

**The Corporation of the Town of Essex**  
**Minutes of Regular Committee of Adjustment Meeting**  
**Tuesday May 15, 2018**

A regular meeting of the Town of Essex Committee of Adjustment was held on May 15, 2018 at 4:00 PM in the Large Meeting Room of the Municipal Building at 33 Talbot Street South, Essex, Ontario.

**1. Roll Call**

Members Present: Percy Dufour  
Joe latonna  
Councillor Larry Snively  
Councillor Sherry Bondy  
Ray Beneteau

Also Present: Rita Jabbour, Assistant Planner  
Sarah Girard, Planning Assistant  
Elise Geschiere, Heritage Planning Student

Members of Public in Attendance: See sign-in sheet attached hereto

**2. Declaration of Conflict of Interest**

Member Joe latonna declared a conflict of interest with respect to application(s) A-07-18, A-09-18, A-10-18 Kimball Estates.

**3. Adoption of Minutes**

Moved by Ray Beneteau

Seconded by Joe latonna

(COA-2018-05-21) That the minutes of the April 17, 2018 Committee of Adjustment meeting be adopted as circulated.

"Carried"

**4. Adoption of Published Agenda**

Moved by Councillor Bondy

Seconded by Councillor Snively

(COA-2018-05-22) That the published agenda for the May 15, 2018 meeting of the Committee of Adjustment be adopted as circulated.

"Carried"

**5. Applications**

The following applications were heard:

- a) A-07-18 – Brent Klundert (Kimball Estates) 89,91,93,95,97 Houghton (Essex Centre, Ward 1)**

## **A-07-18**

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands at 89, 91, 93, 95 and 97 Houghton, in the Essex Centre, Ward 1. As a result of a proposed townhome development, total lot area coverage will be increased to 51.2 percent. The maximum required lot coverage for townhomes within the Residential District 2.2 (R2.2) is 50 percent. Thus, the applicants are seeking a variance to accommodate a 1.2 percent increase in lot coverage for the subject property.

### **Rita Jabbour, Assistant Planner, wrote:**

“Official Plan Designation: “Residential”

Zoning: Residential District 2.2 (R2.2) –Medium density housing, including townhomes, on urban lots

An application for minor variance has been submitted for the lands located at 89, 91, 93, 95 and 97 Houghton in the Essex Centre. The subject property is designated “Residential” under the Town’s Official Plan and zoned Residential District 2.2 (R2.2) under the Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are seeking a variance to accommodate an increase of 1.2 percent in total lot area coverage for a proposed townhome development. The maximum required lot coverage for townhomes within the R2.2 residential district is 50 percent. Lot coverage is defined as the percentage of lot area covered by all buildings at grade, combined with the percentage of lot area covered by the vertical downward projection of all roofs, cantilevered building walls and other projecting features exclusive of the following: balconies; chimney breasts; cornices; decks; eaves; fire escapes; steps and ramps; a swimming pool open to the sky; and, the first 15 square metres (161 square feet) of a sunroom.

Lot area is defined as the total land area, as measured along a horizontal plane, within the lot lines of a lot, but does not include any part of a lot permanently covered by water.

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning Bylaw, the Committee of Adjustment should be satisfied that:

- a) The general intent of this Plan and the Zoning Bylaw are maintained. The variance is a result of a townhouse development. Townhomes and accessory buildings are a permitted use under the R2.2 zoning category;
- b) The variance(s) is minor and desirable for the appropriate use of the land;
- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns;
- d) The variance deals with circumstances particular to the site and development.

As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public and other departments notified as of Thursday May 10, 2018. Comments were received from the Essex Region Conservation Authority (ERCA). They have no objection to the proposed.

**Actions:**

To be determined by the Committee. "

**Additional comments resulting from circulation.**

**Corinne Chiasson, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:**

"The following is provided for your information and consideration as a result of our review of Application for Minor Variance A-07-18. The purpose of this application is to increase the allowable lot coverage to accommodate a 5 unit townhome structure. The maximum allowable lot coverage for townhomes is 50%, the applicant is applying for an additional increase of 1.2%

**NATURAL HAZARD POLICIES OF THE PPS, 2014**

We have reviewed our floodline mapping for this area and it has been determined this site is **not** located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the *Conservation Authorities Act*). As a result, a permit is not required from ERCA for issues related to Section 28 of the *Conservation Authorities Act*, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulations under the *Conservations Authorities Act*, (Ontario Regulation No. 158/06).

**WATER RESOURCES MANAGEMENT**

Our office has reviewed the proposal and has no concerns relating to stormwater management.

**NATURAL HERITAGE POLICIES OF THE PPS 2014**

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance under the Provincial Policy Statement (PPS 2014). Based on our review, we have no objection to the application with respect to natural heritage policies.

**FINAL RECOMMENDATION**

We have no objections to this Minor Variance application."

**Discussions:**

Rita Jabbour, Assistant Planner, explains the nature of the application.

Moved by Councillor Snively

Seconded by Ray Beneteau

(COA-2018-05-23) That application A-07-18 be granted.

"Carried"

**Reasons:**

The Committee of Adjustments is of the opinion that the four (4) tests for minor variances under Section 45(1) of the Planning Act have been satisfied.

**b) A-09-18 – Brent Klundert (Kimball Estates) 138, 136, 134 Houghton (Essex Centre, Ward 1)**

**A-09-18**

An application for minor variance has been received at the Town of Essex Committee of Adjustment for the lands located at 138, 136 and 134 Houghton in the Essex Centre, Ward 1. The applicants are requesting a variance to accommodate a 1.5 metre (4.9 foot) reduction in the front yard setback. The required minimum front yard setback for townhome developments in the R2.2 zoning district is 6 metres (20 feet). The applicants are proposing a 4.5 metre (14.79 foot) front yard setback.

**Rita Jabbour, Assistant Planner, wrote:**

“Official Plan Designation: Residential

Zoning: Residential District 2.2 (R2.2) – Medium density housing, including townhomes, on urban lots

An application for minor variance has been submitted for the lands located at 138, 136 and 134 Houghton in the Essex Centre. The subject property is designated “Residential” under the Town’s Official Plan and zoned Residential District 2.2 (R2.2) under the Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are seeking a variance to accommodate a 1.5 metre (4.9 foot) reduction in the front yard setback to accommodate a townhouse development. The required minimum setback for townhomes within the R2.2 zoning district is 6 metres (20 feet). Thus, the applicants are proposing a 4.5 metre (14.79 foot) front yard setback.

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning Bylaw, the Committee of Adjustment should be satisfied that:

- a) The general intent of this Plan and the Zoning Bylaw are maintained. The variance is a result of a townhouse development. Townhomes and accessory buildings are a permitted use under the R2.2 zoning category;
- b) The variance(s) is minor and desirable for the appropriate use of the land;
- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns. The applicants are requesting this variance to keep unit setbacks consistent throughout Houghton Street;

d) The variance deals with circumstances particular to the site and development. The subject parcel is irregularly shaped.

As a result of the giving of public notice, a written correspondence was received from the owners of the properties at 155 and 157 Fairview Avenue West. The residents are opposed to the variances for the following reasons:

"I am opposed to the variances for the above mentioned lots.

These lots are directly behind my home.

The original plans that were submitted for my approval designated the above area as parkland.

These homes are too close together already and the lots are too small.

The sewage rates will have to go up again to accommodate them.

There will be drainage problems and perhaps another pumping station and an unsafe water supply.

I seriously fear the consequences of this action.

This will affect me financially and aesthetically; there will be more people, more noise, etc.

Years ago I wanted to put in a garage and was told there was not enough room between houses. Why are there separate rules for the developer and not for the home owners?

This is the third time this developer has made major changes to the original plans.

I vigorously oppose the approval of the variances."

No objections were received from other members of the public or departments as of Thursday May 10, 2018. Comments were received from the Essex Region Conservation Authority (ERCA). They have no objection to the proposed.

**Actions:**

To be determined by the Committee."

**Additional comments resulting from circulation.**

**Corinne Chiasson, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:**

"The following is provided for your information and consideration as a result of our review of Application for Minor Variance A-09-18. The applicant is requesting relief from the front yard setback provision, in order to construct a multi-unit townhouse.

**NATURAL HAZARD POLICIES OF THE PPS, 2014**

We have reviewed our floodline mapping for this area and it has been determined this site is **not** located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the *Conservation Authorities Act*). As a result, a permit is not required from ERCA for issues related to Section 28 of the *Conservation Authorities Act*, Development,

Interference with Wetlands and Alteration to Shorelines and Watercourses Regulations under the *Conservations Authorities Act*, (Ontario Regulation No. 158/06).

#### **WATER RESOURCES MANAGEMENT**

Our office has reviewed the proposal and has no concerns relating to stormwater management.

#### **NATURAL HERITAGE POLICIES OF THE PPS 2014**

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance under the Provincial Policy Statement (PPS 2014). Based on our review, we have no objection to the application with respect to natural heritage policies.

#### **FINAL RECOMMENDATION**

We have no objections to this application for Minor Variance."

#### **Discussions:**

Rita Jabbour, Assistant Planner, explains the nature of the application.

She advises the Committee of the opposition letter that was received from Sheryl Polikoff, 157 Fairview West and Steve Martin, 155 Fairview West.

Ray Beneteau asks if the land was originally designated parkland.

Rita states that the registered plan does not show it as designated parkland; she suggests that the question be directed to the applicant.

Ray questions if there has been more than 3 changes to the subject property already.

Rita advises that there has been a zoning By-law amendment; she suggests again that the questions should be directed to the applicant.

Brent Klundert, applicant, advises that the subject property is not parkland; he states that the zoning was changed to reflect multi dwelling homes.

Ray states that the subject property is not large enough for multi dwellings.

Brent advises that the subject property can sustain a multi dwelling unit but requires a variance as the far south side dwelling will be closer to the bell in the road.

Councillor Bondy asks if the variance is for all 3 units.

He states the variance is being sought for the far south unit only.

Randy Fettering, 131 Hanlan St., asks if the variance will reduce the rear yard.

Rita advises that it is just a front yard setback for the lot line.

Mr. Fettering asks if the property line will come to the fence line.

Brent advises that rear yard will maintain the 25ft setback as required.

Moved by Councillor Bondy

Seconded by Ray Beneteau

(COA-2018-05-24) That application A-09-18 be granted.

"Carried"

#### **Reasons:**

The Committee of Adjustments I of the opinion that the four (4) tests for minor variances under Section 45(1) of the Planning Act have been satisfied.

**c) A-10-18 – Brent Klundert (Kimball Estates) 132,130,128 Houghton (Essex Centre, Ward 1)**

**A-10-18**

An application for minor variance has been received at the Town of Essex Committee of Adjustment for the lands located at 132, 130 and 128 Houghton in the Essex Centre, Ward 1. The applicants are seeking a variance of +2.85 metres (9.42 feet) in the rear yard setback and a 1.5 metre (5 foot) relief in the front yard setback to accommodate a proposed townhome development. The required minimum rear and front yard setbacks for townhome developments within the R2.2 zoning district is 7.5 (25 feet) metres and 6 metres (20 feet), respectively. Thus variance are being sought to accommodate a 4.63 metre (+15.21 foot) rear yard and 4.48 metre (+14.71 foot) front yard.

**Rita Jabbour, Assistant Planner, wrote:**

“Official Plan Designation: Residential

Zoning: Residential District 2.2 (R2.2) – Medium density housing, including townhomes, on urban lots

An application for minor variance has been submitted for the lands located at 132, 130 and 128 Houghton in the Essex Centre. The subject property is designated “Residential” under the Town’s Official Plan and zoned Residential District 2.2 (R2.2) under the Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are seeking a variance to accommodate a 2.85 metre (9.42 foot) reduction in the rear yard setback and a 1.5 metre (5 foot) reduction in the front yard setback to accommodate a townhouse development. The required minimum rear and front yard setback for townhomes within the R2.2 zoning district is 7.5 metres (25 feet) and 6 metres (20 feet), respectively. Thus, the applicants are proposing a rear yard setback of 4.63 metres (15.21 feet) and a front yard setback of 4.48 metres (14.71 feet).

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning Bylaw, the Committee of Adjustment should be satisfied that:

- a) The general intent of this Plan and the Zoning Bylaw are maintained. The variance is a result of a townhouse development. Townhomes and accessory buildings are a permitted use under the R2.2 zoning category;
- b) The variance(s) is minor and desirable for the appropriate use of the land;

c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns. The applicants are requesting this variance to keep unit setbacks consistent throughout Houghton Street;

d) The variance deals with circumstances particular to the site and development. The subject parcel is irregularly shaped.

As a result of the giving of public notice, a written correspondence has been received from the owners of the properties at 155 and 157 Fairview Avenue West. The residents are opposed to the variances for the following reasons:

'I am opposed to the variances for the above mentioned lots.

These lots are directly behind my home.

The original plans that were submitted for my approval designated the above area as parkland.

These homes are too close together already and the lots are too small.

The sewage rates will have to go up again to accommodate them.

There will be drainage problems and perhaps another pumping station and an unsafe water supply.

I seriously fear the consequences of this action.

This will affect me financially and aesthetically; there will be more people, more noise, etc.

Years ago I wanted to put in a garage and was told there was not enough room between houses. Why are there separate rules for the developer and not for the home owners?

This is the third time this developer has made major changes to the original plans.

I vigorously oppose the approval of the variances.'

No objections were received from other members of the public and departments notified as of Thursday May 10, 2018. Comments were received from the Essex Region Conservation Authority (ERCA). They have no objections."

**Actions:**

To be determined by the Committee.

**Additional comments resulting from circulation.**

**Corinne Chiasson, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:**

"The following is provided for your information and consideration as a result of our review of Application for Minor Variance A-10-18. The applicant is requesting relief from the rear yard and front yard setback provisions, in order to construct a new townhouse on the subject lands.

**NATURAL HAZARD POLICIES OF THE PPS, 2014**



We have reviewed our floodline mapping for this area and it has been determined this site is **not** located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the *Conservation Authorities Act*). As a result, a permit is not required from ERCA for issues related to Section 28 of the *Conservation Authorities Act*, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulations under the *Conservations Authorities Act*, (Ontario Regulation No. 158/06).

#### **WATER RESOURCES MANAGEMENT**

Our office has reviewed the proposal and has no concerns relating to stormwater management.

#### **NATURAL HERITAGE POLICIES OF THE PPS 2014**

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance under the Provincial Policy Statement (PPS 2014). Based on our review, we have no objection to the application with respect to natural heritage policies.

#### **FINAL RECOMMENDATION**

We have no objections to this Minor Variance application.”

#### **Discussions:**

Rita Jabbour, Assistant Planner, explains the nature of the application.

She advises the Committee of the opposition letter that was received from Sheryl Polikoff, 157 Fairview West and Steve Martin, 155 Fairview West.

Brent Klundert, applicant, states that the variance is being sought for the rear yard encroachment and setback on one unit.

Ray Beneteau asks if two of the units will have a 25ft rear yard and this one unit will have a 10ft rear yard; he states that this would not be a minor variance.

Brent explains that the subject property is an irregular shape and that it would be a 15ft rear yard; he states that the variance would apply to the side yard rather than a rear yard.

Randy Fettering, 131 Hanlan St., asks why the applicant did not approach the committee upon purchase of property.

Brent states that the plans for the subject property were not yet completed and that they wanted to ensure green space could be provided.

Donna-Mae Curtis, 137 Hanlan St., asks if there will be more applications being submitted for these types of variances.

Brent advises that at this time these are the only applications.

Councillor Snively asks if the applicant could reduce the variance to 5ft.

Brent explains that a 5ft variance could be accommodated but would require the units to be different from the proposed subdivision; he states that this would also cause the units to be one large wall in the rear yard, rather than a corner encroachment.

Councillor Bondy states that 155 Hanlan St. would be affected by the variance; she states that she would like to see the 25ft rear yard be maintained moving forward.

Moved by Councillor Snively

(Recommendation – The applicant work with residents and maintain 25ft rear yard)

Seconded by Councillor Bondy

Opposed by Ray Beneteau

(COA-2018-05-25) That application A-10-18 be granted.

“Carried”

**Reasons:**

The Committee of Adjustments is of the opinion that the four (4) tests for minor variances under Section 45(1) of the Planning Act have been satisfied.

**d) A-12-18 – Robert and Sharon Stephen – 199 Chester Rd. (Colchester South, Ward 3)**

**A-12-18**

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands at 199 Chester Road, in the former Township of Colchester South, Ward 3. The applicants are seeking a variance to permit a second storey on a proposed accessory structure. For properties within the R1.1 zoning district, accessory buildings are limited to one storey. Thus, a variance is being sought.

**Rita Jabbour, Assistant Planner, wrote:**

“Official Plan Designation: “Lakeshore Residential”

Zoning: Residential District 1.1 (R1.1) for low density housing on urban lots

An application for minor variance has been submitted for the lands located at 199 Chester Road in the former township of Colchester South. The subject property is designated “Lakeshore Residential” under the Town’s Official Plan and zoned Residential District 1.1 (R1.1) under the Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are requesting a variance to permit a second storey on a proposed free-standing accessory structure. Accessory structures are limited to one (1) storey under the R1.1 zoning district. A storey is defined as that part of the building, exclusive of a cellar, between any floor and the floor, ceiling or roof next above.

The applicants are requesting the second storey for storage purposes. In keeping with Bylaw 1037, no sanitary facilities will be located above the ground floor and the structure will not be used in whole or in part as a dwelling.

The structure is proposed to be +68 square metres ( $\pm$ 728 square feet) in total area which is less than the maximum 70 square metres permitted for accessory structures in the R1.1 zoning district. The structure is also proposed to meet all setback requirements from the front, rear and side lot line and will not be within 1.8 metres (6 feet) of any other building located on the same lot.

As this is a waterfront property, the proposed structure is to be located in the front yard.

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning Bylaw, the Committee of Adjustment should be satisfied that:

- a) The general intent of this Plan and the Zoning Bylaw are maintained. Accessory structures are permitted within the R1.1 zoning district;
- b) The variance(s) is minor and desirable for the appropriate use of the land;
- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns.
- d) The variance deals with circumstances particular to the site and development.

As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public and other departments notified as of Thursday May 10, 2018. Comments were received from the Essex Region Conservation Authority (ERCA). They had no objections.”

**Actions:**

To be determined by the Committee.

**Additional comments resulting from circulation.**

**Corinne Chiasson, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:**

“The following is provided for your information and consideration as a result of our review of Application for Minor Variance A-12-18. The owners are requesting relief from the height provision for accessory structures, in order to construct a new garage with a second storey.

**NATURAL HAZARD POLICIES OF THE PPS, 2014**

The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulations under the *Conservation Authorities Act*, (Ontario Regulation No. 158/06). The subject parcel falls within the regulated area of Lake Erie. A review of our files indicates that Mr. and Mrs. Stephen obtained ERCA Permit Approval No. 185-17 for the construction of a new garage. This proposal satisfied our concerns with regard to Section 28 of the Conservation Authorities Act, provided that all works are in accordance with our permit approval, the natural hazard policies of the PPS will be satisfied.

**WATER RESOURCES MANAGEMENT**

Our office has reviewed the proposal and has no concerns relating to stormwater management.

## **NATURAL HERITAGE POLICIES OF THE PPS 2014**

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance under the Provincial Policy Statement (PPS 2014). Based on our review, we have no objection to the application with respect to natural heritage policies.

## **FINAL RECOMMENDATION**

We have no objections to this application for Minor Variance."

### **Discussions:**

Rita Jabbour, Assistant Planner, explains the nature of the application.

Joe Iatonna, asks the applicants what the intended use is for the second storey structure.

Sharon Stephen, applicant, advises that the second storey is for storage purposes.

Joe asks if there will be vehicle storage or if access to the building will strictly be through the side.

Robert Stephen, applicant, states that the access will be on the side of the structure.

Ray Beneteau asks Rita Jabbour if there is any way the committee could ensure the second storey will not be used as a residence in the future.

Mr. Stephen, states that they require storage space, not a residence.

Councillor Snively, explains to the applicant should a residence be placed in the structure the Town of Essex By-law enforcement officer would attend.

Eleanor Lowrie, 192 Chester Road, states that the structure would impede on the view of the lake. She explains that there is limited second storey structures on Chester road, and advises that those two structures are used as apartments and feels that this would also be the case. She also explains her concern for the breakwall, and states that ERCA should require it be reinforced.

Percy Dufour, explains that the Committee of Adjustments does not speak for ERCA and their requirements.

Rita advises that ERCA comments with regards to the Provincial Policy Statement (PPS) and that the applicants require a permit from ERCA prior to submitting an application to the Committee for review.

Mr. Stephen states that a permit from ERCA has been received with no recommendation of breakwall enhancement.

Moved by Councillor Snively

Seconded by Councillor Bondy

(COA-2018-05-26) That application A-12-18 be granted.

"Carried"

### **Reasons:**

The Committee of Adjustments is of the opinion that the four (4) tests for minor variances under Section 45(1) of the Planning Act have been satisfied.

**e) A-03-18 and B-02-18 – Bruce, Ron, Lyle Hall (Lot Addition) – 2716 County Rd 12 (Colchester South, Ward 2)**

**A-03-18**

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands at 2716 County Road 12, in the former Township of Colchester North, Ward 2. As a result of a proposed severance, the lot area for the retained parcel will decrease in size from  $\pm 38.56$  hectares ( $\pm 96.4$  acres) to  $\pm 38.24$  hectares ( $\pm 95.6$  acres). The required minimum lot area for properties within the General Agricultural district (A1.1) under the Town of Essex Zoning By-Law 1037 is 40 hectares (100 acres) or as existing. Thus, variances are being sought to accommodate the reduction in total lot area for the retained parcel.

**B-02-18**

A consent application has been received by the Town of Essex Committee of Adjustment for the lands at 2716 County Road 12 in the former Township of Colchester North, Ward 2. The applicants are proposing to sever a  $\pm 0.32$  hectare ( $\pm 0.8$  acre) parcel from the existing  $\pm 38.56$  hectare ( $\pm 96.4$  acre) lot. The retained parcel is proposed to have an area of  $\pm 38$  hectares ( $\pm 95$  acres). The applicants are proposing this consent for the purpose of a lot addition. The severed lot is proposed to be merged with the property directly to the West and known municipally as 2720 County Road 12.

**Rita Jabbour, Assistant Planner, wrote:**

“Official Plan Designation: Agricultural

Zoning: Agricultural District 1.1 (A1.1) –General agriculture and farm production support activities

Applications for consent and minor variance have been submitted for the lands located at 2716 County Road 12 in the former township of Colchester North. The subject property is designated “Agricultural” under the Town’s Official Plan and zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities under the Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are proposing to sever a  $+0.32$  hectare ( $+0.8$  acre) parcel from the existing  $+38.56$  hectare ( $+96.4$  acre) lot for the purposes of lot addition. The severed lot is uncultivated, grassed and contains an area of natural heritage feature. The severed lot is proposed to be merged with the property directly to the West, known municipally as 2720 County Road 12 and owned by Bruce and Elizabeth Hall.

In accordance with the Provincial Policy Statement (PPS), lot adjustments in prime agricultural areas may be permitted for legal or technical reasons. Legal or technical reasons include minor boundary adjustment which does not result in the creation of a new lot.

The minimum lot area required for lots zoned A1.1 under the Town of Essex Zoning Bylaw 1037 is the lesser of 40 hectares (100 acres) or the existing lot size. As a result of the proposed severance, the lot area for the retained parcel will be reduced by +0.32 hectares, therefore requiring a variance.

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning Bylaw, the Committee of Adjustment should be satisfied that:

- a) The general intent of this Plan and the Zoning Bylaw are maintained. No new lot creation is being proposed;
- b) The variance(s) is minor and desirable for the appropriate use of the land;
- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns. Lot areas in prime agricultural areas vary greatly;
- d) The variance deals with circumstances particular to the site and development. The variance is related to a severance application for lot addition.

As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public as of Thursday May 10, 2018. Comments were received from the County and the Essex Region Conservation Authority (ERCA). They had no objections.

Comments were also received from Wayne Mills, Chief Building Official and By-Law Enforcement Officer. Mr. Mills has requested a septic test report be made a condition of the consent to ensure the dwelling at 2716 County Road 12, the subject property, conforms with Part 8 of the Ontario Building Code.

A condition relating to a review of the septic system has been proposed. Should the Committee approve this application, they may do so with or without the condition if they feel it is reasonable, having regard to the nature of the development proposed.

**Actions:**

1. Should the Committee choose to approve this application, approval should be subject to satisfying the following conditions:

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;

- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That the severed parcel be consolidated with the lands owned by Bruce and Elizabeth Hall (municipal address 2720 County Road 12). In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.
- f) That a septic test report be completed and filed with the municipality by a Certified Septic System Installer confirming that the septic system meets Part 8 of the Ontario Building Code (OBC) regulations prior to the stamping of the Deeds and/or the issuance of the certificate;
- g) That all of the above conditions be fulfilled on or before May 15, 2019.

2. That, prior to the granting of this consent, the requested variance should be granted by the Committee of Adjustment to accommodate the reduction in minimum lot area for the retained parcel."

**Additional comments resulting from circulation.**

**Corinne Chiasson, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:**

"The following is provided for your information and consideration as a result of our review of Application for Consent B-02-18, and Minor Variance A-03-18. The applicants are requesting to sever a 0.32 ha parcel from 2716 County Rd 12 and add it to the property identified as 2720 County Rd 12, as a lot addition. As a result, relief is required to recognize the reduction in the minimum farm lot size requirement.

## **NATURAL HAZARD POLICIES OF THE PPS, 2014**

The most southern portion of the above noted lands is subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulations under the *Conservation Authorities Act*, (Ontario Regulation No. 158/06). This portion of the subject parcel falls within the regulated area of John's Creek. The property owner would be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any construction or site alteration (specifically any works within the vicinity of the regulated drain, such as the installation of a culvert or drainage outlet) or other activities affected by the regulations.

## **WATER RESOURCES MANAGEMENT**

Our office has reviewed the proposal and has no concerns relating to stormwater management.

## **NATURAL HERITAGE POLICIES OF THE PPS 2014**

Based on this application being for a severance for a lot addition only, where a small portion of land will be added to the neighbouring site, and where there is no change in land use associated, it is our opinion that the natural heritage policies of PPS would not apply in this case. Based on our review, we have no objection to the application with respect to natural heritage policies of the PPS.

## **FINAL RECOMMENDATION**

We have no objections to these Consent and Minor Variance application."

**William J. King, Manager, Planning Services, County of Essex, wrote:**

"Please be advised that the County has reviewed the aforementioned applications and the comments provided are engineering related only. These applications have not been reviewed from a planning perspective. The subject lands have frontage on County Road No. 12. The Applicant will be required to comply with the following County Road regulations:

County By-Law Number 24BL - A By-Law to Provide for the Protection of Highways and to Provide for the Installation of Entrance Ways.

County By-Law Number 24BO - A By-Law of the Corporation of the County of Essex to Regulate the Location of Buildings and Structures on Land Adjacent to County Roads.

The minimum setback for any proposed structures on this property must be 85 feet from the centre of the original ROW of County Road 12. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances or structures.

We are requesting a copy of the Decision of the aforementioned applications. Should these applications be approved we are requesting a copy of the revised survey plan of the subject lands to update our mapping records. Thank you for your assistance and cooperation in this matter."



**Discussion:**

Rita Jabbour, Assistant Planner, explains the nature of the application.

She advises the Committee that the Chief Building Official, Wayne Mills, requests that a septic review be placed as a condition on Schedule "A" of approval. She states that the application is a lot addition and does not require a septic review at this time. She advises that the Committee has the right to place the condition should they see fit.

Councillor Snively states that a septic review is not warranted at this time as there is no dwelling being placed on the lot addition.

Joe Iatonna states that the Committee in previous severances have required a septic review as a condition of the application.

Percy Dufour states that a septic review would be required should a new dwelling be placed on the lot addition.

Bruce Hall, applicant, explains that the septic system is on 2716 County Rd 12 and that at a later date the home will be removed and a new dwelling will be erected. He states that his deferred applications B-03-18 & A-04-18 for a surplus dwelling will be brought to the Committee.

Moved by Ray Beneteau

Seconded by Councillor Larry Snively

(COA-2018-05-27) That application A-03-18 be granted.

"Carried"

**Reasons:**

The Committee of Adjustment is of the opinion that the four (4) tests for minor variances under Section 45(1) of the Planning Act have been satisfied.

Moved by Ray Beneteau

Seconded by Councillor Larry Snively

(COA-2018-05-28) That application B-02-18 be granted subject to the following conditions:

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;

- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- e) That the severed parcel be consolidated with the lands owned by Bruce and Elizabeth Hall (municipal address 2720 County Road 12). In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.
- f) That all of the above conditions be fulfilled on or before May 15, 2019.

2. That, prior to the granting of this consent, the requested variance should be granted by the Committee of Adjustment to accommodate the reduction in minimum lot area for the retained parcel.

"Carried"

#### **Reasons:**

In the opinion of the Committee, approval of this consent application is in keeping with the policies of the Town of Essex Official Plan, the requirements of the Planning Act and the policies mandated under the Provincial Policy Statement (PPS).

#### **f) B-10-18 and A-08-18– Donald Woodbridge (Agent: Karl Melinz) Vacant Land West of Woodbridge Drive (Colchester South, Ward 3)**

##### **B-10-18**

A consent application has been received by the Town of Essex Committee of Adjustment for the vacant lands located just west of Woodbridge Drive, in the former township of Colchester South, Ward 3. The applicant is proposing to sever a  $\pm 0.19$  hectare (+0.48 acre) parcel from the existing 2.79 hectare (6.9 acre) lot. The severed lot is proposed to be merged with the property directly to the north, known municipally as 817 County Road 50 East. The applicants are proposing this consent for the purpose of a lot addition.

**Note:** An application for minor variance has also been received for the subject lands (File Number A-08-18). The public notice for the minor variance application has been included with this notice.

##### **A-08-18**

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the vacant lands located just west of Woodbridge Drive, in the former Township of Colchester South, Ward 3. As a result of a proposed severance, the total lot

area for the retained parcel will decrease in size from +2.79 hectares (+6.9 acres) to  $\pm \pm 2.6$  hectares ( $\pm 6.42$  acres). The total lot width for the retained parcel will also be reduced to  $\pm 45$  metres ( $\pm 151$  feet). The required minimum lot area for properties within the General Agricultural district (A1.1) under the Town of Essex Zoning By-Law 1037 is 40 hectares (100 acres) or as existing. The required minimum width for lots in the General Agricultural district (A1.1) under the Town of Essex Zoning By-Law 1037 is 60 metres (200 feet) or as existing. Thus, variances are being sought to accommodate the reduction in total lot area and lot width for the retained parcel.

**Rita Jabbour, Assistant Planner, wrote:**

“Official Plan Designation: Agricultural

Zoning: Agricultural District 1.1 (A1.1) –General agriculture and farm production support activities

Applications for consent and minor variance have been submitted for the vacant lands located along corner of County Road 50 East and Woodbridge Drive, in the former township of Colchester South. The subject property is designated “Agricultural” under the Town’s Official Plan and zoned Agricultural District 1.1 (A1.1) for general agriculture and farm production support activities under the Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are proposing to sever a +0.19 hectare (+0.48 acre) parcel from the existing +2.79 hectare (+6.9 acre) lot for the purposes of lot addition. The severed lot is uncultivated, grassed and treed. The severed lot is proposed to be merged with the abutting property known municipally as 817 County Road 50 East and owned by Donald and Heidi Woodbridge.

In accordance with the Provincial Policy Statement (PPS), lot adjustments in prime agricultural areas may be permitted for legal or technical reasons. Legal or technical reasons include minor boundary adjustment which does not result in the creation of a new lot.

The minimum lot area required for lots zoned A1.1 under the Town of Essex Zoning Bylaw 1037 is the lesser of 40 hectares (100 acres) or the existing lot size. As a result of the proposed severance, the lot area for the retained parcel will be reduced by +0.19 hectares, therefore requiring a variance.

As per section 9.8 of the Town of Essex Official Plan, when reviewing applications for minor variance to the Zoning Bylaw, the Committee of Adjustment should be satisfied that:

a) The general intent of this Plan and the Zoning Bylaw are maintained. No new lot creation is being proposed;

- b) The variance(s) is minor and desirable for the appropriate use of the land;
- c) The variance is compatible with the established character of the neighbourhood, traffic and parking patterns. Lot areas in prime agricultural areas vary greatly;
- d) The variance deals with circumstances particular to the site and development. The variance is related to a severance application for lot addition.

As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public as of Thursday May 10, 2018. Comments were received from the County of Essex and the Essex Region Conservation Authority (ERCA). They had no objections.

**Actions:**

1. Should the Committee choose to approve this application, approval should be subject to satisfying the following conditions:

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- f) That the severed parcel be consolidated with the lands owned by Donald and Heidi Woodbridge (municipal address 817 County Road 50 East). In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant's solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.

g) That all of the above conditions be fulfilled on or before May 15, 2019.

2. That, prior to the granting of this consent, the requested variance should be granted by the Committee of Adjustment to accommodate the reduction in minimum lot area for the retained parcel."

**Additional comments resulting from circulation.**

**Corinne Chiasson, Resource Planner, Essex Region Conservation Authority (ERCA), wrote:**

"The following is provided for your information and consideration as a result of our review of Application for Consent B-10-18, and Minor Variance A-08-18. The purpose of these applications is to sever a parcel of land and add it to the property identified as 817 County Road 50. As a result, relief is being requested to recognize the reduction in the retained farm lot size.

**NATURAL HAZARD POLICIES OF THE PPS, 2014**

The southern portion of the retained lands is subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulations under the *Conservation Authorities Act*, (Ontario Regulation No. 158/06). 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 the regulations. Upon review of the layout provided, the severed parcel is located outside of our limit of regulation, therefore we would have no objections to these applications with regards to Section 28 of the Conservation Authorities Act.

**WATER RESOURCES MANAGEMENT**

Our office has reviewed the proposal and has no concerns relating to stormwater management.

**NATURAL HERITAGE POLICIES OF THE PPS 2014**

The subject property is not within or adjacent to any natural heritage feature that may meet the criteria for significance under the Provincial Policy Statement (PPS 2014). Based on our review, we have no objection to the application with respect to natural heritage policies.

**FINAL RECOMMENDATION**

We have no objections to these applications for Consent or Minor Variance."

**Discussion:**

Rita Jabbour, Assistant Planner, explains the nature of the application.

Percy Dufour asks the applicant why he requires such a large severance.

Donald Woodbridge, applicant, advises that landscaping was placed at 817 County Rd 50 that encroached on the subject property and at this time he would like to clean up the parcel.

Moved by Councillor Snively

Seconded by Ray Beneteau

(COA-2018-05-29) That application A-08-18 be granted.

“Carried”

**Reasons:**

The Committee of Adjustment is of the opinion that the four (4) tests for minor variances under Section 45(1) of the Planning Act have been satisfied.

Moved by Councillor Snively

Seconded by Ray Beneteau

(COA-2018-05-30) That application B-10-18 be granted subject to the following conditions:

- a) That at the time the conveyance is prepared for certification, three hard copies and one digital copy in a format compatible with AutoCAD 2000 of a reference plan prepared by an Ontario Land Surveyor, which has been numbered, dated, signed and registered, must be submitted to the Town;
- b) That the appropriate documents for the conveyance be prepared in triplicate (three copies) and suitable for registration. All copies shall have original signatures and one copy will remain as a record with the Town;
- c) That at the time the conveyance is presented for certification, a tax certificate from the Treasurer of the Town or evidence showing all taxes for the current year have been paid in full to the date of consent approval, as well as any and all arrears owing on the total parcel, shall be submitted to the Town;
- d) That an apportionment of assessment pursuant to Section 65 of The Drainage Act, R.S.O. 1990, and amendments thereto, be provided to the satisfaction of the Drainage Superintendent for the Town of Essex, if deemed necessary by the Town;
- f) That the severed parcel be consolidated with the lands owned by Donald and Heidi Woodbridge (municipal address 817 County Road 50 East). In accordance with Subsection 3 of Section 50 of the Planning Act, the applicant shall submit to the Secretary-Treasurer satisfactory evidence that the transferee of the severed portion of the property and the owner of the abutting property are identical, together with an undertaking from the applicant’s solicitor to consolidate the severed portion and the abutting into one parcel. Within thirty days of the issuance of the certificate of consent to sever, the applicant shall provide evidence to the Secretary-Treasurer that an application to consolidate parcels has been filed with the Land Registry Office.
- g) That all of the above conditions be fulfilled on or before May 15, 2019.

2. That, prior to the granting of this consent, the requested variance should be granted by the Committee of Adjustment to accommodate the reduction in minimum lot area for the retained parcel.

“Carried”

**Reasons:**

In the opinion of the Committee, approval of this consent application is in keeping with the policies of the Town of Essex Official Plan, the requirements of the Planning Act and the policies mandated under the Provincial Policy Statement (PPS).

**6. New Business**

None

**7. Old Business**

Election of Chair:

Member Ray Beneteau nominates Percy Dufour for the position of Chair

Percy Dufour agrees to the nomination

Moved by Ray Beneteau

Seconded by Joe latonna

(COA-2018-05-31) That Percy Dufour be nominated for the position of Chair of the Committee of Adjustments for the remainder of 2018.

"carried"

Election of Vice-Chair:

Councillor Sherry Bondy nominates Joe latonna for the position of Vice-Chair

Joe latonna agrees to the nomination

Moved by Councillor Bondy

Seconded by Councillor Snively

(COA-2018-05-32) That Joe latonna be nominated for the position of Vice-Chair of the Committee of Adjustments for the remainder of 2018.

"carried"

**8. Next Meeting**

The next Committee of Adjustment meeting is scheduled to be held at 4:00 PM on Tuesday, June 19, 2018, in the Large Meeting Room of the Essex Town Hall, subject to the submission of complete applications for this agenda.

**9. Adjournment**

Moved by Councillor Sherry Bondy

(COA-2018-05-33) That the meeting be adjourned at 4:59 pm.

"Carried"

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Chair

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Secretary-Treasurer/Assistant Planner



If you would like further notification about the application you came to see please fill in your address, telephone number and email address so that we can contact you.  
Should you not want further notice about the application you came to see please just sign your name in the appropriate box.

Personal information that you provide on this sign in sheet is collected pursuant to the Municipal Freedom of Information and Protection of Privacy Act and will be used for the purpose of responding to your request for information regarding the application.  
Please note that this sign in sheet will appear in the published Committee of Adjustments Meeting Minutes and will also be included in the Council Agenda, both of which become part of the public record and are posted on our municipal website.

Date: May 15 2018

Meeting Time: 4:00pm

Location: 33 Talbot Street South, Essex, Ontario

Full Name (Please Print)	Address (Please Print)	Telephone Number	Email Address (Please Print)
1 ELEANOR LOWRIE	192 CHESTER RD RR#3 HARRON		R.G. LOWRIE@HOTMAIL.COM
2 EDWARD DONG-MACCURTIS	137 HANLAN ST. S. ESSEX		
3 DON WOODBRIDGE	817 COUNTY ROAD #50 HARRON		
4 ALAN WOODBRIDGE	" "		
5			
6 RANDY FETERLY	131 HANLAN ST. S.		
7 BROOKE HALL	2720 CTY. RD 12		
8 BEN HALL	2720 CTY RD 12		
9 Rob + Sharon Rye	199 Chester Rd. Harron Ont.		
10 Brent Kinkert	196 Francis Cres. Belle River		
11 LUE HALL	2712 CNTY RD 12		
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