



Town of Amherstburg
B/2/15- 1459 Front Rd N



COUNTY RD 20

158 ft

100 ft

1459

Retained Parcel
23,985 sq ft

1453

Severed Parcel
1.87 acres

AMHERSTBURG COMMITTEE OF ADJUSTMENT

Present: T. Buchanan, A. Campigotto, J. Mailloux, D. Shaw, D. Cozens

Also Present: Frank Garardo, Manager of Planning Services, Sarah French, Planner, Kevin Fox, Policy and Committee Coordinator

Absent: N/A

1. Call to Order

The Chair, David Cozens, called the meeting to order at 7:45 a.m. and performed introductions of the Committee members and administration.

2. Roll Call

The Chair completed roll call for the electronic meeting, all members were present.

3. Disclosure of Pecuniary Interest

None.

4. Adoption of Agenda

The agenda was presented for adoption.
Moved by: Anthony Campigotto
Seconded by: Josh Mailloux

	Yes/Concur	No/Not Concur
Terris Buchanan	x	
Anthony Campigotto	x	
Josh Mailloux	x	
Donald Shaw (VC)	x	
David Cozens (CH)	x	

5. Adoption of Minutes

A motion was put forward to adopt the minutes of November 24, 2020.

Moved by: Josh Mailloux
Seconded by: Terris Buchanan

	Yes/Concur	No/Not Concur
Terris Buchanan	x	
Anthony Campigotto	x	
Josh Mailloux	x	
Donald Shaw (VC)	x	
David Cozens (CH)	x	

6. Order of Business

6.1 Application B/18/20 – John & Angela Riolo – 1459 Front Rd N (Roll No. 3729-460-000-10500)

Public in Attendance: John and Angela Riolo, Mike Collavino

B/18/20: The applicant is proposing to sever a parcel being 48.15 m (158 ft.) frontage by an irregular depth with an area of approximately 0.756 hectares (1.87 acres) for purposes

of creating a new residential building lot. The remaining parcel being 30.48 m (100 ft.) frontage by an irregular depth with an area of 2228.28 square metres (23,985 sq. ft.) contains one single detached dwelling and a detached garage. The subject property is Zoned Agriculture and designated Low Density Residential in the Town's Official Plan.

The following correspondence was received from the various agencies and residents circulated:

- i) Letter dated January 19, 2021 from the Essex Region Conservation Authority stating:
The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Rosario Bezaire Drain, Sancrainte Drain and Lake St. Clair. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any future construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.
Our office has reviewed the proposal and has no concerns relating to stormwater management.
Our information indicates that the subject property may support habitat of endangered species and threatened species. As per Section 2.1.7 of the PPS, 2020 – "Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements". All species listed as endangered or threatened (aquatic species, plants, mammals, birds, reptiles, amphibians, etc.) as well as their related habitats, are protected under the Ontario Endangered Species Act. Prior to initiating any proposed works on this property, it is the proponent's responsibility to contact the Species at Risk Branch of the Ontario Ministry of Environment, Conservation & Parks (MECP) to ensure all issues related to the Endangered Species Act are addressed. All inquiries regarding the Endangered Species Act should be made with Permissions and Compliance Section of the MECP (e-mail address: SAROntario@ontario.ca).
With the review of background information and aerial photograph, ERCA has no objection to this application for consent.
- ii) Email dated January 15, 2021 from the Public Works Department identifying the following comments:
 - *Drainage Apportionment required for the Sancrainte Drain.*
 - *Individual water service connection required for new lot.*
 - *No Sanitary sewers, septic field required for new lot. Additionally, the applicant should be aware that, in the future, should a sanitary sewer collection system be constructed along Front Road North, each of the lots described under this application will be required to connect and be serviced by said sanitary sewer.*
 - *Based on the proposal, the new severed lot will require a separate driveway accesses from County Road 20 (Front Road North). This will require necessary review and approvals from the County of Essex.*
 - *The applicant should be made aware of the existence of Sancrainte Drain, a municipal drain which extends along the northern and eastern boundary limits of the property at 1459 Front Road N. Any future structures planned for the existing or proposed severed lot will be subject to set-back requirements from the drain.*
- iii) Email dated January 18, 2021 from the Windsor Police Department indicating:
The Windsor Police Service has no concerns or objections with the proposed severance being sought to create a residential lot. The outcome from this will not result in difficulties for police to access the property in an emergency or for a call for service in any way.
- iv) Email dated January 11, 2021 from the Fire Department indicating no comments.
- v) Email dated January 18, 2021 from the County of Essex stating:

Please be advised that the County of Essex has reviewed the aforementioned application and the comments provided are engineering related only. This application has not been reviewed from a planning perspective. This road was formerly King's Highway 18 until it was downloaded to the County of Essex.

The minimum setback for any proposed structures on this property must be 85 feet from the center of the original ROW of County Road No. 20 for a proposed residential building or 105 feet from the centre of the right of way for a proposed commercial structure.

Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances and structures. The County of Essex requires the access to the severed parcel be located adjacent to retained parcel.

We are requesting a copy of the Decision of the aforementioned application.

Thank you for your assistance and cooperation in this matter.

- vi) Planning Report dated January 18, 2021 from Frank Garardo, Secretary Treasurer and Sarah French, Planner.

Committee Discussion:

The Chair introduced the application and asked if there were any members of the public present for this application. There were none. The Planner, Frank Garardo read the purpose of the application. John and Angelo Riolo discussed the concept of the application with the members of the Committee. The Riolos stated that they had applied for the consent originally in 2015 and the consent was approved at that time. The consent lapsed due to renovations on the house taking longer than expected. The Riolos explained that they would like to use the property as a hobby farm containing chickens, ducks, 6-10 colonies of bees and potentially future uses such as greenhouses and a roadside farm stand. They stated that they do not wish to rezone the property to residential as this would hinder the use of the property as a hobby farm. A discussion occurred debating the merits of rezoning the property. It was decided that a severance would not be permitted under the agricultural zoning and therefore a rezoning to residential is considered the appropriate approval process. The applicants will be able to ask Council for additional permission to house livestock on the lands. Planning outlined that livestock may not be supportable due to Provincial Policies, further discussion on whether Livestock would be supportable on the lands would have to be considered as part of a Zoning by-law amendment process. The applicants outlined that the lands are abutting agriculture and any livestock would be minimal in scale. The applicants also stated that they are planning to keep the property in their name. It was noted that under the Planning Act, the applicants have one years from the stamping of the deeds to transfer the property or the consent is no longer valid. The severed property will need to be registered in a different name than the retained property. Frank Garardo read the conditions of the consent and the applicants acknowledged understanding.

The following resolution was put forth:

That application B/18/20 be approved subject to the following conditions:

1. That a Reference Plan of the subject property satisfactory to the municipality be deposited in the Registry Office; an electronic and paper copy to be provided to the municipality.
2. The applicant to submit to the municipality the deed, in triplicate, acceptable for registration in order that consent may be attached to the original and duplicate and a copy be provided to the municipality.
3. That all property taxes be paid in full.
4. That the requirements of the County of Essex in accordance with their correspondence dated January 18, 2021 regarding the requirement to provide accesses that are located adjacent to one another be shown on the registered plan and include these in the deeds for the properties be complied with.

- 5. That one driveway access be constructed to the severed property, adjacent to the existing driveway, where one does not exist. That an access permit be obtained for the driveway from the County of Essex and any other requirements to their satisfaction, prior to the stamping of deeds. The access shall be provided to the satisfaction of the municipality.
- 6. That the subject lot be serviced with an appropriate storm drainage system to be developed under the supervision and to the satisfaction of the Town Drainage Superintendent.
- 7. That the severed parcel be serviced with municipal water in accordance with and under the supervision of the municipality at the applicant's expense, prior to the stamping of deeds.
- 8. That the developer be required to undertake lot grading plans for the severed and retained lots to the satisfaction of the Building Department.
- 9. That the applicant obtain a report from a certified designer/installer that the existing private septic system serving the existing dwelling does not cross the property lines, that the system is in working order and that its operation will not be affected by the severance, to the satisfaction of the Building Department.
- 10. That an assessment apportionment for any and all drains affected by the severance be completed in accordance with the provisions of the Drainage Act and that all costs associated with said apportionment be paid by the applicant.
- 11. That Council approve the development of the severed lot on private individual septic systems after the soil analysis and septic design for the proposed lot is completed. This requirement shall be fulfilled prior to the stamping of deeds.
- 12. That a parkland fee be paid to the Town of Amherstburg prior to the stamping of the deeds in an amount of \$300 for the severed lot.
- 13. That both the severed and retained parcels be rezoned to Residential Type 1A (R1A) zone.
- 14. That the applicant enter into an Agreement with the Corporation of the Town of Amherstburg requiring that the subject property be required to hook into sanitary sewers when they become available. The subject agreement shall be registered on the title of the property.
- 15. That the requirement for the land owners of the severed parcel to engage the Ministry of Environment, Conservation and Parks (MECP) at the building permit stage to ensure compliance with the Endangered Species Act be registered on title and included in the purchase and sale agreement of the severed lot.
- 16. This consent will be deemed to be refused in accordance with the Planning Act if the above noted conditions are not met within one year from the date of this notice.

Moved by: Josh Mailloux
Seconded by: Don Shaw

-carried-

	Yes/Concur	No/Not Concur
Terris Buchanan	x	
Anthony Campigotto	x	
Josh Mailloux	x	
Donald Shaw (VC)	x	
David Cozens (CH)	x	

Reasons of Committee – The request is in conformity with Section 6.1.2 of Amherstburg's Official Plan and is consistent with the Provincial Policy Statement. The subject property will be rezoned to a residential zone prior to the stamping of the deeds.

6.2 Application B/02/21 & A/02/21 – Rick Laframboise – 5775 Concession 5 N (Roll No. 3729-480-000-00400)

Public in Attendance: Rick Laframboise

B/02/21: The applicant is proposing to sever a vacant parcel of land with 15.24 m (50 ft) frontage by 47.97 m (157.38 ft) depth and an area of 0.073 hectares (0.18 acres) for the purpose of a lot addition to merge with 5781 Concession 5 N. The proposed retained parcel being 239.37 m (778.78 ft) frontage by an irregular depth has an area of 11.78 hectares (29.11 acres), and is designated Agricultural and Natural Environment in the Town's Official Plan and is zoned Agricultural and Environmental Protection in the Zoning By-law.

A/02/21: The applicant is requesting relief from Zoning Bylaw 1999-52, as amended, Section 26(3)(a)(i) which requires a minimum lot area of 40 hectares in an Agricultural (A) Zone. Subsequent to a severance of 0.073 hectares (0.18 acres) from an existing 11.853 hectares (29.29 acres) parcel the retained farm parcel will have an area of 11.78 hectares (29.11 acres). Therefore, the amount of relief requested is 28.22 hectares (69.733 acres).

The following correspondence was received from the various agencies and residents circulated:

- i) Letter dated January 18, 2021 from the Essex Region Conservation Authority stating:
The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Canard River. The property owner will be required to obtain a Permit and/or Clearance from the Essex Region Conservation Authority prior to any future construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act. Our office has reviewed the proposal and has no concerns relating to stormwater management.
The subject property is within, and/or is adjacent to (within 120 metres of), a natural heritage feature that is identified as a significant wetland, significant woodland, significant valleyland, significant wildlife habitat under the Provincial Policy Statement (PPS).
Section 2.1.4 of the PPS, 2020 states - "Development and site alteration shall not be permitted in "significant wetlands..." and "significant coastal wetlands."
Section 2.15 of the PPS states - Development and site alterations shall not be permitted in significant woodland... and significant valleyland... and significant wildlife habitat...unless it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.
We note that the subject property is adjacent to (within 120 m of) a natural heritage feature that may meet the criteria for significance under the PPS.
Section 2.1.8 of the PPS, 2020 states – "Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5 and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions."
Our information indicates that the subject property may support habitat of endangered species and threatened species. As per Section 2.1.7 of the PPS, 2020 – "Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with