

The Corporation of the Town of Essex
Minutes of Regular Committee of Adjustment Meeting
Tuesday April 17, 2018

A regular meeting of the Town of Essex Committee of Adjustment was held on April 17, 2018 at 4:00 PM in the Small Council Chambers of the Municipal Building at 33 Talbot Street South, Essex, Ontario.

1. Roll Call

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

Also Present: Rita Jabbour, Assistant Planner
Sarah Girard, Planning Assistant

Regrets: Councillor Sherry Bondy

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

2. Declarations of Conflict of Interest

None

3. Adoption of Minutes

Moved by Councillor Snively

Seconded by Joe latonna

(COA-2018-04-16) That the minutes of the March 20, 2018 Committee of Adjustment meeting be adopted as circulated.

"Carried"

4. Adoption of Published Agenda

Moved by Councillor Snively

Seconded by Ray Beneteau

(COA-2018-04-17) That the published agenda for the April 17, 2018 meeting of the Committee of Adjustment be adopted as circulated.

"Carried"

5. Applications

The following applications were heard:

a) A-06-18–Canadian Tire Properties–300 Maidstone Ave. West (Essex Centre, Ward 1)
A-06-18

An application for minor variance has been received by the Town of Essex Committee of Adjustment for the lands at 300 Maidstone Avenue West, in the Essex Centre, Ward 1. As a

result of a proposed restaurant development and the retention of an outdoor storage yard, the existing number of parking spaces will be reduced by 23.

Rita Jabbour, Assistant Planner, wrote:

Official Plan Designation: "Highway Corridor Commercial Area"

Zoning: Commercial District 3.2 (C3.2) –Highway Corridor Commercial Area

An application for minor variance has been submitted for the lands located at 300 Maidstone Avenue West in the Essex Centre. The subject property is designated "Highway Corridor Commercial Area" under the Town's Official Plan and zoned Commercial District 3.2 (C3.2) under the Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are seeking a variance to accommodate a reduction in 23 parking spaces serving the existing commercial development. The variance is being sought to accommodate a drive-through restaurant development at the south easterly corner of the subject property, and allow for the operation of the existing seasonal outdoor storage yard on a permanent basis.

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. A drive-through restaurant is a permitted use under the C3.2 zoning;
- b) The variance(s) is minor and desirable for the appropriate use of the land. Parking is seldom an issue at the site;
- 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. The variance is a result of the proposed restaurant development and retention of the outdoor storage yard.

As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public, other departments and agencies notified as of Thursday April 12, 2018.

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-06-18. We understand that the purpose of this application is as a result of a proposed restaurant development and retention of an outdoor storage yard on the above noted property, which will eliminate 23 parking spaces.

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 this application and have 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."

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

"Please be advised that the County has reviewed the aforementioned application and the comments provided are engineering related only. This application has not been reviewed from a planning perspective. The subject lands have frontage on County Road No. 8. The Applicant will be required to comply with the following County Road regulations:

County By-Law Number 248L - 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 south from the centre of the original 66 foot wide ROW of County Road 8. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances or structures.

The County of Essex will require that the Applicant provide a Traffic Impact Study that meets the requirements of the County of Essex Transportation Impact Study Guidelines dated December 2006.”

Discussions:

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

Ray Beneteau asks if the parking spaces were required at the time of development of the Canadian Tire store.

Rita states that they were.

Ray asks if the Committee is able to make variances to a site plan.

Percy Dufour, Vice-Chair, states that the Committee has that power.

Ray asks if the restaurant development has to have a minimum amount of parking spaces.

Rita states that they do require a minimum number of parking spaces. She explains that the applicant has submitted a concurrent site plan control application.

Heather Garret, the applicant’s agent, explains that at the time of the Canadian Tire store development, they provided more than the required number of parking spaces. She states that the outdoor storage area was not included in the original site plan.

She states that with the A & W restaurant development, the parking spaces will be reduced further.

Councillor Snively asks if this should have come before Council instead of the Committee of Adjustment.

Rita states that the Committee’s decision on the variance is required as part of the site plan control application.

Percy Dufour asks the applicant’s agent if the restaurant will have a drive through.

The applicant’s agent states that it will and that the site plan will be adjusted to accommodate the drive through.

Moved by Joe latonna

Seconded by Ray Beneteau

(COA-2018-04-18) That application A-06-18 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.

b) B-09-18–1954990 Ontario Inc. (Agent: Robert Reynolds) – 330 South Talbot Road (Essex Centre, Ward 1)

B-09-18

Consent application has been received by the Town of Essex Committee of Adjustment for the lands at 330 South Talbot Road, in the Essex Centre, Ward 1. The applicant is proposing to sever a +2 hectare (+5 acre) parcel from the existing +7.04 hectare (+17.6 acre) lot. The retained parcel is proposed to have an area of +5.04 hectare (+12.6 acre). The applicant is proposing this consent for the purpose of industrial lot creation.

Rita Jabbour, Assistant Planner, wrote:

“Official Plan Designation: Industrial

Zoning: Manufacturing District 1.3 (M1.3) –Light Industrial and Business Park

An application for consent has been submitted for the lands located at 330 South Talbot Road in the Essex Centre. The subject property is designated “Industrial” under the Town’s Official Plan and zoned Manufacturing District 1.3 (M1.3) for Light Industrial and Business Park under the Town of Essex Zoning Bylaw, Bylaw 1037.

The applicants are proposing to sever a +2 hectare (+5 acre) parcel from the existing +7.04 hectare (+17.6 acre) lot for the purposes of industrial lot creation. The retained lot is proposed to have an area of +5.04 hectares (+12.6 acres). Both the severed and retained lots will exceed the minimum required lot width of +24 metres (80 feet) under the M1.3 zoning at +82 metres (+270.6 feet) and +348.68 metres (+1150.66 feet), respectively.

Any proposed development on the site will be subject to site plan control approval which will involve storm water management, landscaping and buffering. Water service is available along the South Talbot Road frontage. Sanitary service is available along the north of the property.

As a result of the giving of public notice, no phone calls or written correspondence have been received from members of the public, other departments and agencies notified as of Thursday April 12, 2018.

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 all of the above conditions be fulfilled on or before April 17, 2019.”

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-09-18. The applicant is requesting to sever a 2 hectare lot from the 7 hectare parcel, in order to create a new industrial lot.

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 the following watercourses/waterbodies:

14th Conc. E. Drain Branch and Rush Drain. 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.

WATER RESOURCES MANAGEMENT

We acknowledge that the subject application is for the purpose of creating a new industrial lot only, in which we would have no objections. It is our understanding that the severed and retained lots will be subject to site plan control, and therefore we would prefer to comment on the site specific nature of the any proposed development through that process when circulated. Due to the location and scale of the proposed development, we may request the opportunity to review the stormwater management report, and include conditions in the Site Plan Control Agreement.

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 consent.”

Discussions:

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

Ray Beneteau asks if South Talbot Road is complete along the width of the proposed severed lot.

Rita states that it has been completed.

Joe Iatonna asks if the retained parcel will remain farmed.

Paul Sehincariuz, the applicant's agent, states that they would like to develop that portion in the future.

Percy Dufour asks if the development will employ residents.

Paul Sehincariuz states that he cannot speak about employment but that the development will be for farm equipment sales.

Moved by Councillor Snively

Seconded by Ray Beneteau

(COA-2018-04-19) That consent application B-09-18 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 all of the above conditions be fulfilled on or before April 17, 2019.

"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

OPP Traffic Report Concerning the 3rd Concession

Rita Jabbour states that she has contacted the OPP regarding recent concerns about lot creation along the 3rd Concession.

She states that Jeff Coulter with the OPP has provided a response.

Rita reads off Jeff's response:

"I don't foresee any safety concerns. I can't imagine the properties will be high traffic all at the same time, and I don't recall the prevalence of collisions on the 3rd that are related to private driveways."

Councillor Snively states that he sat at the location and did not see a concern.

Hall Severance Application –B-02-18, A-03-18 and B-03-18, A-04-18

Rita provides a summary of what occurred at the March meeting regarding severance and minor variance applications B-02-18, A-03-18, B-03-18 and A-04-18. She states that the applications B-02-18 and A-03-18 will be back on the agenda for May.

8. Next Meeting Date –May 15, 2018

The next Committee of Adjustment meeting is scheduled to be held at 4:00 PM on Tuesday May 15, 2018, in the Small Council Chambers of the Essex Town Hall, subject to the submission of complete applications for this agenda.

9. Adjournment

Moved by Councillor Snively

(COA-2018-04-20) That the meeting be adjourned at 4:19 pm.

"Carried"

Chair

Secretary-Treasurer/Assistant Planner