

Municipality of Lakeshore Committee of Adjustment Report

Growth & Sustainability

Community Planning



To: Chair & Members of Committee of Adjustment

From: Ian Rawlings, Planner I

Date: February 8, 2023

Applicant: Lorraine Fuerth (Owner)
Brian & Karen Fuerth (Applicant)

Subject: Consent Application B/02/2023 – 1475 O'Brien Sdrd & B/03/2023 – 1162 County Rd 46

Recommendation

Approve Consent Application B/02/2023 to sever approximately 4,046 m² (1 ac) in lot area for a surplus dwelling severance at 1475 O'Brien Sdrd, subject to the following conditions:

- 1) That the applicant obtains a proper survey and Reference Plan from an Ontario Land Surveyor for the severed and retained parcel of land to the satisfaction of the Municipality, including setbacks of any buildings, septic systems, and existing entrances;
- 2) That all municipal taxes be paid in full prior to the stamping of the Deed;
- 3) That the Deed and a copy for our records be forwarded to the Secretary for stamping;
- 4) That the applicant submit a drawing detailing the surface and subsurface drainage for the entire lands, to the Municipality's satisfaction, prior to the stamping of the Deeds;
- 5) That the applicant obtain a Zoning By-law amendment respecting the remnant farm parcel to prohibit the construction of a residential dwelling, and the surplus lot be rezoned to recognize the non-farm use;
- 6) That a septic test report indicating the location of the existing septic system on the retained parcel from the proposed severance line be submitted, to the Municipality's satisfaction;
- 7) 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;

8) That a Park Fee be imposed on the granting of this Application in the amount subjected by the Parkland By-law at the time of payment, and that such fee shall be paid prior to the stamping of the Deed;

9) That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. 1990 by February 15, 2025. Failure to fulfil the conditions by this date, shall deem the consent refused, as per The Planning Act

Approve Consent Application B/03/2023 to sever approximately 4,046 m² (1 ac) in lot area for a surplus dwelling severance at 1162 County Rd 46, subject to the following conditions:

1) That the applicant obtains a proper survey and Reference Plan from an Ontario Land Surveyor for the severed and retained parcel of land to the satisfaction of the Municipality, including setbacks of any buildings, septic systems, and existing entrances;

2) That all municipal taxes be paid in full prior to the stamping of the Deed;

3) That the Deed and a copy for our records be forwarded to the Secretary for stamping;

4) That the applicant submit a drawing detailing the surface and subsurface drainage for the entire lands, to the Municipality's satisfaction, prior to the stamping of the Deeds;

5) That the applicant obtain a Zoning By-law amendment respecting the remnant farm parcel to prohibit the construction of a residential dwelling, and the surplus lot be rezoned to recognize the non-farm use;

6) That a septic test report indicating the location of the existing septic system on the retained parcel from the proposed severance line be submitted, to the Municipality's satisfaction;

7) 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;

8) That a Park Fee be imposed on the granting of this Application in the amount subjected by the Parkland By-law at the time of payment, and that such fee shall be paid prior to the stamping of the Deed;

9) That the applicant produce a Deed and/or a Solicitor's Undertaking to the Secretary prior to the stamping of the severance Deed, in evidence that the retained farming parcel and the abutting farming parcel will be registered in the same name(s) in satisfaction that all parcels will merge;

10) That all conditions be met in accordance with Section 53(41) of the Planning Act,

R.S.O. 1990 by February 15, 2025. Failure to fulfil the conditions by this date, shall deem the consent refused, as per The Planning Act.

Purpose

The applicants of 1475 O'Brien Sdrd and 1162 County Rd 46 are proposing to sever a surplus dwelling from each property for the creation of one lot. The qualifying home base dwelling is located at 1705 Lakeshore Rd 215. The two properties abut each other and will merge under the same ownership following the consent application allowing for proper access to the entirety of the retained lands.

The proposed lot to be severed from 1475 O'Brien Sdrd will have approximately 63 m (208 ft) of frontage along O'Brien Sdrd, and approximately 4046 m² (1 ac) in lot area. The retained lot will have approximately 267 m (877 ft) of frontage along O'Brien Sdrd, and approximately 8.9 ha (22 ac) in lot area.

The proposed lot to be severed from 1162 County Rd 46 will have approximately 47 m (155 ft) of frontage along County Rd 46, and approximately 4,046 m² (1 ac) in lot area. The retained lot will have approximately 223 m (734 ft) of frontage along County Rd 46, and approximately 19.4 ha (48 ac) in lot area.

As a condition of consent per Municipal policy and the PPS, the retained farmland will be required to be rezoned to prohibit further dwellings from being constructed on the lands.

Summary

Location:

The subject property 1475 O'Brien Sdrd is approximately 9.3 ha (23 ac) in lot area with 330.7 m (1085 ft) of frontage along O'Brien Sdrd and contains a single detached residential dwelling and shed in the rear yard of the property. The subject property 1162 County Rd 46 is approximately 3,316.64 m² in lot area with 30.48 m of frontage along County Rd 46 and contains a single detached residential dwelling, a detached garage, and shed in the rear yard of the property. The subject properties abut each other and are located on the northern side of County Rd 46, west of O'Brien Sdrd.

Surrounding Land Uses:

North: Farmland/ Single detached Residential Dwellings
East: Farmland/ Single detached Residential Dwellings
West: Vacant Farmland
South: Farmland/ Single detached Residential Dwellings

Provincial Policy Statement

The proposed surplus farm severance conforms to Section 2.3.4.1 c) Lot Creation in prime agricultural areas as:

1. *“the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and*
2. *the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective”*

The severed lots will maintain the minimum size needed to accommodate a residential dwelling and will maintain appropriate sewage and water services currently available to the existing residential dwelling.

As a condition of the consent an application to rezone the retained farmland from “Agricultural (A)” to “Agricultural zone exception 1 (A-1)” will be included as to prevent the construction of future dwellings in accordance with the PPS and Official Plan.

Official Plan

The subject properties are designated Agriculture and are located within the Essex Region Conservation Authority (ERCA) Limit of Regulated Area.

Section 6.2.3 b) of the current Lakeshore Official Plan permits a surplus farm severance in Agricultural designated areas subject to the following conditions:

- i) the remnant farm parcel will be zoned so as to prohibit the construction of any additional dwellings;*
- ii) the non-farm parcel will be zoned to recognize the non-farm residential use and will not accommodate a livestock operation;*
- iii) any livestock facilities to remain on the retained parcel will not be made unsuitable for further livestock operations if the Minimum Distance Separation I provisions cannot be met; and*
- iv) the implementing Zoning By-law will not impose a setback on nearby expanding livestock operations greater than that required by the application of Minimum Distance Separation II Formula including the Minimum Distance Separation Guidelines.*

The retained lots will conform to Official Plan requirements through a rezoning, as previously mentioned. No livestock facilities are currently present upon the property and will not be permitted upon the severed lot. Therefore, the proposed surplus farm severance conforms with parts i), ii), iii), and iv) of the Lakeshore Official Plan.

Zoning

The subject properties are zoned Agriculture. The proposed lot to be severed from 1475 O'Brien Sdrd will have approximately 63 m (208 ft) of frontage along O'Brien Sdrd, and approximately 4046.85 m² (1.00 ac) in lot area. The retained lot will have approximately 267 m (877 ft) of frontage along O'Brien Sdrd, and approximately 8.9 ha (22 ac) in lot area.

The proposed lot to be severed from 1162 County Rd 46 will have approximately 47 m (155 ft) of frontage along County Rd 46, and approximately 4,046 m² (1 ac) in lot area. The retained lot will have approximately 223 m (734 ft) of frontage along County Rd 46, and approximately 19.4 ha (48 ac) in lot area.

The retained land for both applications will need to successfully complete a rezoning to prohibit the construction of single detached residential dwellings per the PPS requirements. Therefore, the proposed lot will conform to the Lakeshore Zoning By-law.

Once the properties merge under the same ownership the retained farmland will have a total lot area of approximately 28.3 ha (70 ac) with proper access off both County Rd 46 and O'Brien Sdrd.

Conclusion

The proposed consent applications are consistent with the Provincial Policy Statement (PPS), conforms to the Lakeshore Official Plan, and complies with the Zoning By-law 2-2012 and is subject to the conditions included in the recommendation section of the report.

Correspondence from external and internal agencies

External and Internal Agencies

The applications were circulated to various external and internal agencies, comments received from them are summarized below.

Engineering has expressed for both properties that surface water and subsurface drainage tiles and water should be redirected around the severed parcel and that drainage reapportionment agreements will be required. Full comments can be found within Appendix D.

ERCA has expressed no objections to Consent Application B-02-2023 and B-03-2023. Full comments can be found within Appendix E & F respectfully.

The County of Essex has provided engineering comments only and expressed no objections to Consent Application B-03-2023. The application B-02-2023 was not

circulated to the County of Essex, therefore comments were not provided regarding the stated application. Full comments can be found within Appendix G.

Public Notice Circulation

Notice of Public Meeting and information regarding the requested consent application was sent to all property owners within 60 m of the subject land. At the time of writing, no written comments were received.

Attachment(s):

Appendix A – Aerial Map – B-02-2023
Appendix B – Aerial Map – B-03-2023
Appendix C – Drawings
Appendix D – Engineering Comments
Appendix E – ERCA Comments – B-02-2023
Appendix F – ERCA Comments – B-03-2023
Appendix G – Count of Essex Comments – B-03-2023

Prepared by:

A handwritten signature in black ink, reading "Ian Rawlings". The signature is written in a cursive style with a large, stylized 'I' and 'R'.

Ian Rawlings
Planner I

Report Approval Details

Document Title:	B-02-2023 and B-03-2023 Combined Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Map - B-02-2023.pdf- Appendix B - Aerial Map - B-03-2023.pdf- Appendix C - Drawings.pdf- Appendix D - Engineering Comments.pdf- Appendix E - ERCA Comments - B-02-2023.pdf- Appendix F - ERCA Comments - B-03-2023.pdf- Appendix G - County Comments - B-03-2023.pdf
Final Approval Date:	Feb 10, 2023

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

Kristina Brcic - Feb 10, 2023 - 10:57 AM