

Municipality of Lakeshore – Report to Council

Growth & Sustainability

Community Planning



To: Mayor & Members of Council

From: Ian Search, Planner I

Date: April 12, 2022

Subject: Zoning By-law Amendment Application ZBA-6-2022, Jean-Marc and Catherine Beneteau

Recommendation

Approve Zoning By-law Amendment Application ZBA-6-2022 to remove the Holding Symbol (h9) from the lands legally described as Part of Lot 14, Concession 1, East of Belle River, Rochester designated as Parts 5-10, 14-65, 69-75 and 77 on Plan RD 131, being all of the Property Identifier Numbers 75028-0120 to 75028-0185 (LT), to remove the requirement that a subdivision agreement be executed by the owner and the development receive final approval by the County of Essex; and

Direct the Clerk to read By-law 40-2022 during the “Consideration of By-laws”, all as presented at the April 26, 2022 Council meeting.

Background

The subject property is currently a 51.13 acre vacant agricultural property located north of Highway 401 on the east side of County Road 27 in the Community of Rochester (see Appendix 1). Hydro One lands intersect the subject property north-south so that there are two separate conveyable lots – one east of the Hydro One lands (approx. 40.23 acres), and one west of the Hydro One lands with frontage on County Road 27 (approx. 10.17 acres). The vast majority of the subject property is zoned A(h9) – these are the lands subject to the application (see Appendix 2). Approximately 0.3 acres (1,220 m²) of the subject property has frontage on County Road 27 and is zoned Residential Waterfront – Watercourse (RW1). The entire subject property is designated Agricultural in the Lakeshore Official Plan and County of Essex Official Plan.

In November 2019 an easement/right-of-way was registered between the owners of the subject property at the time and the owners of 1716 County Road 27 and 1706 County Road 27. The easement is in favour of 1716 County Road 27 and 1706 County Road 27 for no other purpose or use other than egress and ingress of persons and vehicles over a part of the subject property – Part 1 and 2, Plan 12R-27886 (see Appendix 3). The easement agreement is binding upon the parties and their successors.

The applicant has applied to remove the holding symbol (h9) from the subject property's zoning. Where the zoning applying to any lot or area includes the holding symbol (h) suffixed to any zone symbol, only existing uses shall be permitted until such time as the holding symbol is removed. Specific criteria to be satisfied in order to remove the holding symbol is included in the Zoning By-law. In the case of the h9 holding symbol, the By-law states that existing uses shall be the only uses permitted in the interim, and that the holding symbol shall not be removed until such time as "the subdivision agreement is executed by the owner and the Town and the development receives final approval by the County". Parcel registers of the subject property were requested and reviewed which indicate that there never was a plan of subdivision registered on the land.

Subject Property	Area – 51.13 acres Existing Use – Agriculture Proposed Use – Agriculture Access – County Road 27 Servicing – Municipal water available
Surrounding Uses	North – residential and agricultural land uses East – agricultural land uses West – residential land uses South – residential and agricultural land uses
Official Plan	Agricultural
Existing Zoning	A(h9) and RW1

Comments

Provincial Policy Statement (PPS), County Official Plan and Lakeshore Official Plan

There are no issues of Provincial significance raised by this application under the Provincial Policy Statement.

County Official Plan

The subject lands are located outside a settlement area and are designated Agricultural in the County of Essex Official Plan. Section 3.3.2 states that it is a goal to protect prime agricultural areas for agricultural purposes to ensure the continued long-term availability of this resource.

Lot creation in the "Agricultural" designation is discouraged, and is only permitted in accordance with the restrictive policies of Section 3.3.3.4 which do not permit a plan of subdivision. The subject lands would need to be incorporated into a settlement area in order to be developed into a subdivision. Only the expansion of existing Primary Settlement Areas onto lands designated "Agricultural" are permitted – where demonstrated need for such an expansion has been justified either through a Local Comprehensive Review or a comprehensive review (Section 3.3.2 e.). The subject property is not located near a Primary Settlement Area, and an expansion to the boundary of the adjacent Secondary Settlement Area is not permitted (Section 3.2.5 d.).

Lakeshore Official Plan

The subject lands are designated Agricultural in the Municipality of Lakeshore Official Plan. Section 3.3.11 states that the land base dedicated to agricultural production will be protected given that the Agricultural Area consists entirely of prime agricultural land. The Agricultural Lot Creation policies of section 6.2.3 reflect the County of Essex Official Plan policies by restricting lot creation to surplus farm dwelling severances and farm splits.

Based on the foregoing, the Zoning By-law Amendment to remove the Holding Symbol (h9) is supported by the policies which do not contemplate a subdivision development for the subject lands.

Zoning By-law

Currently the subject land is being used for agriculture, and the applicant has indicated in their application that the proposed use of the subject land will remain the same. If the holding symbol (h9) is removed from the subject land's zoning then the subject land will no longer be restricted to existing uses.

Additional uses permitted under the Agriculture (A) zone could be developed on the subject land. In the case of the lot west of the Hydro One lands with frontage on County Road 27, this includes residential uses such as one single detached dwelling. If the applicant chooses to construct a single detached dwelling on this parcel in the future, then that development will be subject to a water buy-in fee at the time of servicing, and a grading plan will be required with the building permit application to confirm the development is able to retain all stormwater. No person will be able to erect any building or structure on the lot east of the Hydro One lands given that the lot has no frontage upon a street.

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 written 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. The applicant has submitted a request to Council to waive the fee for the application, \$1,451.00.

Administration does not support the waiving of the fees as the fees partially offset the cost to bring the zoning by-law amendment to Council.

Conclusion

Based on the foregoing, Administration recommends that Council approve ZBA-6-2022 as per the Recommendation section of the report.

Attachments

Appendix 1 – Key Plan

Appendix 2 – Subject Lands

Appendix 3 – Easement

Appendix 4 – Waive Fee Request

Report Approval Details

Document Title:	Zoning By-law Amendment Application ZBA-6-2022, Jean-Marc and Catherine Beneteau.docx
Attachments:	<ul style="list-style-type: none">- Appendix 1 – Key Plan.pdf- Appendix 2 – Subject Lands.pdf- Appendix 1 – Easement.pdf- Appendix 1 – Waive Fee Request.pdf
Final Approval Date:	Apr 21, 2022

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

Prepared by Ian Search

Submitted by Aaron Hair

Approved by Tammie Ryall, Justin Rousseau and Truper McBride