

Municipality of Lakeshore Committee of Adjustment Report

Growth & Sustainability

Community Planning



To: Chair & Members of Committee of Adjustment

From: Ian Rawlings

Date: March 15, 2023

Applicant: Desmarais Family Farms LTD (Owner)
Paul Courey (Authorized Applicant)

Subject: Consent Application B/04/2023 – 0 Lakeshore Rd 302 (Roll: 740-03490)

Recommendation

Approve consent application B/04/2023 to sever approximately 1,335.5 m² (0.33 Ac) from the side yard of 0 Lakeshore Rd 302 to be added to the neighboring property 10200 Lakeshore Rd 302. 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 along the new lot line, and existing entrances;
- 2) That all municipal taxes be paid in full prior to the stamping of the Deed;
- 3) That the Deed for the lot addition be prepared and a copy for our records be forwarded to the Secretary for stamping;
- 4) That Section 50(3) and (5) of the Planning Act shall apply to the severance;
- 5) That the applicant/ and or a Solicitor provide an Undertaking to the Secretary prior to the stamping of the severance Deed(s), in evidence that "Application to consolidate Pins" will be submitted to the Land Titles/ Registry Office for the lot addition and provide proof of the consolidation;
- 6) 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;
- 7) 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 severed parcel and the abutting parcel will be registered in the same name(s) in satisfaction that all parcels

will merge.

8) That the applicant provide the opinion of a solicitor stating that the severed parcel and the parcel receiving the lot addition will merge. Should the parcel not merge the applicant will be required to obtain a consent cancellation if deemed appropriate by the secretary treasurer.

9) That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. 1990 by March 22, 2025. Failure to fulfill the conditions by this date, shall deem the consent refused, as per The Planning

Purpose

The applicants of 0 Lakeshore Rd 302 are proposing to sever approximately 1,335.5 m² (0.33 Ac) from the side yard of their property for a lot addition to be added to the neighboring property, 10200 Lakeshore Rd 302. The subject property will retain approximately 20.7 ha (51.17 ac) of lot area and the property receiving the lot addition will have total lot area of 6798.4 m² (1.68 ac). The frontage for both properties remains unchanged.

Summary

Location

The subject property 0 Lakeshore Rd 302 is approximately 20.84 ha (51.5 ac) in area with 265.5 m (871 ft) of frontage along Lakeshore Rd 302 and remains vacant. The subject property is located on the northern side of Lakeshore Rd 302, west of Gracey Sdrd.

Surrounding Land Uses

North: Vacant Farmland

East: Single Detached Dwelling / Farmland

West: Vacant Farmland

South: Single Detached Dwelling / Farmland

Official Plan

The subject property is designated "Agriculture" by the Lakeshore Official Plan and is located within the Essex Region Conservation Authorities limit of regulated area.

Section 8.3.5.2 b) permits a consent for technical or legal purposes in all designations:

"Notwithstanding any other provisions of this Official Plan, a consent for technical or legal purposes may be permitted where a separate lot is not being created (such as a boundary adjustment, easement or right-of-way). The lots that are the subject of that type of application and any retained lands will comply with the Zoning By-law, or

the By-law will be amended or a minor variance granted as a condition of the consent.”

Section 6.2.3 d) details the conditions to be addressed when pursuing a lot addition for an existing lot within the agricultural designation:

i) the viability of the retained lot as a farm parcel is not threatened;

The applicants agent has detailed that the land to be conveyed is not actively used as farmland. The land to be conveyed has historical been used by the residential property receiving the lot addition and does not threaten the viability of the farming operation.

ii) need must be demonstrated where the proposed enlargement is for a nonfarm use;

The applicant's agent has detailed that the reasoning for the lot addition is to correct the usage of the subject land and to finalize an existing agreement between the two property owners. The applicant's agent has detailed that numerous residential activities have spilled out into the subject lands for many years. Therefore, the applicant are pursuing to finalize the use and have demonstrated the need for the lot addition.

iii) the proposed severance must merge with the lot being enlarged in accordance with Sections 50(3) and (5) of the Planning Act.

The lands to be conveyed must merge under common ownership to prevent the creation of one lot. Therefore, it has been made a condition that the opinion of the solicitor be provided detailing that the lands will merge under common ownership, and if the lands do not merge or appear to be unable to merge then the applicant will be required to take the appropriate actions to effectively allow the lands to merge.

The proposed consent application is consistent with the lakeshore Official plan and abides by its rules and regulations. The proposed lot addition has demonstrated that the viability of the farmland will not be threatened and that the need has been demonstrated. The difficulties in merging the land will be addressed through added conditions found within the recommendation section of this report.

Zoning:

The subject property is zoned “Agriculture (A)” under the Lakeshore Zoning By-law 2-2012. The proposed lot addition will add approximately 1,335.5 m² (0.33 Ac) to the rear yard of 10200 Lakeshore Rd 302. The proposed severance will result in approximately 20.7 ha (51.17 ac) of lot area for 0 Lakeshore Rd and 68.4 m² (1.68 ac) of lot area for 10200 Lakeshore Rd. The frontage for both properties will remain unchanged.

Therefore, both properties abide by the regulations for agricultural zones found within section 8.9 of the lakeshore Zoning By-law 2-2012.

Conclusion

The proposed consent application is 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 application was circulated to various external and internal agencies, comments received from them are summarized below.

Engineering has expressed that surface water, subsurface drainage tiles, and water should be redirected around the severed parcel. A drain apportionment will be required. Full comments can be found within Appendix – C.

ERCA expresses no objections as detailed within Appendix – D.

VIA Rail has provided standard comments only.

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 Image
Appendix B – Drawings
Appendix C – Engineering Comments
Appendix D – ERCA Comments
Appendix E – VIA Rail Comments

Prepared by:



Ian Rawlings
Planner I

Report Approval Details

Document Title:	B-04-2023 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Image.pdf- Appendix B - Drawings.pdf- Appendix C - Engineering Comments.pdf- Appendix D - ERCA Comments.pdf- Appendix E - VIA Rail COmments.pdf
Final Approval Date:	Mar 17, 2023

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

No Signature - Task assigned to Kristina Brcic was completed by workflow administrator Brianna Coughlin

Kristina Brcic - Mar 17, 2023 - 9:15 AM