



The Corporation of the Town of Tecumseh

Planning Report

To: Committee of Adjustment

From: Chad Jeffery, MA, MCIP, RPP

Hearing Date: April 29, 2024

Subject: **Certificate of Cancellation Application B-06-24
Severance Applications B-04-24 to B-05-24 and
Minor Variance Applications A-08-24 to A-11-24**

Please note that this Planning Report was prepared as of April 26, 2024. 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 April 29, 2024 as the normal practice.

Application:	Certificate of Cancellation B-06-24
Applicant:	Jamie Balkwill
Location of Property:	4192 11th Concession

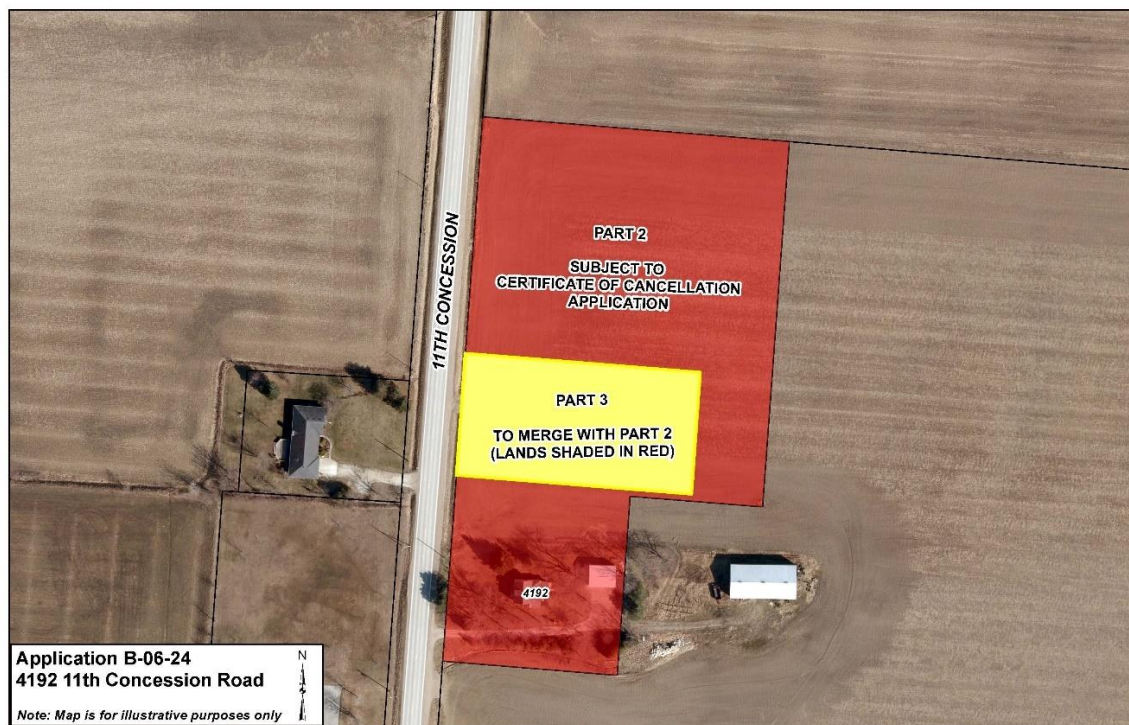
The purpose of the Application is to request a Certificate of Cancellation for those lands composed of Part of Farm Lot 17, Concession 11, more particularly described as Part 2, 12R-3652, and shaded in red on the “Cancellation Sketch” below. The cancellation of the subject Consent will result in the consolidation of the properties at 4192 11th Concession Road and Part 3, 12R-3652 to form one lot (areas shaded in yellow and red on “Cancellation Sketch” below).

The property is designated Agricultural in the Official Plan and zoned Agricultural in Zoning By-law 85-18.

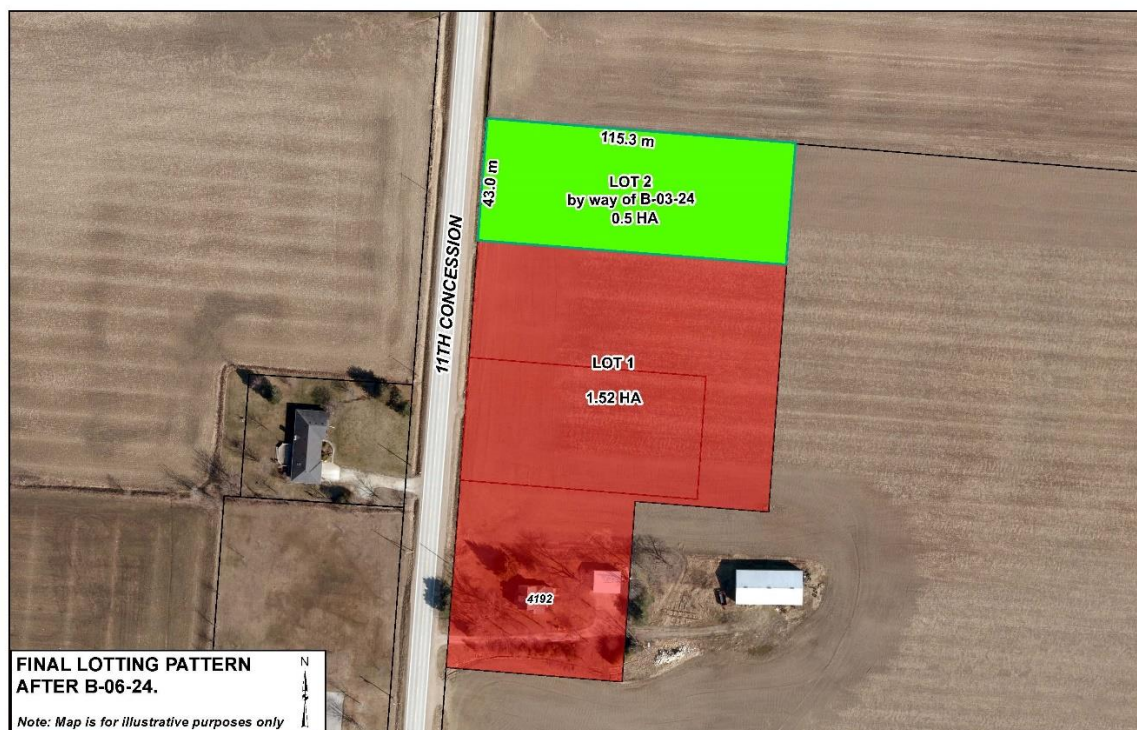
This application is a condition of Consent Application B-03-24, approved by the Committee of Adjustment at its March 2024 meeting. As a condition of B-03-24, the retained parcel, containing a single-family dwelling and one outbuilding (shaded in red on “Cancellation Sketch”) needs to merge with Part 3, 12R3652 (shaded in yellow in “Cancellation Sketch”), resulting in a total lot area of 1.5 hectares (3.7 acres). To achieve this consolidation, the subject cancellation of consent is required. The final lotting pattern as a result of the

previously-approved B-03-24 application and the approval of the current B-06-24 application would be as shown on the “End Result Sketch” below.

Cancellation Sketch



End Result Sketch



Amendments to sections 53(45) to (49) of the Planning Act in 2022) allow for a property owner to apply to the Committee of Adjustment to issue a certificate of cancellation that provides that section 50(12) of the Planning Act no longer applies to the land described in the certificate and that sections 50(3) or (5) will thereafter apply to the land. In essence, this has the effect of “breaking the lot/consent” and allowing the lot to merge with the abutting property if under common ownership – as is the case with the subject application.

The Town has reviewed the proposal and has no concerns with the end result of the properties merging. As noted above, the merging of the properties is necessary to facilitate final lotting pattern that was proposed by the recently-approved B-03-24 and as depicted in the “End Result Sketch” above.

Administration/Agency Comments

1. Public Works and Engineering

- The Applicant should be made aware that the subject properties are within the watershed of existing municipal drainage systems that are currently being reviewed by an engineer pursuant to the Ontario Drainage Act, RSO. 1990. The Applicant should also be aware that these reviews may result in engineering recommendations for drain repairs and improvements, as well as assessments of costs to the subject properties relating to said recommendations, that may affect the subject properties in the future.
- That the Applicant 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.
- That the Applicant be required to modify any sub-surface drainage tiles that are located on the parcel to be severed to disconnect them from sub-surface drainage tiles on the parcel to be retained to the satisfaction of the Town of Tecumseh Chief Building Official, prior to the severances being finalized.
- It appears that access to the Lot 2 (green parcel) on the “Final Lotting Pattern” diagram may not be currently provided access over the 11th Concession Drain. As such, a new access may be required to accommodate this application and an engineering report in accordance with Ontario Drainage Act, RSO. 1990, will be required; all associated costs of same would be borne solely by the Applicant.
- The Applicant should be made aware that municipal sanitary sewers are not available at the location of this severance; a private septic system will be required to the satisfaction of the Town of Tecumseh Chief Building Official.
- That the Applicant be required to service each individual parcel with a separate water supply to the satisfaction of the Town of Tecumseh Water Services Division prior to the severance being finalized. Separate water service connections will be

required for the retained and severed parcels (Note: Permits from the Town of Tecumseh Water Services Division are required and a Town Water Operator is to be on site during the installation of the water service.)

- The cost of all servicing and permitting requirements will be at the expense of the applicant.

2. Building Department

- No comments

3. Fire Services

- No comments received.

4. Essex Region Conservation Authority

- The above noted lands are subject to our Regulation under the *Conservation Authorities Act* (Ontario Regulation No. 41/24). The parcel falls within the regulated area of the 11th Concession Drain.
- No objections with application.

5. Essex Powerlines

- No comment. Outside of service area.

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:

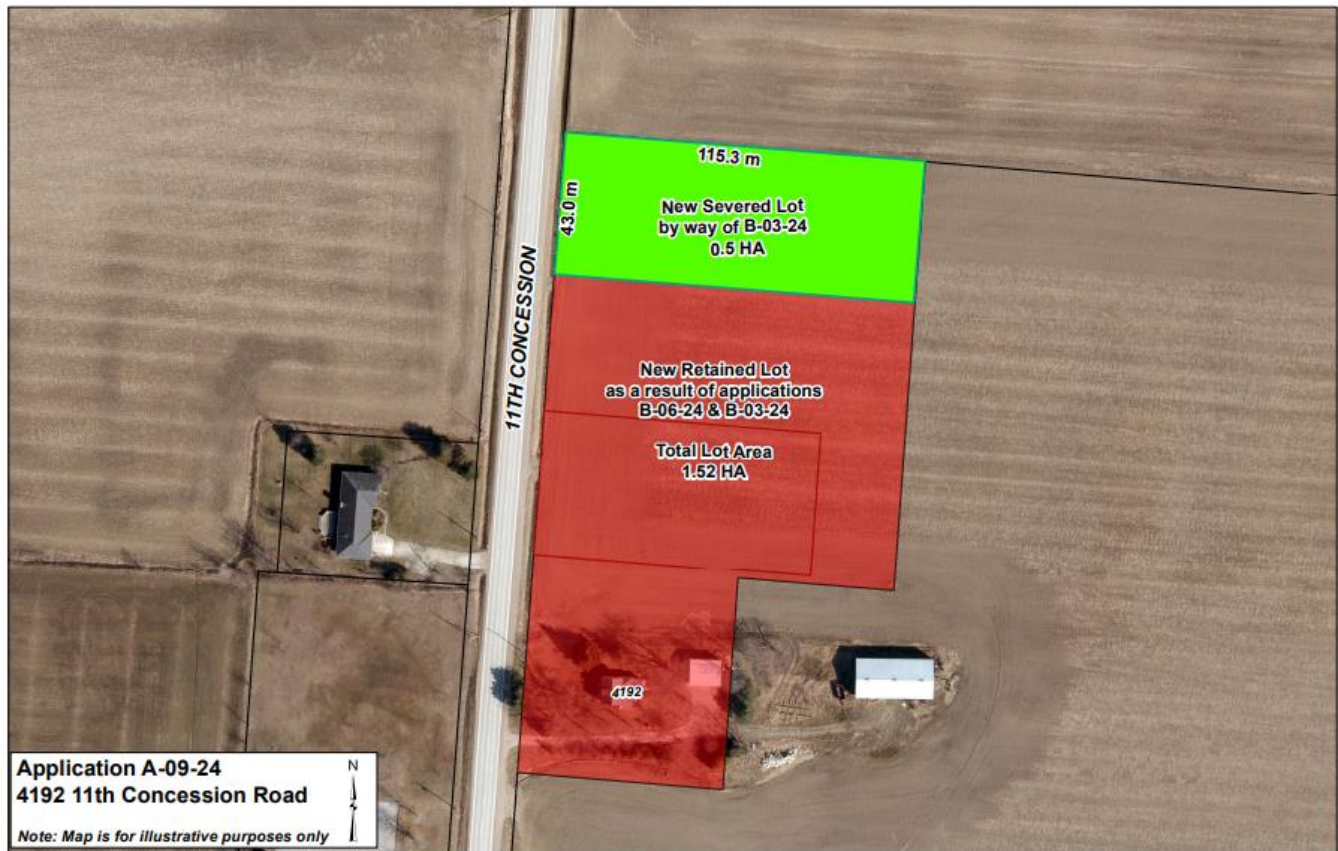
1. That at the time the conveyance is prepared for certification, a reference plan prepared by an Ontario Land Surveyor in digital format (.pdf and .dwg) with the .dwg files being in **NAD 83 format (UTM Zone 17 Metric)**, which has been numbered, dated, signed and registered must be submitted to the 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 duplicate (2) 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 \$200.00 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 the Owner determine if there are any existing farm drainage tiles/systems extending through the parcel to be severed and, if existing farm drainage tiles/systems are found, that the Owner redirected the tiles/systems around the parcel to be severed to the satisfaction of the Chief Building Official prior to the severance being finalized;
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 May 3, 2026 prior to this cancellation being finalized.

Application:	Minor Variance Application A-09-24
Applicant:	Jamie Balkwill
Location of Property:	4192 11th Concession Road

The purpose of the Application is to obtain relief from subsection 15.2.4 b) which establishes a maximum lot area of 0.5 ha (1.24 acres) for residential lots in the Agricultural (A) Zone. As a result of Consent Application B-03-24 and Application for Certificate of Cancellation B-06-24, the Applicant is seeking relief for a residential lot having a total lot area of 1.52 ha (3.76 acres) (see sketch below).

The subject lands are designated Agricultural in the Official Plan and zoned Agricultural (A) in Zoning By-law 85-18.



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:

Is the intent of the Official Plan maintained?

The lands are designed Agricultural in the Tecumseh Official Plan.

Subsection 6.4.1 vi) – Consent Policies of the Official Plan permits: “lot adjustments for legal or technical reasons, such as easements, correction of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot area also permitted.”

The proposed variance, which satisfies one of the conditions of the associated consent application noted above, meets the intent of the Official Plan with respect to the protection of agricultural land, prohibiting the creation of additional non-farm related lots in rural areas and permitting minor boundary/lot line adjustments in rural areas that do not result in additional lots being created.

Is the intent of the Zoning By-law maintained?

The lands are zoned Agricultural Zone (A) in Zoning By-law 85-15.

The intent of the maximum lot area of 0.5 hectares (1.24 acres) for residential lots in the Agricultural (A) Zone is to ensure that any new residential lot that is created (as permitted by the Official Plan) is limited to a maximum size needed to accommodate the existing residential use and its associated on-site sewage services.

The purpose/end-result of Applications B-03-24 and B-06-24 is to create a more regular lotting pattern with an improved configuration. In doing so, the subject 1.5 hectare (3.7 acre) lot was created necessitating the proposed variance for lot area. It should be noted that this lot area is less than the original, awkwardly configured lot which had an area of 1.62 hectares (4.0 acres).

All other zoning requirements established by the A zone will be complied with.

In addition, it should be noted that no new additional buildable lot is being created as part of this minor variance and the approval of this variance will satisfy one of the conditions of Consent Application B-03-24, which will result in a final lotting pattern that will be more appropriate.

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

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

As noted above, the proposed variance will result in the creation of a new lotting pattern that is more appropriate and less irregular than what currently exists. The resulting orderly development pattern is in keeping with guiding planning principles. Based on the foregoing, it is my opinion that the proposed relief will result in development that represents a desirable use of the land.

Is the variance requested minor?

The proposed relief does not compromise the objectives of the Official Plan or Zoning By-law and no undue adverse impact on abutting properties is anticipated. The variance does not result in the potential for additional farmland to be removed. Accordingly, it is my opinion that the proposed variance is minor in nature.

Administration/Agency Comments

1. Public Works and Engineering

- No comments regarding application.

2. Building Department

- Future structures will be subject to minimum building elevations established by ERCA.

- Any future development will require an engineered grading plan prior to a building permit being issued.
- The landowner is responsible to ensure that all building services are contained within existing property boundaries and shall not extend beyond newly established lot lines.
- It is the responsibility of the landowner to ensure that surface water does not adversely affect neighbouring properties.

3. Fire Department

- No comments received.

4. Essex Region Conservation Authority

- The above noted lands are subject to our Regulation under the *Conservation Authorities Act* (Ontario Regulation No. 41/24). The parcel falls within the regulated area of the 11th Concession Drain.
- No objection to application.

5. Essex Powerlines

- No comment. Outside of service area.

Public Comments

No public comments were received as of time of the writing of this report.

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

None.

Application:	Severance Application B-04-24
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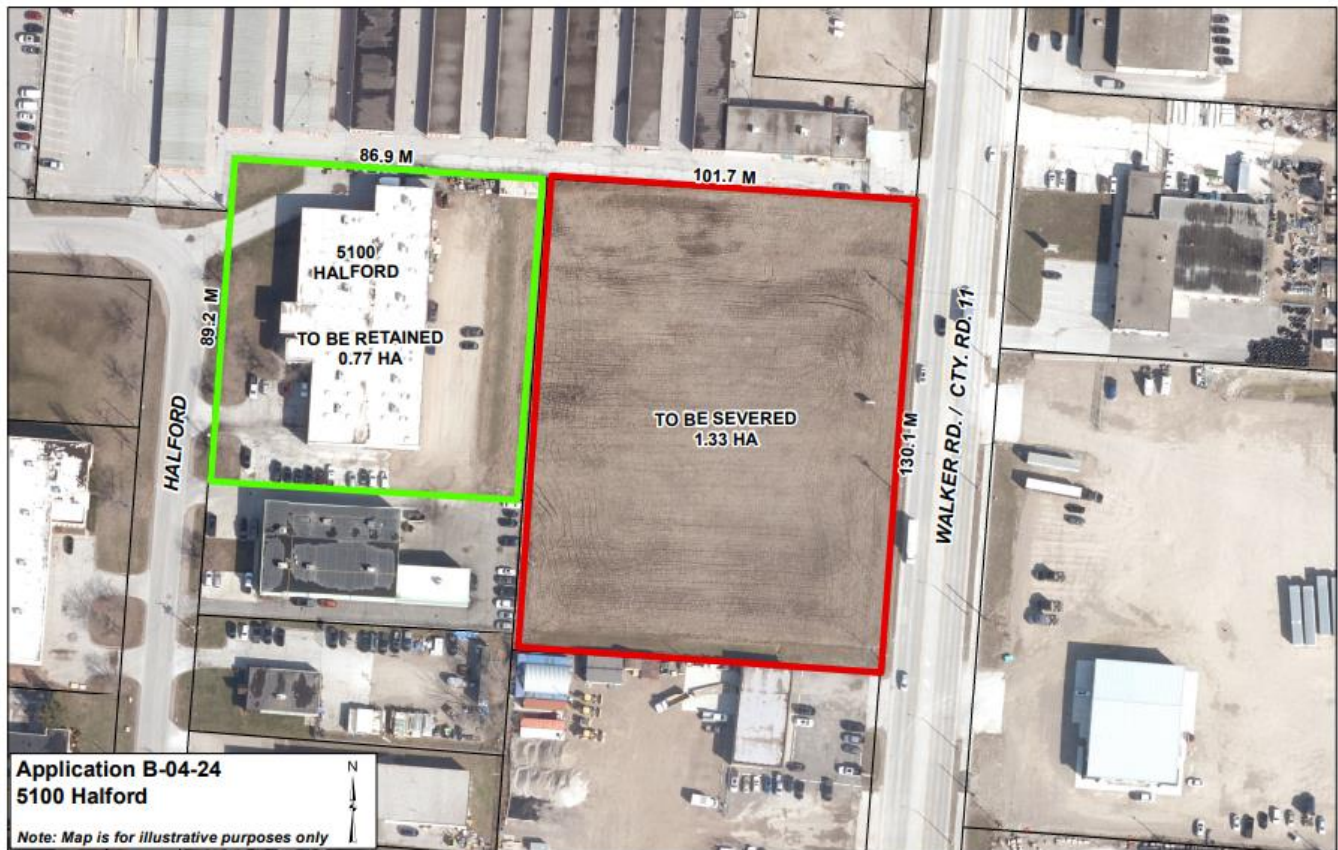
Applicant:	Nova Tool and Mold Inc.
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Location of Property:	5100 Halford Drive
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The purpose of the Application is to request consent to sever a vacant parcel of land with a frontage of 130.1 metres (426.8 feet), a depth of 101.7 metres (333.7 feet) and a total lot area of 1.33 hectares (3.3 acres) outlined in red on the sketch below. The retained parcel, containing an existing 2670 square metre (28,739.64 square foot) industrial building, has a frontage of 89.2 metres (292.7 feet), a depth of 86.9 metres (285 feet) and a total lot area of 0.77 hectares (1.9 acres) outlined in green on the sketch below.

The subject application was previously heard by the Committee of Adjustment on October 21, 2013 under Consent Application B-18-13. The conditions of Consent Application B-18-13 were not met and the consent lapsed on October 21, 2014. Accordingly, the Applicant is reapplying for the same severance.

The subject property is designated Business Park in the Official Plan. The retained parcel is zoned Industrial (M1) and the parcel to be severed is zoned Commercial (C2) in Zoning By-law 85-18.



Provincial Policy Statement

The *Planning Act* establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2020 Provincial Policy Statement (“PPS”) issued under the *Planning Act*. The PPS encourages and supports development on lands that are identified for urban growth in approved settlement areas. The following PPS policies are relevant to this application:

“1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

1.1.3 Settlement Areas

1.1.3.1 Settlement areas shall be the focus of growth and development.

1.1.3.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses which:

- a) efficiently use land and resources;
- b) are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or

available, and avoid the need for their unjustified and/or uneconomical expansion;

...

Land use patterns within settlement areas shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.

1.3 Employment

1.3.1 Planning authorities shall promote economic development and competitiveness by:

- a) providing for an appropriate mix and range of employment and institutional uses to meet long-term needs;
- b) 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;

...

- e) ensuring the necessary infrastructure is provided to support current and projected needs.

1.3.2 EMPLOYMENT AREAS

- 1.3.2.1 Planning authorities shall plan for, protect and preserve employment areas for current and future uses and ensure that the necessary infrastructure is provided to support current and projected needs.”

The proposed severance will facilitate the creation of one new vacant commercial lot, on full municipal sanitary, water and stormwater services, that will have the ability to be developed for new commercial uses. The proposed severance conforms to the policies of the PPS.

County of Essex Official Plan

The subject lands are within an identified 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 following goals and policies of the County Official Plan are most relevant in the assessment of the subject proposal:

“3.2.4 Primary Settlement Areas

i) Oldcastle Hamlet (Town of Tecumseh)

Oldcastle Hamlet has historically been the focus of manufacturing due in part to its proximity to the City of Windsor. The recent investment in sanitary services and the existing forms of development make it an ideal location to focus employment growth subject to the following policies:

- i) Oldcastle Hamlet shall be primarily developed with employment uses, while recognizing that limited opportunities may exist to expand upon the few existing residential clusters that are situated in the area. The local Official Plan will more specifically designate the lands in appropriate land use designations.
- ii) A mixture of lot sizes shall be provided, including large lots that would be suitable to employment uses that may not be appropriately located within other nearby Primary Settlement Areas due to their size or impacts.
- iii) The local Official Plan shall contain policies to ensure orderly and appropriate development.
- iv) All new development shall be on full municipal sewage services and municipal water services.
- v) Cost effective development patterns and those which reduce servicing costs are encouraged. Land use patterns which may cause environmental, heritage preservation or public health and safety concerns shall be avoided.

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;
- ...
- h) All types of land use are permitted within the "Settlement Areas" designation subject to the specific land use policies of the local Official Plans."

In accordance with the aforementioned goals and policies, the proposed severance, that will create one new fully-serviced commercial lot, conforms to the County of Essex Official Plan.

Tecumseh Official Plan

The subject property is designated Business Park in the Tecumseh Official Plan. Providing suitable areas for a broad range of employment uses that include commercial uses, warehousing and other employment uses with similar operating characteristics and locational requirements is a primary goal for lands designated Business Park.

The policies also permit commercial uses such as restaurants, offices, convenience retail and auto-related uses as complementary uses which are intended to serve the industrial areas and the broader community where a property has access onto Walker Road (County Road 11).

The creation of a new lot for potential new employment uses meets this goal.

In addition, the proposed severance conforms to the Consent Policies established by the Official Plan with respect to land use, lot creation and servicing requirements. Based on the foregoing, it is the opinion of the writer that the proposed severance conforms to the Tecumseh Official Plan.

Zoning By-law 85-18

The retained parcel is zoned Industrial (M1) and the parcel to be severed is zoned Commercial (C2) in Zoning By-law 85-18. The M1 Zone permits the existing industrial use located on the retained parcel. The proposed new lot will comply with the minimum lot area and lot frontage established by the C2 Zone that applies to it.

Administration/Agency Comments

1. Public Works and Engineering Services

- That the Applicant be required to service each individual parcel with a separate water supply to the satisfaction of the Town of Tecumseh Water Services Division prior to the severance being finalized. Separate water service connections will be required for both new parcels (Note: Permits from the Town of Tecumseh Water Services Division are required and a Town Water Operator is to be on site during the installation of the water service.)
- The Applicant should be made aware that the subject properties are within the watershed of existing municipal drainage systems and may be liable for the costs of assessments relating to future works or improvement or maintenance in accordance with the provisions of the Ontario Drainage Act, RSO. 1990.
- The Applicant will be required to 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.

- The parcel to be retained and the parcel to be severed are to be serviced with separate entrances. The Applicant, developer or future builder, shall be required to obtain approvals and permits from the County of Essex to install new access driveways in accordance with all applicable County standards prior to the commencement of driveway construction within the County's right-of-way.
- The cost of all servicing requirements will be at the expense of the applicant.
- The applicant and future owners should be made aware that future property amendments may be subject to the Site Plan Control process, under which PWES will work with the owners and its consultants regarding site servicing and stormwater management. This includes, but is not necessarily limited to, submission of site servicing and grading plans, and SWM reports that capture the proposed amendments for PWES review and approval.
- That payment of all outstanding sanitary servicing charges currently applied against the property to be severed relating to the extension of the County Road 11 (Walker Rd) sanitary sewer be made in full or debentured in accordance with By-law 2011-103, or as otherwise approved by the Director Financial Services & CFO, as a condition of Consent

2. Building Department

- Provide an engineered lot grading plan to the satisfaction of the Town Chief Building Official. The grading plan shall include existing structures to remain, grade shots of both the existing parcel to be retained and the severed parcel to confirm drainage will not adversely affect adjoining properties. Both properties may be subject to enhancements to manage surface water, which may include rear yard or perimeter drainage, swales or retaining walls.

Notes:

1. The landowner is responsible to ensure that all building services are contained within existing property boundaries and shall not extend beyond established lot lines.
2. It is the responsibility of the landowner to ensure that surface water does not adversely affect neighbouring properties.
3. Future development of the severed lands shall meet Applicable Law prior to building permits being issued.

3. Fire Department

- No comments received.

4. Essex Region Conservation Authority

- This site is not located within a regulated area that is under the jurisdiction of the ERCA (Ontario Regulation 41/24 under 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.
- No objection to application.

5. Essex Powerlines

- No comment. Outside of service area.

Public Comments

No public comments were received as of time of the writing of this report.

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 both the County and Town Official Plans 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, a reference plan prepared by an Ontario Land Surveyor in digital format (.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 duplicate (2) 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 \$1,400.00 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 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*;
6. That the parcel to be retained and the parcel to be severed are to be serviced with separate water supplies to the satisfaction of the Town of Tecumseh Water Services Division prior to this severance being finalized;
7. That at the time the conveyance is presented for certification an amount equal to two percent (2%) cash in lieu of parkland, based on the market value of the land being conveyed the day immediately prior to the approval in principle having been granted, to be paid to the Town of Tecumseh (industrial, commercial, institutional);
8. That payment of all outstanding sanitary servicing charges currently applied against the property to be severed relating to the extension of the County Road 11 (Walker Rd) sanitary sewer be made in full or debentured in accordance with By-law 2011-103, or as otherwise approved by the Director Financial Services & CFO prior to the severance being finalized; and
9. That the above conditions be fulfilled on or before May 3, 2026 prior to this severance being finalized.

Application: Severance Application B-05-24

Applicant: 2198711 Ontario Limited

Location of Property: 12809 Dillon Drive

The purpose of the Application is to request consent to sever a residential lot having a frontage of 26.1 metres (85.6 feet), an irregular depth and a lot area of 707 square metres (7,610.1 square feet) outlined in red on the sketch below. The proposed retained lot has a frontage of 19.8 metres (65 feet), a depth of 30.6 metres (100.4 feet) and a lot area of 603 square metres (6,490.6 square feet) outlined in green on the sketch below.

The subject application was previously heard by the Committee of Adjustment on November 22, 2021 under Consent Application B-19-21. The conditions of Consent Application B-19-21 were not met and the consent lapsed on November 24, 2023. Accordingly, the Applicant is reapplying for the same severance. Applications for Minor Variance A-48-21 and A-49-21 were heard concurrently with Consent Application B-19-21 granting relief for minimum lot area for both the severed and retained lots and remain in effect.

The lands are designated Residential in the Town of Tecumseh Official Plan and zoned Residential Zone 1 (R1) in Zoning By-law 1746.

Application: B-05-24 12809 Dillon Drive



Provincial Policy Statement

The Planning Act establishes that the Committee, when making decisions that affect a planning matter, “shall be consistent with” the 2020 Provincial Policy Statement (“PPS”) issued under the Planning Act. The PPS encourages development on lands that are identified for urban growth in approved settlement areas. It also establishes that the Town should be supporting and promoting residential infill development that results in compact built form and makes more efficient use of existing services while offering a range of housing forms/types to meet expected needs. Based on the foregoing, it is the opinion of the writer that the application for the proposed residential development is consistent with the PPS.

County of Essex Official Plan

The subject lands are within an identified 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 following goals and policies of the County Official Plan are most relevant in the assessment of the subject proposal:

“3.2.4 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;
- b) Primary Settlement Areas shall have full municipal sewage services and municipal water services and stormwater management services, a range of land uses and densities, a healthy mixture of housing types including affordable housing options and alternative housing forms for special needs groups, and be designed to be walkable communities with public transit options (or long-term plans for same).
- ...
- h) All types of land use are permitted within the “Settlement Areas” designation subject to the specific land use policies of the local Official Plans.”

In accordance with the aforementioned goals and policies, the proposed severance, that will create one new fully-serviced commercial lot, conforms to the County of Essex Official Plan.

Tecumseh Official Plan

The proposed severed and retained parcels are designated Residential in the Tecumseh Official Plan. The Residential policies encourage intensification and development that makes more efficient use of existing infrastructure.

The Consent Policies, under subsection 6.4 iv), state:

- “iv) consents shall be granted only if they comply with the provisions of the Town’s Zoning By-law. Where a by-law amendment or minor variance is necessary, it shall be a condition of the decision.”

Based on the foregoing policy, Minor Variance applications A-48-21 and A-49-21 were approved for relief from the minimum lot area requirement for both the severed and retained lots by the Committee of Adjustment at its meeting of November 22, 2021 (when the original consent application was dealt with). In light of this previous approval, it is the opinion of the writer that the proposed severance conforms to the policies of the Tecumseh Official Plan.

Zoning By-Law 1746

The subject property is currently zoned Residential Zone 1 (R1) in Zoning By-law 1746. By way of the above-noted minor variances that were previously-approved, the proposed severed and retained lots have obtained relief for minimum lot area. The proposed severed and retained lots will meet the minimum lot frontage requirement of the R1 zone.

Administration/Agency Comments

1. Public Works and Engineering

- Previous PWES comments for Consent B-19-21 regarding the subject severance remain unchanged as follows:

That 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 Division, Water Services Division, and Building Department prior to the severance being finalized. (Note: Both the retained and severed lots will be required to outlet their storm drainage directly to the Dillon Drive storm sewer. The Applicant will be required to provide a storm service connection from the Dillon Drive storm sewer to both the retained and severed lots. Due to existing municipal services and utilities located within the Barry Avenue right of way, it is anticipated that the storm service connection for the proposed retained lot may need to be installed within an easement on the proposed severed lot. For the storm service connection to the proposed retained lot, the Applicant will be required to have a servicing

plan prepared by a qualified engineer. In addition, this storm service connection must be secured in perpetuity and any required easements must provide sufficient room for future maintenance needs. All of these requirements for the storm service connection to the proposed retained lot are to be designed by the Applicant's engineer and are to be to the satisfaction of the Town Engineer.)

- In addition to previous comments from PWES, the application should be made aware that the parcel to be retained and the parcel to be severed are to be serviced with separate entrances. Should new access driveways be required, the Applicant, developer or future home builder, shall be required to obtain permits from the Town of Tecumseh Public Works Division to install new access driveways in accordance with Town of Tecumseh prior to the commencement of driveway construction within the Town's right-of-way.
- The cost of all servicing and permitting requirements will be at the expense of the applicant.

2. Building Department

- Provide a survey indicating any proposed lot lines. The survey shall include existing structures to remain, grade shots of both the existing parcel to be retained and the severed parcel to confirm drainage will not adversely affect adjoining properties. Both properties may be subject to enhancements to manage surface water, which may include a rear yard or perimeter drainage, swales or retaining walls.

Notes:

1. Future structures will be subject to minimum building elevations established by ERCA.
2. Any future development will require an engineered grading plan prior to a building permit being issued.
3. The landowner is responsible to ensure that all building services are contained within existing property boundaries and shall not extend beyond newly established lot lines.
4. It is the responsibility of the landowner to ensure that surface water does not adversely affect neighbouring properties.

3. Fire Services

- No comments received.

4. Essex Region Conservation Authority

- The above noted lands are subject to our Regulation under the *Conservation Authorities Act* (Ontario Regulation No. 41/24). The parcel falls within the regulated area of Lake St. Clair. The property owner will be required to obtain a Permit from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the *Conservation Authorities Act*.
- The low-lying nature of the roadway may result in excess water over the road during a 1:100 year flood event. The Municipality must confirm, through applicable emergency services (i.e. fire, police, etc.), that they have the ability to safely access this area during a 1:100 year flood event, in order to fulfill the Municipality's responsibilities under Section 3.1.7 of the Provincial Policy Statement (2020). Additionally, the applicant must obtain a Section 28 Permit from ERCA prior to undertaking any development on the site.

5. Essex Powerlines

- Customer will need to contact EPL to provide service requirements and to determine meter spot.

Public Comments

No public comments were received as of time of the writing of this report.

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, conform to both the County and Tecumseh Official Plans and are 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 \$1,400.00 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 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 Division and Water Division prior to this severance being finalized. (Note: Both the retained and severed lots will be required to outlet their storm drainage directly to the Dillon Drive storm sewer. The Applicant will be required to provide a storm service connection from the Dillon Drive storm sewer to both the retained and severed lots. Due to existing municipal services and utilities located within the Barry Avenue right of way, it is anticipated that the storm service connection for the proposed retained lot may need to be installed within an easement on the proposed severed lot. For the storm service connection to the proposed retained lot, the Applicant will be required to have a servicing plan prepared by a qualified engineer. In addition, this storm service connection must be secured in perpetuity and any required easements must provide sufficient room for future maintenance needs. All of these requirements for the storm service connection to the proposed retained lot are to be designed by the Applicant's engineer and are to be to the satisfaction of the Town Engineer.)
6. That at the time the conveyance is presented for certification an amount equal to five percent (5%) cash in lieu of parkland, based on the market value of the land being conveyed the day immediately prior to the approval in principle having been granted, to be paid to the Town of Tecumseh;
7. That the dwelling be demolished to the satisfaction of the Chief Building Official;
8. That the above conditions be fulfilled on or before May 3, 2026 prior to this severance being finalized.

Application: Minor Variance Application A-08-24

Applicant: Robert Jones

Location of Property: 12654 Riverside Drive

The purpose of the Application is to request relief from the following subsections of 5.25.4 of Zoning By-law 1746:

1. Subsection 5.25.4 ii) which establishes that any accessory building or structure on the north side of Riverside Drive is to be no closer than 12.2 metres (40 feet) from the water's edge of Lake St. Clair;
2. Subsection 5.25.4 iii) which establishes that only one accessory building or structure is permitted in the rear yard with a maximum ground floor area of 9.3 sq m (100.1 sq ft); and
3. Subsection 5.25.4 i) which establishes that an accessory structure on the north side of Riverside Drive shall not be located within 2.5 metres (8.2 feet) of a side lot line.

The Applicant is requesting relief to facilitate the construction of a 14.3-metre (47-foot) by 2.4- metre (8-foot) deck, with an area of 34.9 square metres (376 square feet) and a height of 0.58 metres (23 inches) along the water's edge of Lake St. Clair.

Relief was granted on March 25, 2024 under Application for Minor Variance A-07-24 for a 31.7 square metre (342 square foot) deck with associated steps and glass railing on the north side of the dwelling that is 8.2 metres (27 feet) from the water's edge of Lake St. Clair. Please refer to the sketch below.

The subject property is designated Residential in the Official Plan and zoned Residential Zone 1 (R1) in Zoning By-law 1746.



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:

Is the intent of the Official Plan maintained?

The subject property is designated Residential in the Official Plan. Residential dwellings along with accessory structures are permitted by this designation. Subsection 4.2.2 xi) of the Tecumseh Official Plan establishes that the Town shall include adequate provisions in the Zoning By-law that have the effect of reasonably protecting existing views of Lake St. Clair from residential properties on the north side of Riverside Drive. The neighbours to the east and west would be the primary property owners of concern with respect to maintaining existing views. Due to the fact that the deck will only be 0.58 metres (23 inches) above grade, open to the air and unenclosed, the existing views would be reasonably maintained. Accordingly, it is my opinion that the proposed variance meets the intent of the Official Plan.

Is the intent of the Zoning By-law maintained?

The subject property is zoned Residential Zone 1 (R1) in Zoning By-law 1746.

The intent of the 12.2 metres (40 feet) minimum setback from the water's edge of Lake St. Clair is to ensure that there is sufficient separation between the accessory structure and any potential flooding issues that may result from the movement of Lake St. Clair's water edge/levels.

The intent of the maximum ground floor area of 9.3 square metres (100.1 square foot) for accessory structures is to regulate building massing and to ensure that any accessory structures located in rear yards of properties abutting Lake St. Clair are of a size and scale that will not unduly obstruct views to the Lake. Given that the proposed deck is only 0.58 metres (23 inches) above grade, open to the air and unenclosed, the impact of being closer to Lake St. Clair and being larger than the maximum size for accessory structures than the Zoning By-law permits is mitigated to a reasonable level.

Similar to the provisions noted above, the intent of the 2.5 metre (8.2 foot) setback requirement from a side lot line is to regulate building massing, appropriate setbacks from abutting properties and to ensure that any accessory structures located in rear yards of properties abutting Lake St. Clair are of a size and scale that will not unduly obstruct views to the Lake. As noted above, based on the overall height and design of the deck being proposed at the water's edge, the impact of being closer to the abutting side yard/side lots lines than the Zoning By-law permits is mitigated to a reasonable level.

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

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

Open to the air, unenclosed decks along breakwalls, are common along Lake St. Clair as they enhance the use of one's rear yard space by offering outdoor leisure areas while maintaining views of the lake due to their low profile and open/unenclosed design. However, in order to ensure the protection of existing sight-lines, particularly for views from the neighbouring properties to the east and west, and in accordance with past decisions, the Committee may want to consider adding, as a condition to a favourable decision, that the proposed deck shall be constructed as presented to the Committee (i.e. no railings). Subject to that condition, it is my opinion that the proposed relief is desirable for the appropriate development of the land.

Is the variance requested minor?

Provided the proposed deck is constructed as presented to the Committee, it appears that the views from abutting properties will not be unduly and adversely impacted. Subject to the above-noted proposed condition, it is my opinion that the proposed variance is minor in nature.

Administration/Agency Comments

1. Public Works and Engineering

- No concerns with application.

2. Building Department

- Property owner shall ensure that the proposed deck is constructed in accordance with the Ontario Building Code.

3. Fire Department

- No comments received.

4. Essex Powerlines

- No comments. Outside of service area.

5. Essex Region Conservation Authority

- The above noted lands are subject to our Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Lake St. Clair.
- Our office has issued ERCA Permit 622 – 23. It is the responsibility of the proponent to please inform our office if any changes are made to the approved site plans, as a permit review may be required.
- No objection to application. ERCA Permit 622 - 23 has been issued for this development.

Public Comments

No public comments were received as of time of the writing of this report.

Summary/Recommendation

Subject to the proposed deck being open to the air and unenclosed, it is my opinion that the proposed variance will meet the four tests of the Planning Act.

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.

Recommendation Conditions

That the proposed deck be constructed in accordance with submitted building permit drawings in that it shall have a floor height of no greater than 0.58 metres (23 inches), it shall have no railings and it shall be open to the air/unenclosed.

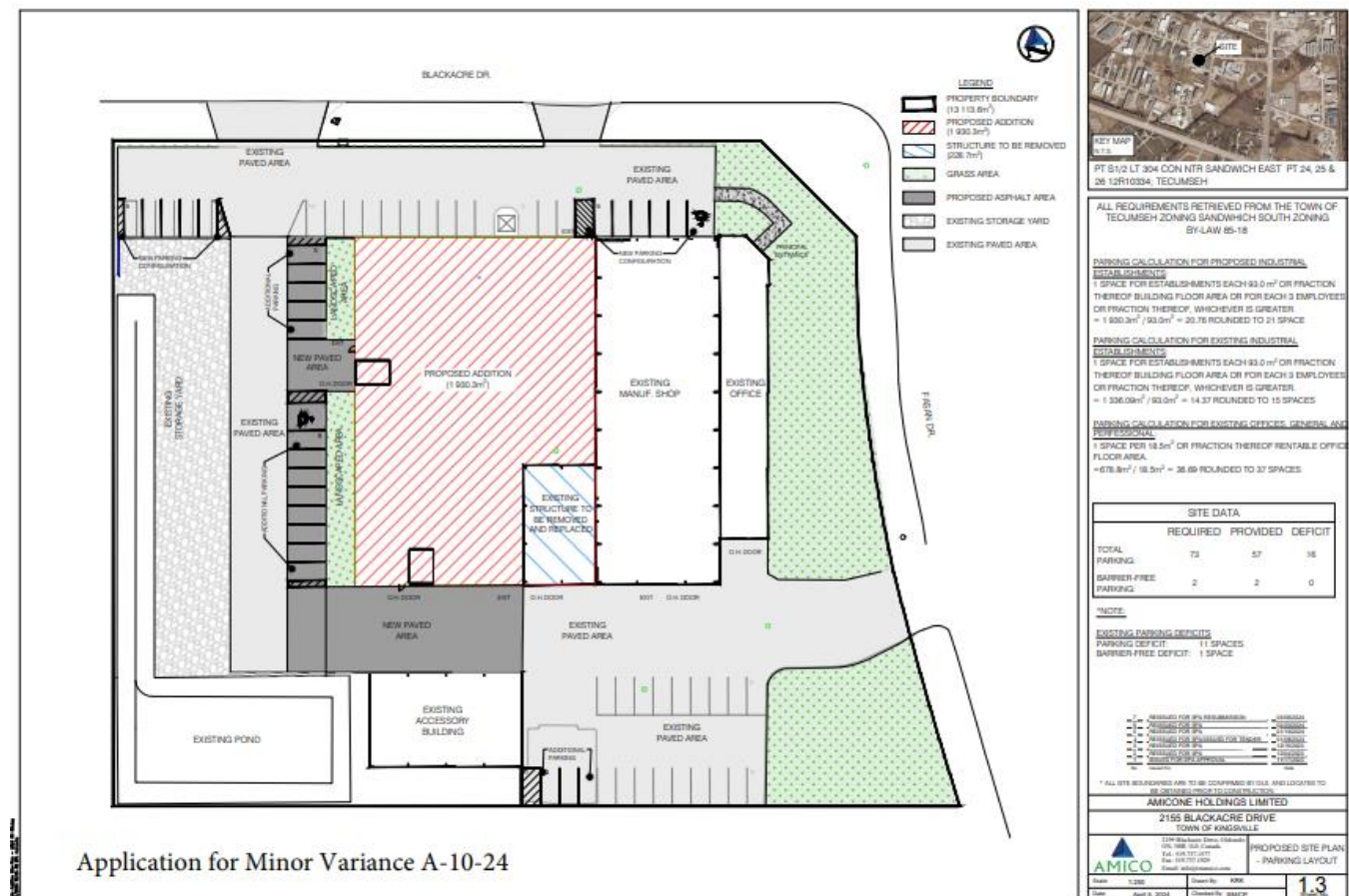
Application: Minor Variance Application A-10-24

Applicant: Amicone Holdings Ltd.

Location of Property: 2155 Blackacre Drive

The purpose of the Application is to obtain relief from Subsection 5.33 viii) which establishes that 73 parking spaces are required for an industrial establishment including 2 barrier free. As a result of the new plant expansion the Applicant is proposing to provide 57 parking spaces including 2 barrier free.

The property is designated Business Park in the Official Plan and zoned Industrial (M1) in Zoning By-law 85-18.



Application for Minor Variance A-10-24

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:

Is the intent of the Official Plan maintained?

The subject property is designated Business Park in the Official Plan. The Business Park designation permits industrial uses and associated accessory structures. The proposed variance, which will facilitate the proposed addition to the existing industrial building meets the intent of the Official Plan.

Is the intent of the Zoning By-law maintained?

The lands are zoned Industrial Zone (M1) in Zoning By-law 85-18.

The intent of the minimum parking requirement provision is to ensure that a development is able to provide sufficient parking spaces for the anticipated number of employees and visitors/clients that will frequent the site. Parking ratios established by the zoning by-law provide parking requirements for a range of uses but are not nuanced enough to account for uses, or a combination of uses, that may not require as many spaces due to the nature and location of the use/operation. Based on the area of the existing buildings and the proposed addition, 73 parking spaces would be required, two of which are to be barrier free spaces.

The applicant has advised the Town that during the normal course of business activities the new industrial operation will employ (post expansion) between 35-40 employees. In addition, it is Administration's understanding that the site will not have shift-work which would cause an overlap in employees arriving and leaving. Accordingly, the proposed development which will provide 57 parking spaces (two of which being barrier free space) can adequately accommodate the anticipated employees and any potential visitors/clients. All other zoning requirements established by the M1 zone will be complied with.

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

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

Administration has reviewed the site plan depicting the proposed addition and does not have any concerns with the layout or the related on-site works. The proposed development on the property will result in a reasonable and acceptable level of industrial intensification that will result in employment opportunities without compromising the objectives of the Official Plan policies and zoning provisions. Further, the reduction of parking spaces will not adversely impact the usability of the site. Prior to any additional development occurring on the property, the approval of a site plan control agreement will be required. Based on the foregoing, it is my

opinion that the proposed relief will result in development that represents an appropriate use of the land.

Is the variance requested minor?

Provided the Committee is satisfied that the reduced amount of parking can accommodate the needs of the industrial establishment and proposed addition, no undue adverse impact is anticipated as a result of the proposed relief. It is therefore my opinion that the proposed variance is minor in nature.

Administration/Agency Comments

1. Public Works and Engineering

- PWES has no comments regarding the requested minor variance.
- PWES continues to work with the owner and its consultants regarding site servicing and stormwater management as part of the Site Plan Control process in relation to the construction of the new building and parking areas at this address. Revised plans and SWM report that capture the proposed amendments must be submitted to PWES for review and approval.

2. Building Department

- No comments.

3. Fire Department

- No comments received.

4. Essex Powerlines

- No comments. Outside of service area.

5. Essex Region Conservation Authority

- The this is not located within a regulated area that is under the jurisdiction of the ERCA (Ontario Regulation 41/24 under 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.
- No objection to application.

Public Comments

No public comments were received as of time of the writing of this report.

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.

Recommendation Conditions

None.

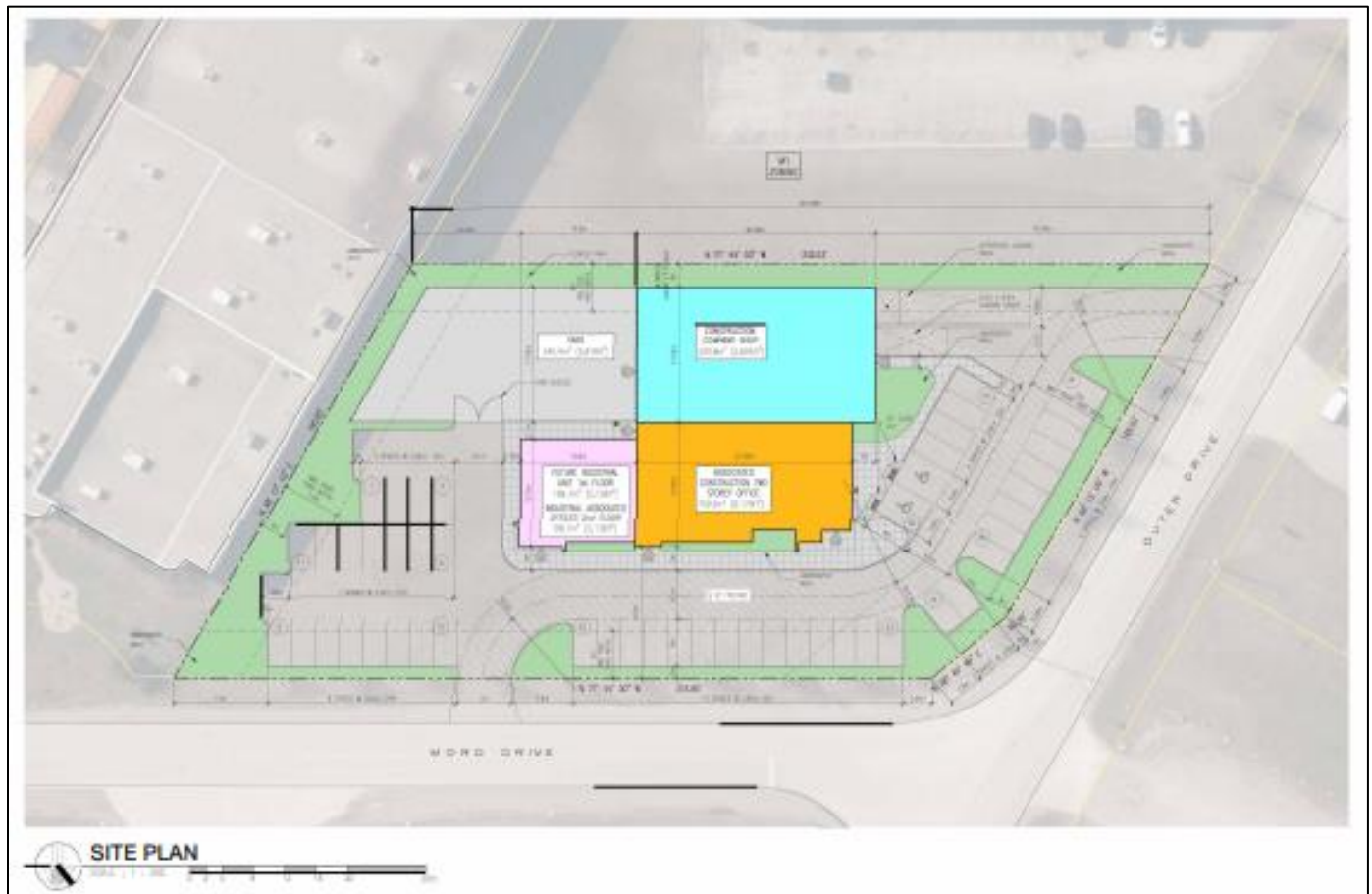
Application:	Minor Variance Application A-11-24
Applicant:	1965461 Ontario Ltd.
Location of Property:	5330 Outer Drive

The purpose of the Application is to request relief from the following subsections of Zoning By-law 85-18:

1. Subsection 5.33 establishes that 60 parking spaces are required including 2 barrier free;
2. Subsection 14.1.9 c) establishes a minimum side yard width of 6.0 metres (19.68 feet); and
3. Subsection 14.1.16 establishes that a maximum of six (6) visitor's parking spaces shall be permitted in the front yard.

The proposed construction of an industrial shop and associated office space will result in a southerly side yard width of 3.0 metres (9.8 feet), a total of 50 parking spaces including 2 barrier free with 18 of the parking spaces to be located in the front yard.

The property is designated Business Park in the Official Plan and zoned Industrial (M1) in Zoning By-law 85-18.



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:

Is the intent of the Official Plan maintained?

The subject property is designated Business Park in the Official Plan. The Business Park designation permits industrial uses and associated accessory structures. The proposed variance, which will facilitate the construction of a new industrial development on a vacant industrial property, meets the intent of the Official Plan.

Is the intent of the Zoning By-law maintained?

The lands are zoned Industrial Zone (M1) in Zoning By-law 85-18.

The intent of the minimum parking requirement provision is to ensure that a development is able to provide sufficient parking spaces for the anticipated number of employees and visitors/clients that will frequent the site. Parking ratios established by the zoning by-law provide parking requirements for a range of uses but are not nuanced enough to account for uses, or a combination of uses, that may not require as many spaces due to the nature and

location of the use/operation. Based on the area of the existing buildings and the proposed addition, 60 parking spaces would be required, two of which are to be barrier free spaces.

The applicant has advised the Town that the design of the new building includes boardrooms, a lobby area, a lunchroom and a records storage area for the proposed construction company that would not generate parking needs for the site. In addition, during the normal course of business activities, the applicant has advised that site will employ at most 28 employees. Accordingly, the proposed development which will provide 50 parking spaces (two of which being barrier free space) can adequately accommodate the anticipated employees and any potential visitors/clients.

The intent of establishing a limit of six parking spaces within the front yard of a property is in part due to the fact that the Oldcastle Hamlet industrial area was historically developed with on-site private septic facilities which were typically located in the front yard. Limiting parking in the front yard allowed for sufficient area for landscaping and the on-site septic field. The subject property is serviced by municipal sanitary sewers, and thus does not have an on-site septic system.

The intent of the 6.0 metre (19.69 foot) minimum side yard width provision is to ensure that there is sufficient separation for a structure from its respective side lot lines to allow for rear yard access and exterior maintenance. The applicant has advised that the proposed side yard width of 3.0 metres (10 feet) is to facilitate the construction of the warehousing component of the proposed industrial facility that will have a more functional layout for operations while still maintaining a viable office layout and overall improved site design/layout. In addition, the property is a corner lot so access through the rear yard and through the opposite side yard will continue to provide adequate access to all yards and for maintenance on both sides of the building.

All other zoning requirements established by the M1 zone will be complied with.

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

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

Administration has reviewed the site plan depicting the proposed addition and does not have any concerns with the layout or the related on-site works. The proposed development on the property will result in a reasonable and acceptable level of industrial intensification that will result in employment opportunities without compromising the objectives of the Official Plan policies and zoning provisions. Further, the proposed variances from the M1 zone requirements will not adversely impact the usability of the site. Prior to any development occurring on the property, the approval of a site plan control agreement will be required.

Based on the foregoing, it is my opinion that the proposed relief will result in development that represents an appropriate use of the land.

Is the variance requested minor?

Administration has reviewed the site plan depicting the proposed addition and does not have any concerns with the layout or the related on-site works. Further, no undue adverse impact is anticipated for abutting industrial properties based on the proposed development. It is therefore my opinion that the proposed variance is minor in nature.

Administration/Agency Comments

1. Public Works and Engineering

- PWES has no comments regarding the requested minor variance.
- PWES continues to work with the owner and its consultants regarding site servicing and stormwater management as part of the Site Plan Control process in relation to the construction of the new building and parking areas at this address. Revised plans and SWM report that capture the proposed amendments must be submitted to PWES for review and approval.

2. Building Department

- The reduced side yard setback will be subject to construction and limiting distance requirements of the Ontario Building Code. The property owners are currently in the site plan control process, in which Building Department will be able to further dictate these requirements.

3. Fire Department

- No comments received.

4. Essex Region Conservation Authority

- The above this site is not located within a regulated area that is under the jurisdiction of the ERCA (Ontario Regulation 41/24 under the Conservation Authorities Act). However, a Development Review Clearance may be required. Please continue to circulate our office with the details of the stormwater management plan for this development when they become available.
- No objection to application.

5. Essex Powerlines

- No concerns. Outside of service area.

Public Comments

No public comments were received as of time of the writing of this report.

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.

Recommendation Conditions

None.