



THE CORPORATION OF THE TOWN OF TECUMSEH

Planning Report

TO: Committee of Adjustment

FROM: Chad Jeffery, MA, MCIP, RPP
Manager, Planning Services

HEARING DATE: October 28, 2019

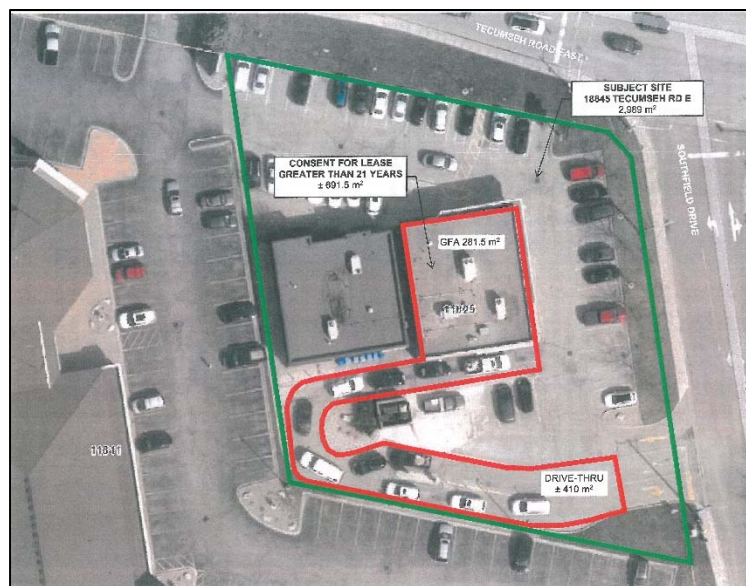
SUBJECT: Minor Variance Applications A-27/19 to A-29/19 and
Severance Applications B-13/19 to B-16/19

Please note that this Planning Report was prepared as of October 25, 2019. Any public comments received after this date have not been incorporated into this Report, however consideration of such public comments will be given at the Committee of Adjustment hearing on October 28, 2019 as the normal practice.

Application:	Severance Application B-13/19
Applicant:	Calira Corporation
Location of Property:	11845 Tecumseh Road

The subject property located at 11845 Tecumseh Road East, has a frontage of 54.86 metres (179.98 feet), a depth of approximately 51 metres (168 feet) and a lot area of 2,989 square metres (0.74 acres). The purpose of this Application is to lease a portion of the property, approximately 691.5 square metres (0.17 acres) outlined in red on the sketch attached to the Agenda for a Tim Horton's Drive Thru Restaurant. The lease agreement is proposed to be in effect for more than twenty-one years.

The property is designated General Commercial in the Official Plan and zoned General Commercial (C3) in Zoning By-law 1746.



Provincial Policy Statement

The Planning Act establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2014 Provincial Policy Statement (“PPS”) issued under *The Planning Act*.

Subsection 1.3.1 b) establishes that planning authorities shall promote economic development and competitiveness by providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses.

County of Essex Official Plan (COP)

In the County of Essex Official Plan, the subject lands are located within a “Primary Settlement Area”. Subsection 3.2.4.1 a) establishes that Primary Settlement Areas shall be the focus of growth and public/private investment in each municipality.

Tecumseh Official Plan

The subject property is designated General Commercial in the Tecumseh Official Plan. Subsection 2.13 a) of the Plan establishes that the commercial objectives of the Plan is to:

“promote and strengthen the development of the existing commercial core of the Town of Tecumseh”.

The proposed severance will permit the continued long-term commercial partnership of the above-noted commercial uses that are located on the property, in accordance with the *Planning Act*.

Sandwich South Zoning By-law

The subject property is zoned General Commercial (C3) in the Tecumseh Zoning By-law and meets all the applicable zone provisions.

Administration/Agency Comments

- 1) Engineering
 - No comments

2) Essex Region Conservation Authority

- the 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 Regulation under the Conservations Authorities Act, (Ontario Regulation No. 158/06). It is the opinion of ERCA that this application is consistent with the natural hazard policies of the PPS and with current policies, procedures and guidelines associated with Section 28 of the Conservation Authorities Act.
- No objection to the application.

Public Comments

To date, none received on this application.

Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, it is my opinion that the proposed severance is consistent with the PPS, conforms to the County OP, Tecumseh OP and the Tecumseh Zoning By-law and is in keeping with good planning principles.

The public hearing, in accordance with the requirements of *the Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

Recommended Conditions

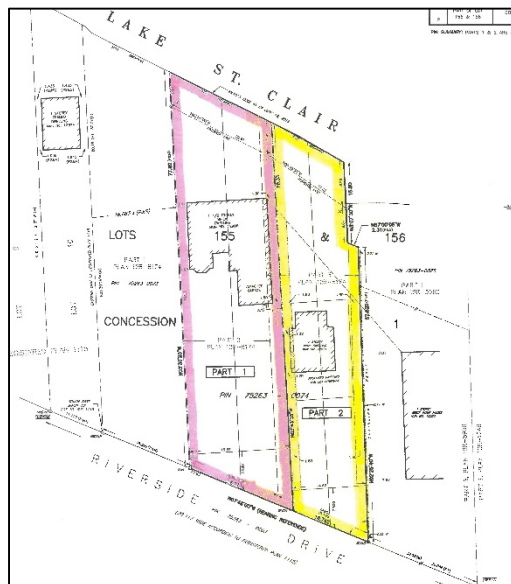
Based on the information provided within this Application and in this report, it is recommended that this Application, if approved, be subject to the following conditions:

1. That at the time the conveyance is prepared for certification, two (2) copies of the reference plan by an Ontario Land Surveyor as well as digital files (.pdf and .dwg) with the .dwg files being in **NAD 83 format (UTM Zone 17 Metric)**, which has been numbered, dated, signed and registered must be submitted to the Town;

2. 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 paid in full, as well as any and all arrears owing on the total parcel;
3. That the appropriate documents for the conveyance be prepared in triplicate (3) suitable for registration, all copies to have original signatures, with one copy to remain as a record with the Town;
4. That any cost in excess of the \$600.00 non-refundable application fee, incurred to process this application such as legal and engineering fees, appraisal reports, etc. shall be the responsibility of the applicant and shall be payable to the Town of Tecumseh where applicable, prior to final consent; and
5. That the above conditions be fulfilled on or before October 29, 2020 prior to this severance being finalized.

Application:	Severance Application B-14/19
Applicant:	Sandekere and Malavika Anand
Location of Property:	12906 Riverside Drive

The purpose of the Application is to request consent to sever a residential lot having a frontage of 14.62 metres (47.9 feet), a depth of 77 metres (253 feet) and a lot area of 1110 square metres (11947.83 square feet) (identified as Part 2 and outlined in yellow on sketch attached to Agenda). The proposed retained lot, containing an existing dwelling, will have a frontage of 19.87 metres (65.19 feet), a depth of 77 metres (253 feet) and a total area of 1525 square metres (16,414.64 square feet) (identified as Part 1 and outlined in pink on sketch attached to Agenda).



Application for Minor Variance A-27/19 is being heard concurrently with this Application to address the lot frontage of 14.62 metres (47.9 feet) on the severed lot. The dwelling on the proposed severed lands is being demolished and a new dwelling is proposed to be constructed.

The lands are designated Residential in the Tecumseh Official Plan and zoned Residential Zone 1 (R1) in the Tecumseh Zoning By-law.

Provincial Policy Statement

The Planning Act establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2014 Provincial Policy Statement (“PPS”) issued under *The Planning Act*. The following PPS policies are relevant to this application:

1.1.3 Settlement Areas

1.1.3.1 Settlement areas shall be the focus of growth and development, and their vitality and regeneration shall be promoted.

The proposed severance conforms to the policies of the PPS.

3.1 Natural Hazards

3.1.2 Development and site alteration shall not be permitted within:

- c) areas that would be rendered inaccessible to people and vehicles during times of flooding hazards ... unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard;**

6.0 Definitions

Flooding hazard: means the inundation, under the conditions specified below, of areas adjacent to a shoreline or a river or stream system and not ordinarily covered by water:

- a) along the shorelines of the Great Lakes-St. Lawrence River System and large inland lakes, the flooding hazard limit is based on the one hundred year flood level plus an allowance for wave uprush and other water-related hazards;**

County of Essex Official Plan (COP)

The subject lands are within a Primary Settlement Area of the County Official Plan. Decisions of the Committee of Adjustment must be in conformity with the policy direction contained in the County of Essex Official Plan. The goals and policies of the County of Essex Official Plan encourage a range of residential development within identified settlement areas such as the fully serviced urban areas of the Town of Tecumseh. The following goals and policies of the County Official Plan are most relevant in the assessment of the subject proposal:

3.2.2 Goals

The following goals are established for those lands designated as Settlement Areas on Schedule "A":

- a) *Support and promote public and private re-investment in the Primary Settlement Areas;*

3.2.4.1 Policies

The following policies apply to Primary Settlement Areas:

- a) *Primary Settlement Areas shall be the focus of growth and public/private investment in each municipality;*

2.4.1 Lake St. Clair, Detroit River and Lake Erie

- c) *Development and site alteration shall only be permitted in areas identified being susceptible to flooding and/or erosion if:*
 - i) *the hazard can be safely addressed;*

The proposed severance conforms to the policies of the County OP insofar as they pertain to promoting private re-investment in settlement areas. The applicant will need to satisfy concerns related to the issues surrounding natural hazards. Again, the deferral requested by ERCA will provide the opportunity to consider ways to properly address this issue.

Tecumseh Official Plan

The proposed severed and retained lots are designated Residential in the Tecumseh Official Plan.

The following sections of the Official Plan are most relevant in the evaluation of the proposed severance:

2.11 RESIDENTIAL OBJECTIVES

- b) *To encourage new residential development to occur in such a manner which makes the most efficient use of municipal infrastructure and services, in keeping with the capacity of the existing services available and the financial ability of the municipality to provide the required additional infrastructure and services.*

In accordance with the foregoing policies, the proposed severance is in keeping with the policies of the Tecumseh Official Plan.

Tecumseh Zoning By-law

The proposed severed and retained lots are zoned Residential Zone 1 (R1) in the Tecumseh Zoning By-law. The proposed retained lot meets the minimum lot area and frontage provisions of that zone. The proposed severed lot is subject to Minor Variance application A-27/19, which is being heard concurrently with this application to address a proposed lot frontage of 14.62 metres (47.9 feet), which is below the 18.0 metre (59.1 foot) minimum currently established in the R1 zone.

The proposed severance will facilitate the separating of the two existing residential dwellings units onto their own individual lots. There are numerous existing lots on the north side of Riverside Drive, both to the east and west of the subject property, that have lot frontages below the current minimum established in the R1 zone. Many lots have similar lot frontages to those proposed through the subject severance application. Administration has no concerns with the proposed severance or the associated minor variance application with respect to zoning compliance.

Administration/Agency Comments

1) Engineering

- The parcel to be retained and the parcel to be severed are to be serviced with separate water supplies, storm and sanitary sewer systems to the satisfaction of the Town of Tecumseh Public Works and Water Divisions prior to this severance being finalized;
- The owner of 12906 Riverside Drive (the parcel 'to be retained') is to submit a site grading plan and details for how stormwater is being addressed to the satisfaction of the Chief Building Official prior to this severance being finalized. This is to ensure stormwater from the retained parcel will not rely on the parcel to be severed for its stormwater drainage.

2) Essex Region Conservation Authority

- As a result of issues relative to required setbacks and maintenance access setbacks, it is anticipated that the potential for future new development on this parcel may be limited and challenging. Any new development proposals on this parcel will only be considered if supported by a shoreline engineering study that is prepared by a qualified shoreline engineering consultant. The commissioning of this study is the responsibility of the proponent. It is the opinion of ERCA that this application is premature. Without substantiating information being provided to the Planning Authority and ERCA that a dwelling can be located on the proposed severed lands this application cannot be supported by ERCA at this time. It is therefore our recommendation to the Planning Authority that this application **be deferred** until the applicant can confirm study requirements with the Town of Tecumseh and ERCA.

Public Comments

To date, none received on this application.

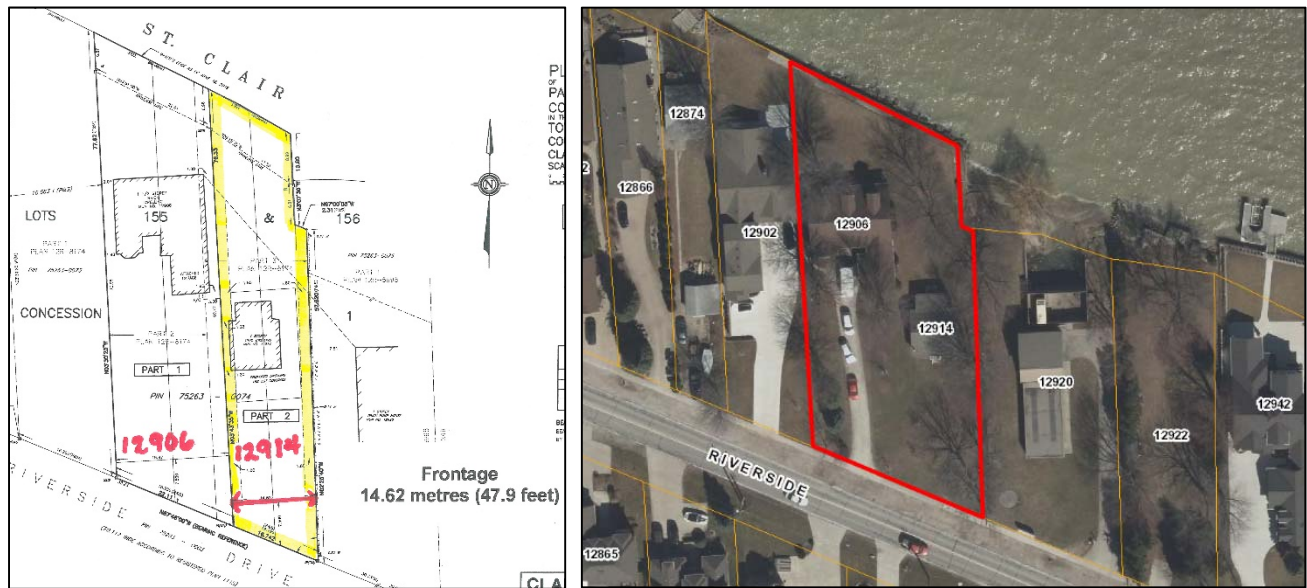
Summary/Recommendation

Although the application meets the majority of policies contained in the PPS, County OP and Tecumseh OP and is in keeping with good planning principles, the policies related to Natural Hazards will need to be addressed. ERCA has provided some options that will need to be further discussed with the Town and the Applicant prior to finalizing a recommendation on this application.

Accordingly, Administration agrees with ERCA that a deferral is prudent and is also recommending that the Committee defer the application until these discussions have taken place and a reasonable solution to addressing the hazard land policies is reached.

Application:	Minor Variance Application A-27/19
Applicant:	Sandekere and Malavika Anand
Location of Property:	12914 Riverside Drive

The purpose of the Application is to request relief from subsection 6.1.4 of Zoning By-law 1746 which establishes a minimum lot frontage of 18.0 metres (59.1 feet). As a result of Severance Application B-14/19, being heard concurrently with this Application, the Applicant is proposing a lot frontage of 14.62 metres (47.9 feet) (see sketch attached to the Agenda). The subject property is designated Residential in the Tecumseh Official Plan and zoned Residential Zone 1 (R1) in the Tecumseh Zoning By-law.



In accordance with the *Planning Act*, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:

i) Is the intent of the Official Plan maintained?

The subject property is designated Residential in the Official Plan. The Residential designation permits the existing single unit dwelling located on the property. Accordingly, it is my opinion that the intent of the Official Plan is maintained.

ii) Is the intent of the Zoning By-law maintained?

The purpose of the minimum lot frontage provision is to ensure that any new residential lots that are created are of a proper size that will accommodate the development of the uses permitted in the zone, along with ensuring that the lot size is compatible/similar to other lots within the surrounding area.

The proposed severed lot has a frontage of 14.62 metres (47.9 feet), which is below the 18.0 metre (59.1 foot) minimum currently established in the R1 zone. However, the proposed severed lot will facilitate the separation of the two existing residential dwellings units onto their own individual lots. Both of these dwellings lot will comply with the minimum yard provisions of the R1 zone.

Accordingly, it is my opinion that the intent of the Zoning By-law is maintained.

iii) Is the variance desirable for the appropriate development or use of the land?

There are numerous existing lots on the north side of Riverside Drive, both to the east and west of the subject property that have lot frontages below the current minimum established in the R1 zone. The proposed variance will not change the built form within the neighbourhood or alter the character of the existing area. As noted, the variance is required to facilitate the separation of two existing dwelling units onto their own separate lot.

Accordingly, it is my opinion that the proposed severance will result in the appropriate use of the land.

iv) Is the variance requested minor?

Given that the variance is required in order for the legal separation of two existing dwellings onto their own separate lot, and based on the comments in ii) and iii) above, it is my opinion that there will be no undue adverse impacts on the neighbouring properties and the proposed variance is minor in nature.

Administration/Agency Comments

1. Engineering

- No concerns. Comments have been provided related to corresponding severance application.

2. Essex Region Conservation Authority

- As a result of issues relative to required setbacks and maintenance access setbacks, it is anticipated that the potential for future new development on this parcel may be limited and challenging. Any new development proposals on this parcel will only be considered if supported by a shoreline engineering study that is prepared by a qualified shoreline engineering consultant. The commissioning of this study is the responsibility of the proponent. It is the opinion of ERCA that this application is premature. Without substantiating information being provided to the Planning Authority and ERCA that a dwelling can be located on the proposed severed lands this application cannot be supported by ERCA at this time. It is therefore our recommendation to the Planning Authority that this application **be deferred** until the applicant can confirm study requirements with the Town of Tecumseh and ERCA.

Public Comments

To date, none received on this application.

Summary/Recommendation

Although the application appears to meet the four tests established in the Planning Act, the policies related to Natural Hazards will need to be addressed. ERCA has provided some options that will need to be further discussed with the Town and the Applicant prior to finalizing a recommendation on this application.

Accordingly, Administration agrees with ERCA that a deferral is prudent and is also recommending that the Committee defer the application until these discussions have taken place and a reasonable solution to addressing the hazard land policies is reached.

Application:	Severance Application B-15/19
Applicant:	2593430 Ontario Limited
Location of Property:	14400 Tecumseh Road

The purpose of the Application is to sever a 2.0 square metre (21.6 square foot) parcel of land (shaded in red on the sketch attached to the Agenda) for the purpose of a lot addition and consolidate it with the abutting residential lot to the north and west, municipally known as 408 Brighton Road (shaded in pink on the sketch attached to the Agenda). The proposed retained lot, municipally known as 14400 Tecumseh Road (outlined in green on the sketch attached to the Agenda), has an area of 1.3 hectares (3.2 acres). This Application is being heard concurrently with Minor Variance Application A-28/19 which requests relief to address the resulting side yard deficiency for 408 Brighton Road.

The lot at 408 Brighton Road is designated Single Family Residential and zoned Residential Type 2 Zone (R2) and the retained parcel at 14400 Tecumseh Road is designated Medium Density Residential and is zoned Residential Type 3 Zone (R3-13).

The proposed severance is intended to rectify the encroachment of a portion of an existing patio and fence belonging to 408 Brighton Rd. but located on the retained lot (14400 Tecumseh Rd). It should be noted that the retained lot is the site of a proposed five-storey, 65-unit condominium apartment building (The Residences at Bay Harbour).



Provincial Policy Statement

The Planning Act establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2014 Provincial Policy Statement (“PPS”) issued under *The Planning Act*.

The proposed severance application for a minor boundary line adjustment is consistent with the policies of the PPS.

County of Essex Official Plan (COP)

The proposed severance does not contravene the policies of the County of Essex Official Plan.

St. Clair Beach Official Plan

Subsection 6.2 vi) of the Plan contemplates the nature of the severance application being proposed, stating:

“vi) *notwithstanding any other policy of the Plan, consents for the creation of easements or right-of-ways are permitted and minor lot adjustments or minor boundary changes are permitted provided they are granted conditional to Section 50(3) or (5) of the Planning Act, R.S.O. 1990.*”

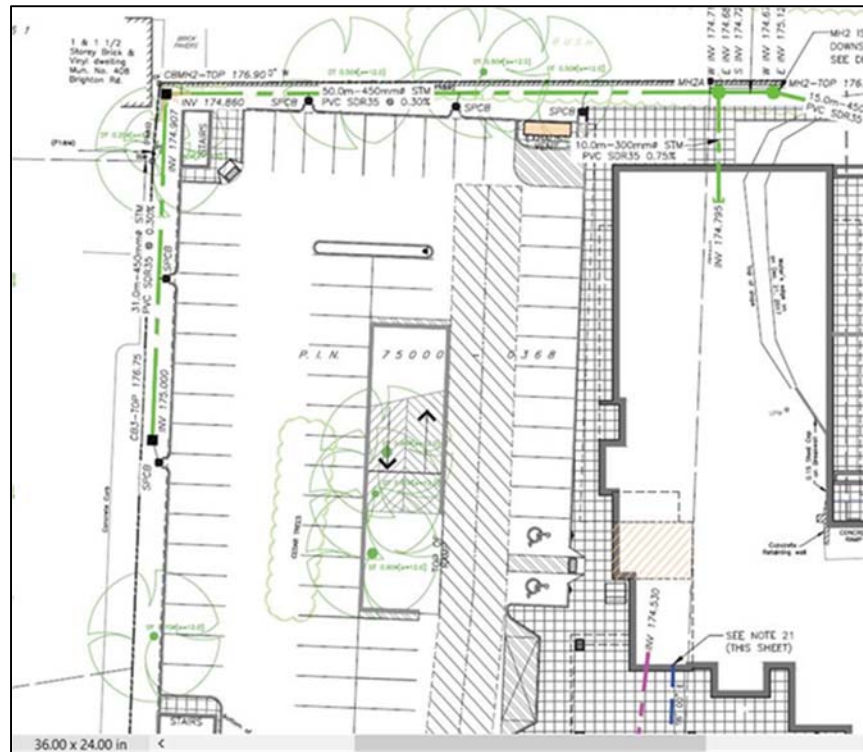
St. Clair Beach Zoning By-law

As noted above, the proposed retained lot will comply with the R3-13 zone. As a result of the proposed lot addition/minor boundary adjustment, a variance for 408 Brighton Road will be necessary to provide relief from the R2 zoning requirements to address a side yard width deficiency for an existing deck on the property. It should be noted that although the proposed severance actually increases the side yard of 408 Brighton in the vicinity of the deck, it remains deficient. Further, because the status of this side yard has changed as a result of the severance, it is no longer protected by Section 5.6 Non Compliance with Minimum Lot or Yard Requirements of the Zoning By-law. Accordingly, relief from the minimum interior side yard width provision is required through a minor variance.

Administration/Agency Comments

- 1) Engineering

- Prior to this severance being approved, the owner of 14400 Tecumseh Road (the parcel 'to be retained') must provide confirmation that severing of this small piece of property does not adversely impact the storm drainage system that is currently proposed for the Residences at Bay Harbour development at 14400 Tecumseh Road. As per the following screen capture from the August 27, 2019 RC Spencer Associates Inc. Sheet No. 3 for the Residences at Bay Harbour development, storm sewer infrastructure is proposed in close proximity to the requested severance.



2) Essex Region Conservation Authority

- The 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 Pike Creek. 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.
- No objection to the application.

Public Comments

To date, none received on this application.

Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, it is my opinion that the proposed severance is consistent with the PPS, conforms to the County OP and St. Clair Beach OP, the St. Clair Beach Zoning By-law and is in keeping with good planning principles.

The public hearing, in accordance with the requirements of *the Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

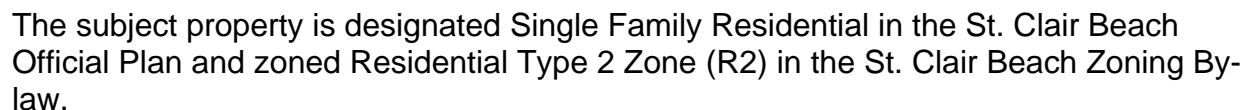
Recommended Conditions

Based on the information provided within this Application and in this report, it is recommended that this Application, if approved, be subject to the following conditions:

1. That at the time the conveyance is prepared for certification, two (2) copies of the reference plan by an Ontario Land Surveyor as well as digital files (.pdf and .dwg) with the .dwg files being in **NAD 83 format (UTM Zone 17 Metric)**, which has been numbered, dated, signed and registered must be submitted to the Town;
2. 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 paid in full, as well as any and all arrears owing on the total parcel;
3. That the appropriate documents for the conveyance be prepared in triplicate (3) suitable for registration, all copies to have original signatures, with one copy to remain as a record with the Town;
4. That any cost in excess of the \$600.00 non-refundable application fee, incurred to process this application such as legal and engineering fees, appraisal reports, etc. shall be the responsibility of the applicant and shall be payable to the Town of Tecumseh where applicable, prior to final consent;
5. That subsection 50(3) and/or 50(5), as the case may be, of the Planning Act, R.S.O. 1990, as amended shall apply to any subsequent conveyance of or transaction involving the parcel which is the subject of this consent ("subject parcel") the transfer of which shall be registered in the same name as the parcel to which it is to be added ("abutting parcel") so as to merge the two parcels. Further, that an Undertaking be provided by a solicitor licensed in Ontario to register on title an application to consolidate the subject parcel and abutting parcel and provide evidence of such registration and merger of the two parcels to the

6. That a minor variance at 408 Brighton Road be applied for and granted providing relief from subsection 7.1.3 e) iii) of Zoning By-law 2065 for an interior side yard width of 1.1 metres (3.6 feet);
7. That the owner of 14400 Tecumseh Road (the parcel 'to be retained') provide confirmation that severance does not adversely impact the storm drainage system that is currently proposed for the Residences at Bay Harbour development at 14400 Tecumseh Road; and
8. That the above conditions be fulfilled on or before **October 29, 2020** prior to this severance being finalized.

The purpose of the Application is to request relief from subsection 7.1.3 e) iii) of Zoning By-law 2065 which establishes the minimum interior side yard width is the lesser of 10 feet or 15 percent of the lot frontage. In the case of the subject property, which has a lot frontage of 18.27 metres (60 feet), the minimum interior side yard width is 2.7 metres (9 feet). The Applicant is requesting relief to allow an interior side yard width of 1.1 metre (3.6 feet) that would result from the granting of Severance Application B-15/19, which is being heard concurrently with this Application.



In accordance with the *Planning Act*, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:

i) Is the intent of the Official Plan maintained?

The subject property is designated Single Family Residential in the Official Plan. The designation permits the existing single unit dwelling located on the property and accessory uses. Accordingly, it is my opinion that the intent of the Official Plan is maintained.

ii) Is the intent of the Zoning By-law maintained?

The purpose of the minimum interior side yard width provision is to ensure there is an appropriate setback of structures from the abutting properties and to allow for adequate area along the side yards to access the sides of buildings for maintenance.

As noted above, the minimum interior side yard width for the subject property is 2.7 metres (9 feet). The application is requesting relief to have an interior side yard width of 1.1 metres (3.6 feet).

It should be noted that no new structures are being proposed for the subject property. The variance is necessary a result of the associated severance application that facilitated a minor boundary line adjustment to rectify an existing encroachment of a fence and patio belonging to 408 Brighton Road on the abutting property at 14400 Tecumseh Road. Although the proposed severance actually increases the side yard of 408 Brighton in the vicinity of the deck, it remains deficient. Further, because the status has changed as a result of the severance, it is no longer protected by section 5.6 Non Compliance with Minimum Lot or Yard Requirements of the Zoning By-law. Accordingly, relief from the minimum interior side yard width provision is required through a minor variance.

The area of the side yard for which relief is necessary is adjacent a deck. Accordingly, the 1.1 metres of side yard should be adequate for exterior maintenance. There are also no buildings located or proposed on the adjacent lots in the vicinity of the area that is the subject of the variance application. Further, the northerly interior side yard of the subject property, at approximately 15 feet, provides adequate space to access the rear yard.

The proposed variance will legalize the side yard width that has existed for several years and will only apply to existing buildings/structures. Any new additions structures will be required to comply with the standard R2 zone regulations. The Committee should, however, make this clear in the wording of its decision if it sees fit to grant the application.

Given the foregoing rationale and condition, it is my opinion that the intent of the By-law will be maintained.

iii) Is the variance desirable for the appropriate development or use of the land?

The proposed variance will not change the built form within the neighbourhood or alter the character of the existing area. As noted, the variance is required to facilitate a minor boundary line adjustment to rectify an existing encroachment.

Based on the foregoing and on the comments in item ii) above, it is my opinion that the proposed addition will result in the appropriate use of the land.

iv) Is the variance requested minor?

Given that the variance is required as a result of a minor change in property lines, and based on the comments in ii) and iii) above, there will not be any apparent adverse impacts on the neighbouring properties and therefore, it is my opinion that the proposed variance is minor in nature.

Administration/Agency Comments

1. Engineering

- No concerns. Comments have been provided related to corresponding severance application.

2. Essex Region Conservation Authority

- The 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 Pike Creek. 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.

Public Comments

To date, none received on this application.

Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act*. The intent of the Official Plan has been met, the intent of the Zoning By-law has been met, the variance will result in appropriate development, the variance will not create undue adverse impact on adjacent properties and the variance is minor in nature.

The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

Based on the foregoing, the writer supports the minor variance application and believes it to be based on sound planning principles.

Recommended Conditions

That the variance applies only to existing buildings/structures.

Application:	Severance Application B-16/19
Applicant:	Lionel and Gail Baillargeon
Location of Property:	11221 County Road 42

The purpose of the Application is to sever 83.6 square metres (900 square feet) of vacant residential land (outlined in red on sketch attached to the Agenda) and consolidate it with the abutting residential lot (shaded in pink on sketch attached to the Agenda), municipally known as 11215 County Road 42. The retained residential lot (outlined in green on sketch attached to the Agenda) will have a frontage of 32.6 metres (107 feet) and an area of 0.3 ha (0.74 ac).

The proposed severed and retained parcels as well as the lot to which the severed parcel is proposed to be added are designated Low Density Residential in the Sandwich South Official Plan and zoned Residential Zone 1 (R1) in the Sandwich South Zoning By-law.



The severance is intended to resolve the matter of a landscaped berm, constructed by the owner of 11215 County Road 42, that encroaches onto the adjacent lot to the east at 11221 County Road 42 (the subject property).

Provincial Policy Statement

The Planning Act establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2014 Provincial Policy Statement (“PPS”) issued under *The Planning Act*.

The proposed severance application for a minor boundary line adjustment is consistent with the policies of the PPS. Administration has no concerns.

County of Essex Official Plan (COP)

The proposed severance does not contradict the County of Essex Official Plan.

Sandwich South Official Plan

The proposed severed and the retained parcels are designated Low Density Residential in the Sandwich South Official Plan.

Subsection 4.1 g) of the Plan contemplates the nature of the severance application being proposed, stating:

“g) *notwithstanding any other section of this Plan, consents for lot adjustments or minor boundary changes are permitted in all designations provided they are granted conditional to Section 50(3) or (5) of the Planning Act, R.S.O. 1990.*”

Sandwich South Zoning By-law

The proposed severed and the retained parcels are zoned Residential Zone 1 (R1) in the Sandwich South Zoning By-law. Both properties will continue to comply with the R1 zone.

Administration/Agency Comments

1) Engineering

- The Owners must enter into, and provide the Town of Tecumseh, a written agreement for the reapportionment of the drainage assessment for the

subject lands, in accordance with Section 65(2) of the Ontario Drainage Act, RSO. 1990, as amended and that the associated costs of same be borne solely by the Applicant.

2) Essex Region Conservation Authority

- The 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 Eleventh Concession 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.

3) County of Essex

- The minimum setback for any proposed structures on the property must be 110 feet from the centre of the original ROW of County Road 42 due to the presence of the Eleventh Concession Drain. Permits are necessary for any changes to the existing entrances and structures, or the construction of new entrances or structures.

Public Comments

To date, none received on this application.

Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, it is my opinion that the proposed severance is consistent with the PPS, conforms to the County OP and Sandwich South OP, complies with the Sandwich South Zoning By-law and is in keeping with good planning principles.

The public hearing, in accordance with the requirements of *the Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be considered as part of the full evaluation of the application.

Recommended Conditions

Based on the information provided within this Application and in this report, it is recommended that this Application, if approved, be subject to the following conditions:

1. That at the time the conveyance is prepared for certification, two (2) copies of the reference plan by an Ontario Land Surveyor as well as digital files (.pdf and .dwg) with the .dwg files being in NAD 83 format (UTM Zone 17 Metric), which has been numbered, dated, signed and registered must be submitted to the Town;
2. 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 paid in full, as well as any and all arrears owing on the total parcel;
3. That the appropriate documents for the conveyance be prepared in triplicate (3) suitable for registration, all copies to have original signatures, with one copy to remain as a record with the Town;
4. That any cost in excess of the \$600.00 non-refundable application fee, incurred to process this application such as legal and engineering fees, appraisal reports, etc. shall be the responsibility of the applicant and shall be payable to the Town of Tecumseh where applicable, prior to final consent;
5. That subsection 50(3) and/or 50(5), as the case may be, of the Planning Act, R.S.O. 1990, as amended shall apply to any subsequent conveyance of or transaction involving the parcel which is the subject of this consent ("subject parcel") the transfer of which shall be registered in the same name as the parcel to which it is to be added ("abutting parcel") so as to merge the two parcels. Further, that an Undertaking be provided by a solicitor licensed in Ontario to register on title an application to consolidate the subject parcel and abutting parcel and provide evidence of such registration and merger of the two parcels to the Secretary of the Committee of Adjustment within 15 days following registration of the transfer;
6. That the Owners enter into, and provide the Town of Tecumseh, a written agreement for the reapportionment of the drainage assessment for the subject lands, in accordance with Section 65(2) of the *Ontario Drainage Act*, R.S.O. 1990, as amended, and that the associated costs of same be borne solely by the Applicant. Apportionments for affected Municipal Drains are required and are to be assessed against the lands affected in accordance with any past, current or future drainage by-laws, until otherwise determined under the provisions of the *Drainage Act*; and
7. That the above conditions be fulfilled on or before October 29, 2020 prior to this severance being finalized.

Application:	Minor Variance Application A-29/19
Applicant:	Brett Massender
Location of Property:	12460 Clarice Avenue

The purpose of the Application is to request relief from the following subsections of Zoning By-law 1746:

1. Subsection 7.1.5 which establishes a maximum lot coverage of 30 percent; and
2. Subsection 7.1.10 a) which establishes a minimum interior side yard width of 1.2 metres (3.9 feet).

The Applicant is proposing to construct a 176.5 square metre (1900 square foot) addition comprising a garage, kitchen, dining area, great room and a covered deck resulting in a westerly interior side yard width of 1.1 metres (3.6 feet) and a total lot coverage of 33 percent. The existing accessory building is being demolished.



The subject property is designated Residential in the Tecumseh Official Plan and zoned Residential Zone 2 (R2) in the Tecumseh Zoning By-law.

In accordance with the *Planning Act*, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:

i) Is the intent of the Official Plan maintained?

The subject property is designated Residential in the Official Plan. The Residential designation permits single unit dwellings. Accordingly, it is my opinion that the intent of the Official Plan is maintained.

ii) Is the intent of the Zoning By-law maintained?

The purpose of the 30 percent maximum total lot coverage is to ensure, among other things, that a sense of orderly development is maintained on a property, that the scale and massing of buildings are appropriate, and that the lot will be able to provide adequate areas for landscaping and parking. The proposed maximum lot coverage of 33 percent is marginally over the established maximum. The resulting lot coverage will not result in any deficiencies in parking areas or landscaping requirements. Therefore, the additional area that will be occupied by building will not be at the expense of required parking or landscaped areas.

The purpose of the minimum side yard width provision is to ensure there is an appropriate setback of structures from the abutting properties and to allow for adequate area along the side yards to access the sides of buildings for maintenance.

The applicant is requesting relief to have an interior side yard width of 1.1 metre (3.6 feet) in order to build the proposed addition with the same side yard width as that is currently existing for the dwelling on the property. The variance of 0.1 metres (0.3 feet) is deemed marginal and Administration has no concerns. Further, the easterly interior side yard of 2.75 metres (9 feet) provides adequate space for rear yard access and helps maintain a sense of open space for the subject property.

Given the foregoing rationale, it is my opinion that the intent of the By-law will be maintained.

iii) Is the variance desirable for the appropriate development or use of the land?

The proposed variance will not change the built form within the neighbourhood or alter the character of the existing area. Further, the open space character of the surrounding area, particularly from the streetscape perspective, is not compromised.

Based on the foregoing and on the comments in item ii) above, it is my opinion that the proposed addition will result in the appropriate use of the land.

iv) Is the variance requested minor?

As noted above, the magnitude of the requested relief is marginal and there is not apparent undue adverse impact on the neighbouring properties. Accordingly, it is my opinion that the proposed variance is minor in nature.

Administration/Agency Comments

1. Engineering

- The owner is to provide details of how the site will drain stormwater to the satisfaction of the Chief Building Official to ensure there are no adverse effects to the neighbouring properties.

2. Essex Region Conservation Authority

- The property 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 Regulation under the Conservations Authorities Act, (Ontario Regulation No. 158/06).

Public Comments

To date, none received on this application.

Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act*. The intent of the Official Plan has been met, the intent of the Zoning By-law has been met, the variance will result in appropriate development, the variance will not create undue adverse impact on adjacent properties and the variance is minor in nature.

The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

Based on the foregoing, the writer supports the minor variance application and believes it to be based on sound planning principles.

Recommended Conditions

That the owner provide details on how the site will drain stormwater to the satisfaction of the Chief Building Official to ensure there are no adverse effects to the neighbouring properties.