to be mitigated to the extent feasible.

The Ministry of Transportation has required a 14 metre (45.93 feet) setback from the Highway 401 property limit. This is not an onerous setback given the large frontage of the lot and it appears the proposed dwelling could be located further north, which would provide greater separation from the adjacent farm parcel. In fact, the variance for the reduced front yard setback may provide the ability of the dwelling to meet the required rear yard setback in the by-law.

The Building Department has indicated that the location of the proposed dwelling and detached garage on the site plan may present difficulties in accommodating a private septic system on the lot. Therefore, a site plan drawing should show the location of the proposed septic system, and all proposed structures on the lot, to the satisfaction of the Building Department.

It was brought to the attention of the Planning Department that the neighbouring farm parcel to the east, and perhaps other farm parcels in the area, currently drain through part of the subject property to a municipal drain located on the west side of Oriole Park Drive. The dwelling is proposed to be constructed in the exact location of this drain. The legal status of this drain should be confirmed, and exploring the

possibility of landowners entering into an agreement with respect to the drain would be ideal.

A small portion of the southeast corner of the lot is designated as Woodlands in the Official Plan. Essex Region Conservation Authority was circulated the application for comment.

While the Planner considers the request for the reduced front yard setback to be minor, it is recommended that the Committee of Adjustment defer this application, which would allow the applicant to:

- Revise their proposal to maximize/comply with the rear yard setback
 - Indicate a feasible location of their proposed septic system on the site plan drawing
 - Confirm the legal status of the drain, and explore possibilities of landowners entering into an agreement with respect to the drain
7. ERCA – Our information indicates the subject property may support habitat of endangered species and threatened species. The PPS states that Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements. Prior to initiating any proposed works on this property, it is the proponent's responsibility to contact the Species at Risk Branch of the Ontario Ministry of Environment, Conservation & Parks (MECP) to ensure all issues related to the Endangered Species Act are addressed. All inquiries regarding the Endangered Species Act should be made with Permissions and Compliance Section of the MECP (e-mail address: SAROntario@ontario.ca)

APPLICANTS AMENDMENTS

- None

DISCUSSION

The Chair inquired if anyone in the audience wished to speak to the application

Edwin Hooker said he would continue to work with municipal staff on the issues raised and that he was in favour of deferral. He also stated that he encourages Julien Papineau to reach out to him to resolve any issues related to the drain. He stated the proposal could be adjusted based on the required Highway 401 setback that is not as large as he originally thought

Ian Search read the written comments received from Gerald and Julien Papineau to the Committee of Adjustment

Julien Papineau stated that he was willing to work together on the drainage issue and explained how the parcel would have been farmed had it not been taken as part of the Highway 401

Edwin Hooker stated that he would bring a revised submission forward in the future for the Committee to consider

**Moved by Member Barrette
2nd by Member Sylvestre**

That Minor Variance Application by John and Linda Fontes c/o Edwin Hooker be deferred

- Carried-

APPLICATION:	A/13/2021
APPLICANT:	Kalvin and Kelsey Poisson
PROPERTY LOCATION:	1412 County Rd. 22 (Community of Maidstone)

PURPOSE OF APPLICATION

The following relief is being sought from the Lakeshore Zoning By-law 2-2012 to permit an existing dwelling to temporarily remain on the lot during the construction of a new dwelling, with the existing dwelling to be demolished after occupancy of the new dwelling:

- Relief from Section 6.20 Dwelling Units Per Lot to temporarily permit two dwelling units on a lot

Section 6.20 permits only one dwelling unit on a lot except in a zone where more than one dwelling unit on a lot is specifically permitted or in the case of a lot which contained more than one dwelling unit on the date the by-law was passed

PRESENT AT MEETING

Kalvin and Kelsey Poisson, Applicant

CORRESPONDENCE RECEIVED

1. Lakeshore Building Dept. – No concern

2. Lakeshore Engineering Dept. – Construction should not adversely impact the rear yard and side yard drainage or adjacent neighbouring lands
3. Lakeshore Drainage Dept. – Drainage has no concerns with this application
4. Lakeshore Fire Dept. – Provide a temporary fire access route to the proposed new house until such time that the existing house is demolished
5. Lakeshore Planning Dept. –

Through minor variance approval, residents can enter into a legal agreement with the Municipality of Lakeshore to temporarily permit two dwellings on a single lot. Under this agreement, a resident can apply for a building permit to build a new dwelling while their existing dwelling remains on the lot during construction of the new dwelling. They are then required to demolish, dismantle, relocate and/or remove any and all debris of the original dwelling in accordance with the specifications of the agreement. The current agreement as designed requires an indemnity deposit, and any and all debris to be demolished, dismantled, relocated and/or removed within ninety (90) days of occupancy of the new dwelling.

The minor variance will provide the applicant with housing and storage of personal belongings during construction of the new dwelling. If the Committee chooses to approve the minor variance, it is recommended that such approval be conditional on the Building Department's satisfaction with the proposal, and conditional on the Fire Department being satisfied that adequate and unobstructed access to the new dwelling is provided and maintained. Lastly, it is recommended that Essex Region Conservation Authority's satisfaction with the proposal also be made a condition of approval given that the lot is located within their regulated area, and is also located within the Lake St. Clair Floodprone Area.

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

- Condition(s):

1. The owner of the subject property enter into an agreement with the Municipality of Lakeshore by April 5, 2022 that will require the existing dwelling to be demolished, dismantled, relocated and/or removed (including any and all debris) in accordance with the agreement, and this agreement is to be to the satisfaction of the Municipality of Lakeshore, and registered on title if required by the Municipality of Lakeshore, and all the details of this agreement and requirements of the owner of the subject property under this agreement are to be determined by the Municipality of Lakeshore
2. Satisfaction of the Building Department with the proposal and with the location of the new dwelling

3. That adequate and unobstructed access to the new dwelling is provided and maintained to the satisfaction of the Fire Department and Building Department
4. Clearance/permit from Essex Region Conservation Authority, if required by this Authority
 - 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.
6. ERCA – With review of background information and aerial photography, ERCA has no objection to this application for Minor Variance. However, the applicant must obtain a Section 28 Permit from ERCA.
7. County of Essex – Permits are necessary for any changes to existing structures, or the construction of new structures

APPLICANTS AMENDMENTS

- None

DISCUSSION

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

Kalvin Poisson stated he had no questions or concerns

Moved by Member Hoffman
2nd by Member Diemer

That Minor Variance Application A/13/2021 be approved subject to the recommended conditions from the Planning Department

- **Carried-**

APPLICATION:	A/14/2021
APPLICANT:	Elaine Ryall c/o Joanne Rivest
PROPERTY LOCATION:	1246 Shoreline Ave. (Community of Maidstone)

PURPOSE OF APPLICATION

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

- Relief from Section 6.20 Dwelling Units Per Lot to permit an existing dwelling to temporarily remain on the lot during the construction of a new dwelling, with the existing dwelling to be demolished after occupancy of the new dwelling
- Relief from Section 8.3 Residential Waterfront Zone Regulations to permit a minimum front yard setback of 2.43 metres (8 feet) for the new single detached dwelling
- Relief from Section 6.34 c) ii) Natural Hazard and Flood Protection Provisions to permit the new single detached dwelling to be setback a minimum of 6 metres (19.68 feet) from a covered municipal drain

Section 6.20 permits only one dwelling unit on a lot except in a zone where more than one dwelling unit on a lot is specifically permitted or in the case of a lot which contained more than one dwelling unit on the date the by-law was passed. Section 8.3 Residential Waterfront Zone Regulations of the Lakeshore Zoning By-law 2-2012, requires a minimum 7.5 metre front yard setback for main buildings where municipal sanitary servicing is available. Section 6.34 c) ii) requires buildings/structures to be setback a minimum 8 metres from the centreline of a covered municipal drain

PRESENT AT MEETING

Elaine Ryall, Applicant & Joanne Rivest, Authorized Applicant

CORRESPONDENCE RECEIVED

Lakeshore Building Dept. – No concerns

Lakeshore Engineering Dept. – Construction should not adversely impact the rear yard and side yard drainage or adjacent neighbouring lands

Lakeshore Drainage Dept. – The Drainage Department is fine with a reduced setback of 6 metres from the closed municipal drain

Lakeshore Fire Dept. – Maintain a temporary fire access route to the existing house until such time that the existing house is demolished

Lakeshore Planning Dept. –

Through minor variance approval, residents can enter into a legal agreement with the Municipality of Lakeshore to temporarily permit two dwellings on a single lot. Under this

agreement, a resident can apply for a building permit to build a new dwelling while their existing dwelling remains on the lot during construction of the new dwelling. They are then required to demolish, dismantle, relocate and remove any and all debris of the original dwelling in accordance with the specifications of the agreement. The current agreement as designed requires an indemnity deposit, and any and all debris to be demolished, dismantled, relocated and removed within ninety (90) days of the issuance of an occupancy permit for the new dwelling.

The minor variance will provide the applicant with housing and storage of personal belongings during construction of the new dwelling. If the Committee chooses to approve the minor variance, it is recommended that such approval be conditional on the Building Department's satisfaction with the proposal, and conditional on the Fire Department being satisfied that adequate and unobstructed access to the existing dwelling is provided and maintained.

The purpose of the front yard setback provision in the Zoning By-law is to provide the following:

- iv) Adequate separation between the road allowance and residential uses occurring in a building: The volume of traffic and the speed at which vehicles travel in this area does not present a conflict to the residential use in terms of the reduced setback. Additionally, there is over 5 metres of landscaped open space between the street and the front lot line of the property.
- v) Sufficient area for landscaping purposes: According to the site plan, the reduced setback is only to accommodate a narrow 3.65 metre (12 feet) wide portion of the dwelling. Thus, the visible landscaped open space from the road allowance remains largely unaffected.
- vi) Adequate separation required to provide for the construction and maintenance of public services within the road allowance: Based on an interactive mapping system, there appears to be adequate separation from servicing, as the water main appears to be located across the street and the sanitary main in the middle of the street. Engineering Services was circulated the application for comment.

Like many other streets along the lake, the front yard setbacks vary considerably among properties on Shoreline Avenue, and there does not appear to be a clear existing standard in the immediate area. Therefore, this aspect of the variance does not appear to disrupt the streetscape or any uniformity of appearance. The proposal was circulated to the Drainage Department for comment on the reduced setback from the covered municipal drain. The Drainage Department stated that they did not have an issue with the reduced setback requested.

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

Condition(s):

1. The owner of the subject property enter into an agreement with the Municipality of Lakeshore by April 5, 2022 that will require the existing dwelling to be demolished, dismantled, relocated and/or removed (including any and all debris) in accordance with the agreement, and this agreement is to be to the satisfaction of the Municipality of Lakeshore, and registered on title if required by the Municipality of Lakeshore, and all the details of this agreement and requirements of the owner of the subject property under this agreement are to be determined by the Municipality of Lakeshore
2. Satisfaction of the Building Department with the proposal and with the location of the new dwelling
3. That adequate and unobstructed access to the existing dwelling is provided and maintained to the satisfaction of the Fire Department and Building Department
4. Clearance/permit received from Essex Region Conservation Authority, if required by this Authority
 - 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.

ERCA – With the review of background information and aerial photography, ERCA has no objection to this application for Minor Variance. However, the applicant must apply for a Section 28 Permit from ERCA.

APPLICANTS AMENDMENTS

- None

DISCUSSION

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

Joanne Rivest stated she had no questions or concerns

Moved by Member Barrette
2nd by Member Diemer

That Minor Variance Application A/14/2021 be approved subject to the recommended conditions from the Planning Department

- Carried-

APPLICATION:	V/1/2021
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APPLICANT:	Joseph Byrne
PROPERTY LOCATION:	231 County Road 46 (Community of Maidstone)

PURPOSE OF APPLICATION

Charles Doyle bought the subject land from Mary Doyle in 1966. He then sold the land to Hick Farms Ltd. in 1979. Today the owner of the land is Mijo and Ana Mihela. The original Planning Act contravention occurred when Charles Doyle sold the land to Hick Farms Ltd. in 1979, because at that time he also owned the neighbouring land to the west – known municipally as 157 County Road 46 (PIN:750140061). The two parcels had merged on title and a consent was required under the Planning Act to transfer the parcel to Hick Farms Ltd.

PRESENT AT MEETING

Joseph Byrne, Applicant

CORRESPONDENCE RECEIVED

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 Municipality of Lakeshore Official Plan. The Official Plan states that agricultural uses, agriculturally-related uses and secondary agricultural uses are to be the primary use of land under the Agricultural designation. The Validation Certificate will validate the conveyance of land that is currently used as a vacant farmland parcel. The Validation Certificate does not create a new lot, but merely validates a conveyance of this vacant farm

lot that breached the Planning Act over 40 years ago, as well as any subsequent mortgages registered on the title to the property.

(b) the zoning by-law of the municipality

The subject land is zoned Agriculture (A). The A zone permits the current use of the subject land as a farm parcel, and the lot is the size of a typical farm parcel in the immediate area. The lot also appears to virtually meet the minimum lot area of a farm parcel under current Agriculture zone regulations.

Fairness should also be a factor in reviewing a request for a Certificate of Validation. In this particular case, the farmland already exists as a separate parcel of land. It is being assessed under a separate tax roll number and municipal address. The issue is essentially one of fixing legal title. 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

Joseph Byrne stated that it was a historical issue of a Planning Act contravention that occurred in the late 1970's and Keith Hicks wishes to transfer the parcel to the east to his son.

**Moved by Member Diemer
2nd by Member Sylvestre**

That Certificate of Validation Application V/1/2021 by Joseph Byrne be approved

**Moved by Member Barrette
2nd by Member Diemer**

That the minutes of February 17, 2021 be adopted as printed and distributed.

- Carried -

**Moved by Member Barrette
2nd by Member Diemer**

THAT the meeting adjourn at 7:46 p.m.
- Carried -

Mark Hacon
Chairman

Ian Search
Secretary-Treasurer

DRAFT