

**MUNICIPALITY OF LAKESHORE
COMMITTEE OF ADJUSTMENT
WEDNESDAY, APRIL 21, 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
Secretary-Treasurer & Planner I	- Ian Search
Supervisor of Planning	- 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.

APPLICATION:	A/15/2021
APPLICANT:	Matthew Little
PROPERTY LOCATION:	941 Lakeshore Park (Community of Rochester)

PURPOSE OF APPLICATION

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

- Relief from Section 8.3 Residential Waterfront Zone Regulations to permit a front yard setback of 4.69 metres (15.38 feet), and relief from Section 6.41.4 a) Driveway Regulations to permit a minimum driveway length of 4.69 metres (15.38 feet)

Section 8.3 requires a front yard setback of 15 metres (49.21 feet) for main buildings

Section 6.41.4 a) requires a minimum driveway length of 6 metres for a residential use

PRESENT AT MEETING

Matthew Little, Applicant

CORRESPONDENCE RECEIVED

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

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: It is anticipated that a reduced setback from the road allowance will not impact the residential use in this case, given that Lakeshore Park is a rural local road that services residential lots in a hamlet area of the municipality. Furthermore, while the variance will bring the dwelling within 4.69 metres of the front property line, it will still be located an additional 5.9 metres from the edge of the road itself based on Geographic Information System (GIS) available to administration.
- ii) Sufficient area for landscaping purposes: Sufficient opportunities for landscaped open space that is visible from the road allowance will remain. The proposed building addition is 6.10 metres wide, while the subject lot has 15.24 metres frontage.
- iii) Separation required to provide for the construction and maintenance of public services within the road allowance: There is a water main located within the Lakeshore Park road allowance. The Engineering Department was circulated for comment with respect to construction and maintenance of public services.
- iv) Sufficient area to accommodate a septic system where municipal sanitary services are unavailable: The current septic system is not located or accommodated in the front yard of the subject property.

The building addition will contain a garage so a driveway will be established on the property as part of the development proposal. Given that the building addition will bring the dwelling within 4.69 metres of the front property line, the driveway – as defined in our zoning by-law – will be 4.69 metres in length, while 6 metres is required. GIS suggests an additional 5.9 metres of approach that will be available to the resident from the road itself. The Engineering Department was circulated for comment on this aspect of the proposal relative to the Lakeshore Park road allowance. The Committee may choose to consider this aspect of the variance minor if the Engineering Department is satisfied with the reduced driveway request.

The subject property is designated Hamlet and Lake St. Clair Floodprone Area in the Official Plan. Essex Region Conservation Authority was circulated the proposal for comment with respect to hazard lands and its potential impact on development. The low-density residential dwelling is a permitted use in the Hamlet designation.

The minor variance is not precedent setting and respects existing standards in the immediate area. There are several examples of properties in the immediate area that have shorter front yard setbacks than what is required in the zoning by-law, including the immediate neighbour to the east and west of the subject property. According to the site plan drawing that was submitted with the application, the dwelling located on the neighbouring property to the east is 4.34 metres from the front lot line with associated driveway, while the variance proposes a 4.69 metre front yard setback for the subject property.

If comments received from other departments and agencies suggest no outstanding issues or concerns from their perspective, then it is recommended 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.
6. ERCA – 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. We have no objection to the application with respect to the natural heritage policies of the Provincial Policy Statement

APPLICANTS AMENDMENTS

- None

DISCUSSION

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

Matthew Little stated that he agreed with the comments as read. He stated that he had a meeting with Essex Region Conservation Authority (ERCA) and their concern was whether the septic needed to be relocated. ERCA told him it was to be determined by our Building Department.

Member Barrette asked where the septic system is located. Matthew Little stated that it is currently in the backyard.

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

That Minor Variance application A/15/2021 by Matthew Little be approved.

- Carried -

APPLICATION:	A/16/2021
APPLICANT:	Todd Teskey
PROPERTY LOCATION:	240 Maxwell Crescent (Community of Maidstone)

PURPOSE OF APPLICATION

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

- Relief from Section 6.5 a) vii) Accessory Uses, Buildings and Structures to permit a 0.91 metre (3 feet) setback from the rear lot line, and a 0.609 metre (2 feet) setback from the north side lot line
- Relief from Section 6.42 d) Permitted Encroachments in Yard Setbacks to permit the eaves and gutters to encroach 1.2 metres (3.93 feet) into the required setback from the north side lot line

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

Section 6.42 d) permits eaves and gutters to encroach 1 metre into any required yard setback

PRESENT AT MEETING

Todd Teskey, Applicant

CORRESPONDENCE RECEIVED

1. Lakeshore Engineering Dept. – Construction of the accessory building should not adversely impact the rear yard drainage or adjacent neighbouring lands
2. Lakeshore Drainage Dept. – No concerns
3. Lakeshore Fire Dept. – If the variance for the reduced setback from the lot line is granted that the wall(s) of the proposed structure facing the adjacent properties contain a minimum fire resistance rating identified by the Building Department.
4. Lakeshore Building Dept. – There should be a condition requiring the applicant to provide a grading plan, and to show where the downspouts are going to be directed on a plan to the satisfaction of the Building Department, and the applicant should be required to adhere to these plans. Also, there should be a condition requiring the applicant to relocate the rear yard drain if they are constructing on top of it. Applicant should be advised that pool equipment must be 5 feet from the property line and that cement patios cannot be closer than 2 feet from the lot line. Fire resistance ratings are not required by code but glazing should be limited on the side of the shed.
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.

The purpose of the setback provisions in the Zoning By-law is to provide the following:

- i) Light and air circulation: there will be little to no impact on light and air circulation given the proposed size of the structure and its location in the northwest corner of the rear yard
- ii) Maintenance: the structure will be setback 0.609 metre (2 feet) from the north side lot line, while the gutters and eaves will be setback at least 0.3 metres (1 feet). The applicant may find it awkward to perform maintenance with respect to the gutters and the Committee could impose a condition requiring the installation of gutter guards.
- iii) Fire prevention: the Building and Fire Departments were circulated notice of the application to comment on fire prevention. Geographic Information System (GIS) available to administration suggests that the proposed structure will be

- located at least 5.5 feet (1.67 metres) from an accessory structure of similar size located on the neighbouring property to the north.
- iv) Drainage: the applicant is required to retain their own water. It is noted that the subject property is located outside hazard lands and floodprone areas where elevating a structure above grade is often required. The Building department reviews water retention when processing building permits and was circulated the application for comment.

The subject property is designated Residential in the Official Plan which permits the existing single detached dwelling and uses accessory to the single detached dwelling, such as the proposed structure. In terms of existing standards in the immediate area, 2020 aerial photography suggests that there are multiple nearby properties that have similar sized accessory structures located in the corner of their rear yards with deficient setbacks. Furthermore, separating the accessory structure so that it is at least 2.13 metres (7 feet) from the outdoor pool/spa will improve comfort, convenience and safety around the pool. As long as fire prevention, drainage and building maintenance can be addressed, the variance is considered minor.

If comments received from other departments and agencies suggest no outstanding issues or concerns from their perspective, then it is recommended 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.

APPLICANTS AMENDMENTS

- None

DISCUSSION

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

Todd Teskey stated that he was willing to satisfy the recommended conditions.

Member Barrette asked what the height of the structure will be. Ian said the maximum height permitted is 5 metres measured from grade to halfway between the eaves and ridge. Todd Teskey said the structure would be a packaged built shed so likely would be less than the height limit.

Member Diemer asked about the location of the pool equipment. Todd Teskey said its location has already been approved.

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

That Minor Variance Application A/16/2021 by Todd Teskey be approved subject to the recommended conditions of the Building Department and Planning Department.

- **Carried-**

APPLICATION:	B/7,8,9,10/2021
APPLICANT:	Hermas and Grace Moison
PROPERTY LOCATION:	334 E. Ruscom River Rd. (Community of Rochester)

PURPOSE OF APPLICATION

The subject land is located on the east side of East Ruscom River Road in the Community of Rochester. The applicant has applied to sever the subject land into four residential lots with one retained lot. The area and frontage of each lot to be created is as follows:

Lot 1 (B/7/2021)

Frontage – 30 m (98.42 ft), Area – 2011 m² approx. (0.497 acres)

Lot 2 (B/8/2021)

Frontage – 30 m (98.42 ft), Area – 2011 m² approx. (0.497 acres)

Lot 3 (B/9/2021)

Frontage – 30 m (98.42 ft), Area – 2011 m² approx. (0.497 acres)

Lot 4 (B/10/2021)

Frontage – 30 m (98.42 ft), Area – 2011 m² approx. (0.497 acres)

Retained Lot (Following 4 Lot Creations)

Frontage – 31.3 m (102.7 ft), Area – 89.8 acres (36.34 hectares)

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

PRESENT AT MEETING

Hermas and Grace Moison, Applicant

CORRESPONDENCE RECEIVED

1. Lakeshore Building Dept. – No comments
2. Lakeshore Engineering Dept. – Retained and severed lots subject to water buy in fee according to the tariff of fees by-law at the time of servicing. Surface water and subsurface drainage tiles and water should be redirected around any future dwelling/around the severed parcel. Any new entrances will require an entrance permit from the Municipality of Lakeshore and will need to comply with the Corridor Management and Access Control Policy and the Town's Development Manual. A grading plan should be provided to ensure drainage is retained on each of the subject properties. Coordination for future drain enclosure to be done in conjunction with future planned works of the Municipality.
6. Lakeshore Drainage Dept. – These applications will be required to go through the Drainage Act to enclose front of said properties. This will then provide each property with an entrance once the newly severed lots have been created and a legal outlet for their storm water.
7. Lakeshore Fire Dept. – No comments
8. Lakeshore Planning Dept. –

The majority of the subject land is designated Agricultural, and is partially designated Waterfront Residential along the frontage of the subject land. The Waterfront Residential designation permits the proposed lots which will be created within the Ruscom River Strip Settlement Area. The subject land is also split zoned Agriculture (A) and Residential Waterfront – Watercourse (RW1) in the Zoning By-law. All four lot creations will occur on lands zoned RW1, and will comply with the minimum lot area and lot frontage requirements of this zone. There is existing access to the retained land north of the proposed lots.

The subject land is partially designated Inland Floodplain Development Control Area, including along the frontage of the land where the lot creations are proposed. Essex Region Conservation Authority was circulated the applications for comment with respect to the proposed lots and hazard lands which may be a constraint to development.

The proposed lot creations are within 300 metres of the Ruscom River water source. The Municipality recognizes that there may be archaeological remains of prehistoric and historic habitation, or areas containing archaeological potential within the Municipality. If the Committee chooses to approve the consents, it is recommended that approval be conditional on the applicant hiring a licensed consultant archaeologist to undertake an archaeological assessment that will identify, evaluate and protect archaeological

resources on the project area where the lot creations are proposed. The consultant archaeologist is required to hold a valid professional archaeological licence issued by the Ministry of Tourism, Culture and Sport, and the applicant would be required to follow the recommendations in the archaeological assessment report.

The applicant has indicated in their application that there is an easement in favour of Hydro One along the frontage of the subject land, and that this easement is approximately 5 metres in depth. Hydro One relocated their servicing lines to the front of the subject land to accommodate previous residential lot creations on the subject land. If the Committee chooses to approve the consents, it is recommended that approval be conditional on the Municipality and/or Hydro One being satisfied that Hydro One servicing lines are relocated away from the building envelopes and access to the new proposed lots is possible.

The Drainage Department was circulated the applications for comment. The subject land may be assessed into nearby municipal drains. It is recommended that any approval of the consents be subject to recommended conditions from the Drainage Department, including recommended drainage works.

If the Committee decides to approve this application, they are advised that the proposed consents 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 parcels of land, and that the draft plan be to the satisfaction of the municipality. 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.
- That a \$1,200.00 park fee be imposed for each application granted, and that such fees shall be paid prior to the stamping of the Deeds
- That the applicant, at their own expense, relocate Hydro One servicing lines away from the building envelopes to the satisfaction of the Municipality and/or Hydro One, and in doing so maintain adequate opportunity for access to each lot to the satisfaction of the Municipality and/or Hydro One
- That the applicant provide a site drainage plan, to the satisfaction of the Municipality, for the development of the new lots to identify a legal drainage outlet
- That, prior to the stamping of the deeds, the applicant hire a licensed consultant archaeologist to undertake an archaeological assessment that will identify, evaluate and protect archaeological resources on the project area where the lot creations are proposed. The consultant archaeologist is required to hold a valid

professional archaeological licence issued by the Ministry of Tourism, Culture and Sport. The archaeological assessment report is to be accepted by the Ministry of Tourism, Culture and Sport, and the applicant is required to follow the recommendations in the archaeological assessment report.

- 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 each severed and retained lot shall receive a separate water connection, and to pay any applicable water rates or fees with respect to the subject lands.
 - That the applicant establish a legal drainage outlet for the proposed lots, and enclose the drain in front of the subject property if required by the Drainage Department and to the satisfaction of the Drainage Department
 - 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, to provide an access for each severed and retained lot, which may be on a municipal drain, at the expense of the applicant in accordance with specifications and supervision of the Municipality. The access is to be maintained by the assessed owner for a period of one year at which time the access will form part of the municipal drainage system.
 - 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 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 if and when services become available.
 - That a “warning clause” be placed on title alerting potential purchasers of the potential for wind turbines or solar projects within the general area prior to the stamping of the Deed.
 - 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 **April 23, 2022**. Failure to fulfil the conditions by this date, shall deem the consent refused, as per The Planning Act.
9. ERCA – Our office has reviewed the proposal and has no concerns relating to stormwater management. We have no objection to the application with respect to the

natural heritage policies of the PPS. The Municipality of Lakeshore must ensure the lots have a legal drainage outlet. A drain was created as part of consents B-36,37,38-2019 to accommodate three southern lots and it is recommended studies be completed to include these 4 additional lots to that drain.

10. Hydro One – We have no comments or concerns at this time. Our preliminary review considers issues affection Hydro One’s High Voltage Facilities and Corridor Lands’ only. For proposals affecting ‘Low Voltage Distribution Facilities’ please consult your local area Distribution Supplier (1-888-664-9376)
11. The following comment was read to the Committee from Gary and Bonnie Guilbeault 349 Ruscom Rd East, and signed by: Joel Gardiner 356 Ruscom Rd. East, Roger St.Pierre 331 Ruscom Rd. East, Mike Michard 329 Ruscom Road East, Blade Wiese 353 Ruscom Road East, Rick Grant 337 Ruscom Road East, Allen Corcoran 341 Ruscom Road East, Dave Sabolick 357 & 351 Ruscom Road East, Ricky R. Drouillard 343 Ruscom Rd East, Jeff St. Pierre 355 Ruscom Road East, Jean Guy Godard 339 Ruscom Road East (signature not obtained for Jean Godard but mentioned in email correspondence): “We the residents of Ruscom Road East do NOT agree with the application of Hermis and Mary Molson to divide the farm land across from us to sell for future homes. We all feel that the area has lost a lot of farm land to homes and the windmills, and that the farm land is more important. Building homes there will raise the flood plane so high that the ditch will not be able to handle the water when it rains and all of the surrounding properties will be flooded. The road can not handle the traffic we now have and adding homes would only increase the traffic and the noise. We enjoy watching all the birds that migrate every year, and love to watch the sunrise. The homes will also block the internet signal that we get through a dish. So we the following residents hope that you will not grant them permission to subdivide. Thank you for your time on this matter”.

APPLICANTS AMENDMENTS

- None

DISCUSSION

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

Hermas and Grace Moison asked for clarification on the conditions and comments related to drainage works. Ian stated that they will be required to enclose the drain in front of the severed lots, if required by the Drainage Department, and to the satisfaction of the Drainage Department.

Hermas and Grace Moison asked if the archaeological assessment condition could be waived because they did not have to complete one for the previous lot creations on the

subject land. Tammie Ryall advised that the condition has been imposed in light of the Provincial Policy Statement.

David Sabolick (owner: 357 East Ruscom River Road), asked what the retained land would be used for. Hermas Moison said it would be used for farming. David Sabolick said fumes from pesticide use may present and issue to new dwellings, and has been an issue for some residents in the area.

Member Sylvestre asked if the archaeological assessment should be completed prior to approval. Members of the Committee deliberated, and three of the Committee members decided to approve the consents and keep the archaeological assessment as a condition of consent approvals.

Moved by Member Diemer
2nd by Member Barrette

That Consent Applications B/7,8,9,10/2021 by Hermas and Grace Moison be approved subject to the recommended conditions from the Planning Department.

- Carried-

Moved by Member Diemer
2nd by Member Barrette

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

- Carried –

Moved by Member Sylvestre
2nd by Member Hacon

THAT the meeting adjourn at 7:05 p.m.

- Carried –

Mark Hacon
Chairman

Ian Search
Secretary-Treasurer