

Municipality of Lakeshore Committee of Adjustment Report

Growth & Sustainability

Community Planning



To: Chair & Members of Committee of Adjustment
From: Ian Search, BES, Planner I
Date: May 10, 2023
Subject: Consent Application B/10/2023 – 334 E Ruscom River Road

Recommendation

Approve consent application B/10/2023 to sever two lot additions, approximately 371.78 m² to be added to 356 E Ruscom River Road, and approximately 813.54 m² to be added to the vacant residential lot south of 356 E Ruscom River Road (PT LT 4 CON ERR ROCHESTER, NOW PART 3 & PART 4 IN 12R28979; LAKESHORE; subject to an easement in gross over Pt 3 12R28979 as in CE946674). Subject to the following conditions:

- 1) That all municipal taxes be paid in full prior to the stamping of the Deed;
- 2) That the Deeds for the lot additions be prepared and a copy for our records be forwarded to the Secretary for stamping;
- 3) That Section 50(3) and (5) of the Planning Act shall apply to each lot addition severance;
- 4) That the applicant produce Deeds and/or a Solicitor's Undertaking to the Secretary prior to the stamping of the severance Deeds, in evidence that the severed parcels and the abutting parcels will be registered in the same name(s) in satisfaction that all parcels will merge for each lot addition;
- 5) 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;
- 6) That, if required by the Secretary-Treasurer to the Committee of Adjustment, a consent cancellation be granted by the Committee of Adjustment and registered with respect to the vacant residential lot south of 356 E Ruscom River Road (PT LT 4 CON ERR ROCHESTER, NOW PART 3 & PART 4 IN 12R28979; LAKESHORE; subject to an easement in gross over Pt 3 12R28979 as in CE946674) to the satisfaction of the Secretary-Treasurer;

7) That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. 1990 by May 18, 2025. Failure to fulfill the conditions by this date, shall deem the consent refused, as per The Planning Act.

Approve consent cancellation for the vacant residential lot south of 356 E Ruscom River Road (PT LT 4 CON ERR ROCHESTER, NOW PART 3 & PART 4 IN 12R28979; LAKESHORE; subject to an easement in gross over Pt 3 12R28979 as in CE946674);

Purpose

The Municipality of Lakeshore has received a consent application for two lot additions. The subject property conveying the lot additions is known municipally as 334 E Ruscom River Road, located on the east side of E Ruscom River Road, south of County Road 2, north of the Canadian Pacific Limited right-of-way. The subject property is designated “Waterfront Residential” and “Agricultural” in the Lakeshore Official Plan and split zoned “Agriculture (A)” and “Residential Waterfront – Watercourse (RW1)” in the Lakeshore Zoning By-law 2-2012.

The subject property is a farm parcel that is approximately 88.8 acres in area with approximately 41.07 metres of frontage along East Ruscom River Road. The applicants are applying to add Part 1 and Part 2 on the attached reference plan (Appendix B) to the vacant residential lot south of 356 E Ruscom River Road – an L-shaped lot addition that is approximately 813.54 m² with approximately 7.163 metres of frontage. They are also applying to add Part 3 on the attached reference plan to 356 E. Ruscom River Road. Part 3 is 371.78 m² and is a lot addition that will not add any additional frontage.

The retained farmland will be left with approximately 33.91 metres of frontage. The vacant residential lot will have a total area of approximately 1,883.54 m² and approximately 27.1 metres of frontage following the lot addition. 356 E Ruscom River Road will have a total lot area of approximately 1,816.18 m² and retain its 27.1 metre frontage.

There is an existing consent on the title of the vacant residential lot south of 356 E Ruscom River Road. Milan Stipic of the Law Firm of Stipic Weisman, LLP has applied on behalf of the owner of this lot to cancel the existing consent. The consent cancellation is needed to ensure that the lot addition lands being added to the vacant residential lot will legally merge on title.

Summary

Surrounding Land Uses

North: Agriculture & Residential
East: Agriculture
West: Residential
South: Agriculture & Residential

Official Plan

The lot addition land to be transferred to 356 E Ruscom River Road is designated Agricultural in the Official Plan, while the lot addition land to be transferred to the vacant residential lot south of 356 E Ruscom River Road is designated Agricultural and Waterfront Residential. With respect to the latter lot addition, the proposal conforms to the Waterfront Residential Designation policies of the Official Plan by increasing the size of a lot for a future residential dwelling and private septic system.

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.”

On May 19th 2021, the Committee of Adjustment approved a lot creation consent that severed 356 E Ruscom River Road into two residential lots. Subsequently, on February 15th 2022, a minor variance was approved to permit deficient lot area and frontage for both the severed and retained lot. These are the two lots receiving the proposed lot additions. The lot additions are considered boundary adjustments to increase the lot area (and frontage in the case of the vacant residential lot) of these two properties so that they will be in greater conformity with existing residential lots to the north and south of them fronting on E Ruscom River Road. Additionally, the lot addition lands appear to be inconvenient for a farmer to cultivate and/or maintain and it is therefore more appropriate for these lands to form part of the residential lots. Increasing the frontage and area of the vacant residential lot will provide more space for the future dwelling and private septic system on that property.

Section 6.2.3 d) details conditions for lot additions that propose to enlarge existing lots in the Agricultural Designation:

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

The viability of the retained lot as a farm parcel is not threatened by the lot additions. Approximately 88 acres of farmland will be retained which is considered an economically viable farm that exceeds the minimum lot area in the Zoning By-law by close to two times. As previously mentioned, the lot addition lands appear awkward to maintain/cultivate for the farmer.

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

The proposed lot additions will bring these two lots into greater conformity with existing residential lots located north and south on E Ruscom River Road in terms of size.

Following the lot additions, the rear lot lines of the residential lots on this street will be in greater alignment to facilitate continued farming practice on the retained parcel. The vacant residential lot currently only has 20 metres of frontage and a lot area of 1070 m², whereas the Zoning By-law requires a minimum frontage of 30 metres and a minimum lot area of 2,000 m². This lot will have a total area of approximately 1,883.54 m² and frontage of approximately 27.1 metres following the lot addition. Increasing the frontage and area of this vacant residential lot will provide more space for a future dwelling and private septic system on the property.

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

The lot addition lands will be transferred into the same ownership as the properties receiving the lot additions to ensure the legal merger of land. A consent cancellation with respect to the vacant residential lot south of 356 E Ruscom River Road will need to be approved by the Committee of Adjustment to ensure that the lot as it is today cannot be conveyed separate from the land that is being added to it. It is recommended that the Committee approve this request for consent cancellation.

Zoning:

The residential lots receiving the lot additions and the lot addition lands are zoned Residential Waterfront – Watercourse (RW1). The lot additions will add land zoned residential to residential properties from a farm parcel and will increase the area (and frontage in the case of the vacant residential lot) of these lots so that they are in greater conformity with the RW1 zone regulations.

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.

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.

Essex Region Conservation Authority (ERCA) stated that they had no objection to the application. Full comments are available in Appendix C.

The Operations Department is requiring a Drainage Apportionment for the changes in ownership. This requirement will be covered by condition number 5 in the recommendation section of the report. They also note that surface water and

subsurface drainage tiles and water should be redirected around the severed parcel.
Full comments are available in Appendix D.

Public Notice Circulation

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

Attachment(s):

Appendix A – Aerial Map
Appendix B – Drawings
Appendix C – ERCA Comment
Appendix D – Operations Department
Appendix E – Site Photo

Prepared by:



Ian Search, BES
Planner I

Report Approval Details

Document Title:	B-10-2023 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial.pdf- Appendix B - Drawings.pdf- Appendix C - ERCA Comment.pdf- Appendix D - Operations Department.pdf- Appendix E - Photo.pdf
Final Approval Date:	May 12, 2023

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

Kristina Brcic - May 12, 2023 - 10:01 AM