

# Municipality of Lakeshore

## Committee of Adjustment Meeting Agenda

Wednesday, October 20, 2021, 6:00 PM

Electronically hosted from Council Chambers, 419 Notre Dame Street, Belle River

Pages

1. Call to Order
2. Disclosures of Pecuniary Interest
3. Public Meetings under the Planning Act

- a. Minor Variance Application A/36/2021, 453 Lakeview Drive

4

The applicant is seeking relief from Lakeshore Zoning By-law 2-2012 to permit an accessory building for the following relief:

- Relief from Section 6.5 a) ix) to permit a maximum gross floor area of 156.08 m<sup>2</sup>
- Relief from Section 6.5 a) xi) to permit a maximum height of 6.4 metres
- Relief from Section 6.5 a) v) to permit a minimum front yard setback of 4.57 metres
- Relief from Section 6.41.4 a) to permit a driveway for a residential use to have a minimum length of 4.57 metres

### **Recommendation:**

Refuse Minor Variance Application A/36/2021 – 453 Lakeview Drive.

- b. Combined Minor Variance & Consent Application B/39/A/37/2021, 0 Ellis Sideroad

13

The applicant is applying to sever a lot addition from the subject property – consisting of an overall area of approximately 4410.87 m<sup>2</sup> (1.09 acres) – to be added to a neighbouring property zoned CR.

A minor variance is required to recognize the new lot frontage (70 feet, 21.33 metres) of the property receiving the lot addition following the severance.

**Recommendation:****Approve Combined Minor Variance & Consent Application**

B/39/A/37/2021 – 0 Ellis Sideroad, subject to the following conditions of consent:

1. The applicant must obtain a proper Survey and Reference Plan from an Ontario Land Surveyor for the severed parcel of land to the satisfaction of the Municipality;
2. All municipal taxes must be paid in full prior to the stamping of the Deed;
3. If required, the applicant must enter into an Agreement with the Municipality prior to the stamping of the Deed regarding the apportionment of any current or future local improvements or drainage charges levied against the subject property;
4. The existing driveway/approach must be extended along the frontage of the severed/lot addition parcel and retained parcel so that it is sufficient to provide exclusive access from Ellis Sideroad to the parcel receiving the lot addition and to the retained parcel, to the satisfaction of the Municipality;
5. The Deed for the lot addition be prepared and a copy be forwarded to the Secretary for stamping;
6. Section 50(3) and (5) of The Planning Act shall apply to the severance and that the lot addition lands shall be conveyed and merged to PIN: 750170076;
7. The Applicant must produce a Deed and/or a Solicitor's Undertaking to the Secretary prior to the stamping of the severance Deed, in evidence that the severed parcel and the abutting parcel will be registered in the same name(s) in satisfaction that all parcels will merge;
8. The Applicant and/or a Solicitor must provide an Undertaking to the Secretary prior to the stamping of the severance Deed(s), in evidence that "Application to consolidate Pins" will be submitted to the Land Titles/ Registry Office for the lot addition and provide proof of the consolidation; and
9. All conditions must be met in accordance with Section 53(41) of the Planning Act, R.S.O. by **October 22, 2022**. Failure to fulfil the conditions by this date, shall deem the consent refused, as per The Planning Act.

**4. Completion of Unfinished Business**

**5. Approval of Previous Meeting Minutes**

**Recommendation:**

Approve minutes of the previous meeting as listed on the agenda.

- a. September 15, 2021 Meeting Minutes

**6. New Business**

**7. Adjournment**

**Recommendation:**

The Committee of Adjustment adjourn its meeting at \_\_\_\_ PM.

# Municipality of Lakeshore Committee of Adjustment Report

## Growth & Sustainability

### Community Planning



**To:** Chair & Members of Committee of Adjustment

**From:** Ian Search, Planner I

**Date:** October 8, 2021

**Subject:** Minor Variance Application A/36/2021 – 453 Lakeview Drive (Community of Belle River)

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### Recommendation

It is the Planner's recommendation that the Committee refuse the minor variance. If the Committee decides to approve the minor variance, they are advised to impose the following conditions on approval:

- 1) That plumbing fixtures will not be permitted in the accessory building until there is sanitary capacity to treat additional sewage flows, to the satisfaction of Building Services;
- 2) That relief from Section 6.5 a) xi) is restricted to the roof type depicted in the drawing entitled "Elevations" submitted with the minor variance application, to the satisfaction of Building Services;
- 3) That, in the absence of a zoning by-law amendment permitting otherwise, the accessory building will not contain a Dwelling Unit as defined in the Zoning By-law, to the satisfaction of Building Services;
- 4) That, in the absence of a zoning by-law amendment permitting otherwise, the accessory building will not contain a Home Industry as defined in the Zoning By-law.

### Background

The applicant is seeking relief from Lakeshore Zoning By-law 2-2012 to permit an accessory building for the following relief:

- Relief from Section 6.5 a) ix) to permit a maximum gross floor area of 156.08 m<sup>2</sup>
- Relief from Section 6.5 a) xi) to permit a maximum height of 6.4 metres
- Relief from Section 6.5 a) v) to permit a minimum front yard setback of 4.57 metres
- Relief from Section 6.41.4 a) to permit a driveway for a residential use to have a minimum length of 4.57 metres

**Section 6.5 a) ix) limits accessory buildings to not exceed a gross floor area of 55.0 m<sup>2</sup>, for each accessory building on a lot in an R1, R2, R3, RW1, RW2, RM or HR zone;**

**Section 6.5 a) xi) restricts accessory buildings to not exceed a height of 5 metres unless within an Agriculture Zone**

**Section 6.5 a) v) requires an accessory building in the RW2 zone to have a minimum front yard setback of 6 metres where a garage door faces the street.**

**Section 6.41.4 a) requires a driveway for a residential use to have a minimum length of 6 metres**

The applicant has indicated that the reason for the minor variance is to permit a new accessory building on the subject property that will be used for a workshop, storage, and parking of vehicles. The building will also include a second floor hobby room with a deck.

Location:

The subject property is a 1456.87 m<sup>2</sup> (0.36 acre) residential waterfront property located north of the VIA Rail Canada Inc. right-of-way, west of Ducharme Street, on the north side of Lakeview Drive, in the Community of Belle River (See Attachment 'A').

Official Plan:

The property is designated Residential in the Official Plan. It is also designated Lake St. Clair Shoreline Floodprone Area towards the rear of the property, and is located within the Essex Region Conservation Authority (ERCA) Limit of Regulated Area.

Zoning:

The property is zoned Residential Waterfront – Lake St. Clair (RW2).

### **Comments**

Section 45(1) of the *Planning Act* gives the authority of granting minor relief from the provisions of the Zoning By-law to the Committee of Adjustment. Such relief can only be granted if the Minor Variance passes four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

#### **Section 6.5 a) ix) and xi)**

The purpose of the regulations limiting the gross floor area and height of an accessory building is to ensure the massing of these buildings are compatible with the area. The majority of accessory buildings in the immediate area – within 200 metres east and west of the subject property – are single storey accessory buildings.

There is an existing accessory building located two properties west of the subject property at 461 Lakeview Drive that appears to have a building footprint size of approximately 140 m<sup>2</sup> in addition to a loft. The measurement of building footprint size was estimated using an interactive mapping system. While this is an example of a relatively large accessory building in the immediate area, it is an exception given that the building footprint size of other accessory buildings in the immediate area do not appear to exceed 70 m<sup>2</sup>.

The proposed accessory building will have an overall gross floor area of 156.08 m<sup>2</sup> – with the main floor contributing 83.61 m<sup>2</sup>, and a proposed second storey contributing an additional 72.46 m<sup>2</sup>. It is the Planner's opinion that the proposed accessory building, mainly due to the second storey, is not compatible with the general massing characteristics of accessory buildings in the area. For this reason, it also struggles to maintain the general intent of Community Design policies in the Official Plan. Section 4.2.1 b) i) states that the Municipality will ensure that new development is designed in keeping with the traditional character of the Settlement Areas in a manner that both preserves their traditional community image and enhances their sense of place within the Municipality.

It is important to note that the regulation restricting accessory buildings to not exceed a gross floor area of 55.0 m<sup>2</sup> was introduced in the Zoning By-law adopted by Council in 2012. In addition to virtually every accessory building in the immediate area being considerably smaller than the proposed building, there are no building permit records to suggest that any of these existing accessory buildings were constructed with a permit after 2012. Additionally, the Belle River Zoning By-law adopted by Council in March 1990 did not include a regulation limiting the massing of accessory buildings based on gross floor area. The intention of the provision in the Zoning By-law today is to curb further development of accessory buildings with excessive gross floor area that, if allowed to continue to develop, can fundamentally change neighbourhood character.

There may be issues of appropriateness with the proposal, particularly with respect to the requested height relief. According to the applicant, the second storey will be used as a hobby room. The Committee should question why a hobby room needs to be accommodated as a second storey in an accessory building rather than as a building addition or renovation to the main dwelling.

The definition of “accessory” in the Zoning By-law should also be considered, which describes an accessory building as subordinate to a main building. While the main building is depicted as 1169 ft<sup>2</sup> on the site plan in addition to having some loft space, it appears the massing of the proposed two storey accessory building will exceed that of the main building.

The subject property is designated Lake St. Clair Shoreline Floodprone Area towards the rear of the property, and is located within the Essex Region Conservation Authority (ERCA) Limit of Regulated Area. Lands within the Lake St. Clair Shoreline Floodprone Area are areas that have been identified as being susceptible to flooding. ERCA was circulated the proposal for comment.

#### Section 6.5 a) v) & 6.41.4 a)

The applicant is also seeking relief to permit a minimum front yard setback of 4.57 metres for the accessory building. Furthermore, a proposed driveway providing access to the accessory building from the Lakeview Drive right-of-way will have a length of 4.57 metres. The purpose of the regulations requiring a minimum front yard setback of 6 metres where

a garage door faces the street, and a minimum length of 6 metres for a driveway, is to ensure that the driveway providing access to the accessory building can support the length of a vehicle without encroaching into the right-of-way, and to separate the use from the travelled portion of the road allowance.

The Engineering Department was circulated the proposal for comment, and to assess the impact of permitting a reduced setback from this particular road allowance. There are numerous accessory buildings in the immediate area with deficient front yard setbacks and driveways. It is therefore the opinion of the Planner that granting the reduced front yard setback and driveway length for an accessory building in this area would not disrupt uniformity of appearance and would maintain existing standards. However, it appears based on the site plan that the accessory building can comfortably meet the required setback and still provide adequate separation from the main dwelling. Moreover, the appearance of the streetscape would benefit from an accessory building with these proposed massing characteristics to at least meet minimum setback requirements. A driveway should meet the minimum length requirement to support a vehicle where this can be accommodated without hardship.

Based on the foregoing, it is the Planner's recommendation that the Committee refuse the minor variance. If the Committee decides to approve the minor variance, they are advised to impose the following conditions on approval:

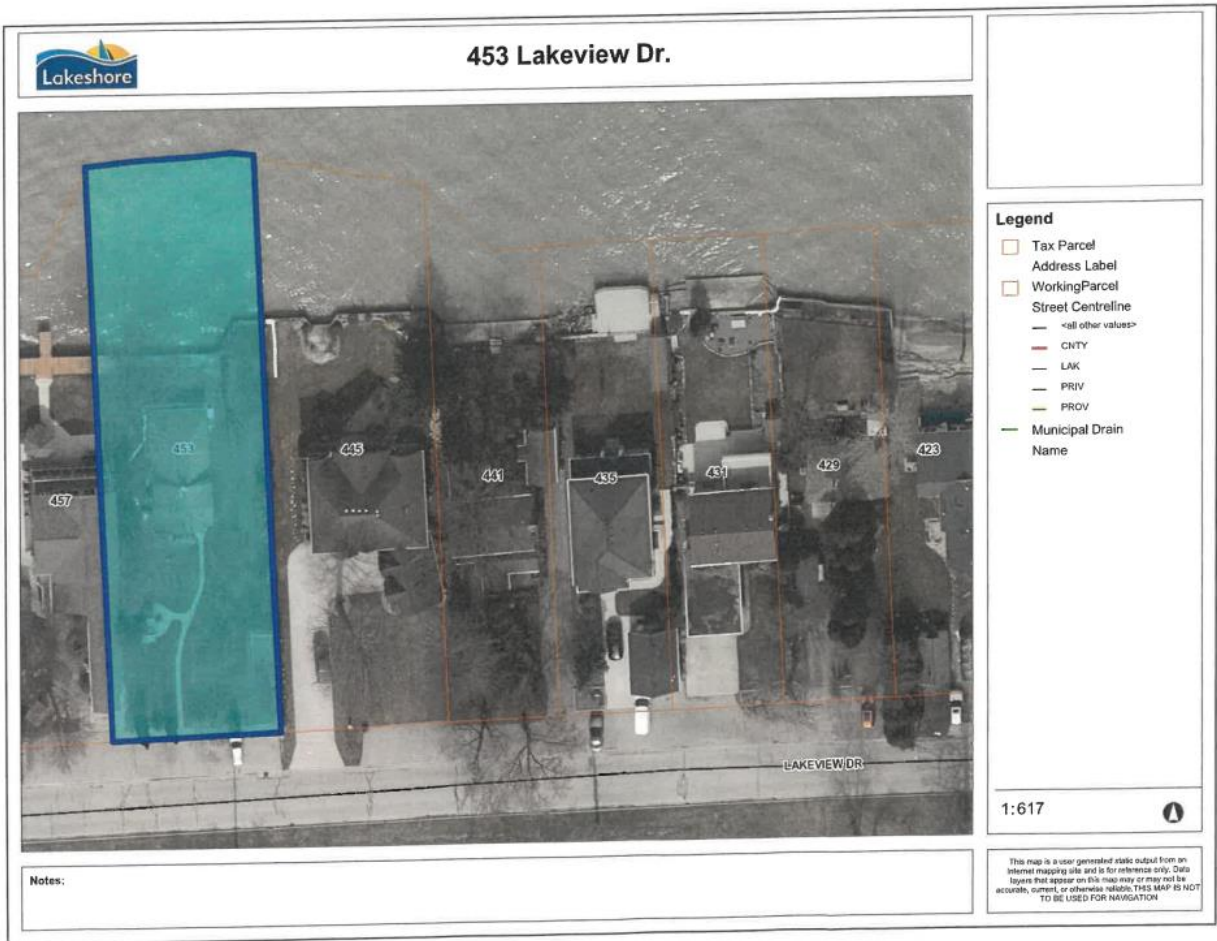
- 1) That plumbing fixtures will not be permitted in the accessory building until there is sanitary capacity to treat additional sewage flows, to the satisfaction of Building Services;
- 2) That relief from Section 6.5 a) xi) is restricted to the roof type depicted in the drawing entitled "Elevations" submitted with the minor variance application, to the satisfaction of Building Services;
- 3) That, in the absence of a zoning by-law amendment permitting otherwise, the accessory building will not contain a Dwelling Unit as defined in the Zoning By-law, to the satisfaction of Building Services;
- 4) That, in the absence of a zoning by-law amendment permitting otherwise, the accessory building will not contain a Home Industry as defined in the Zoning By-law.

**Prepared by:**

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Ian Search, BES  
Planner I

**Attachment “A” – Key Plan**

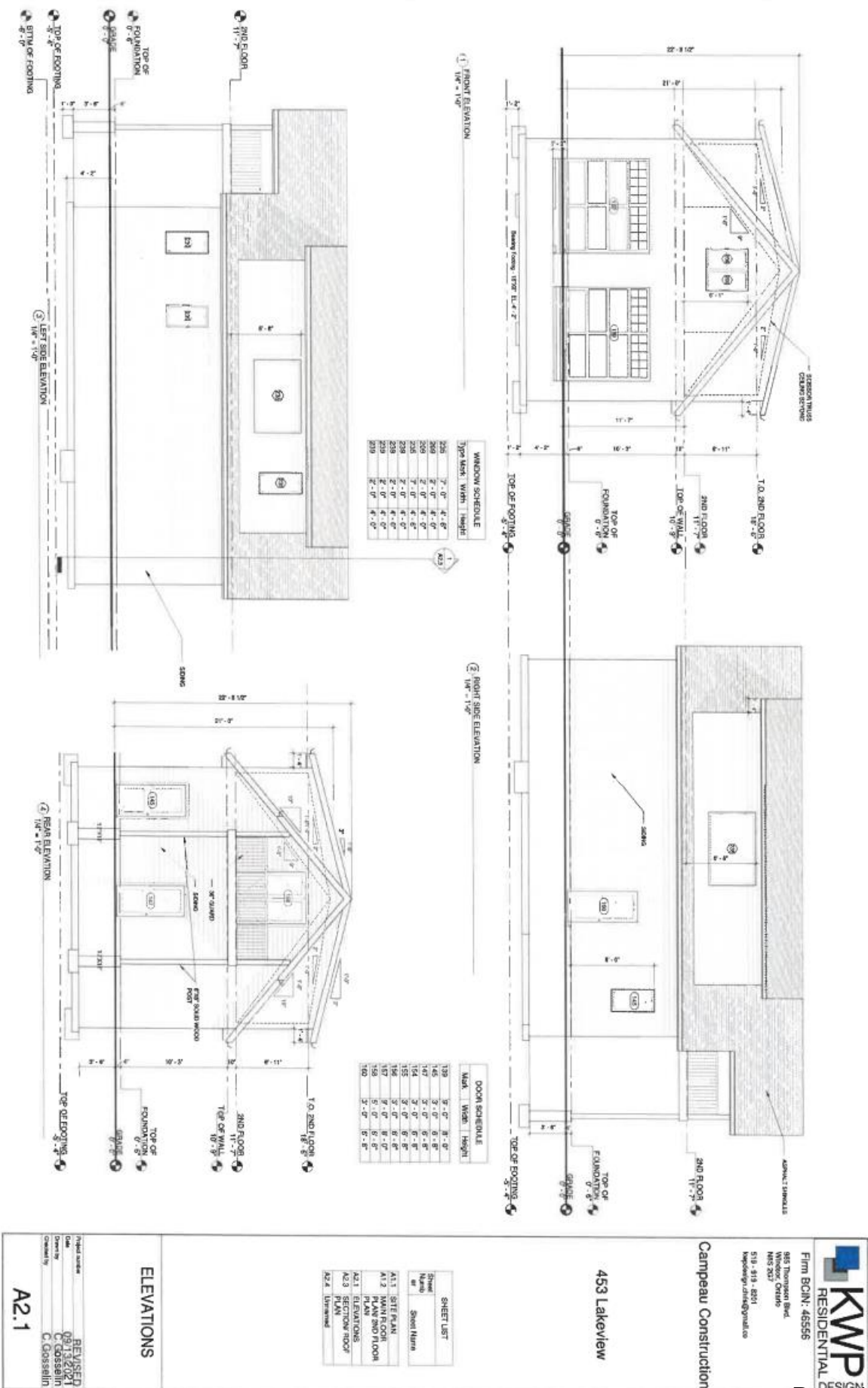


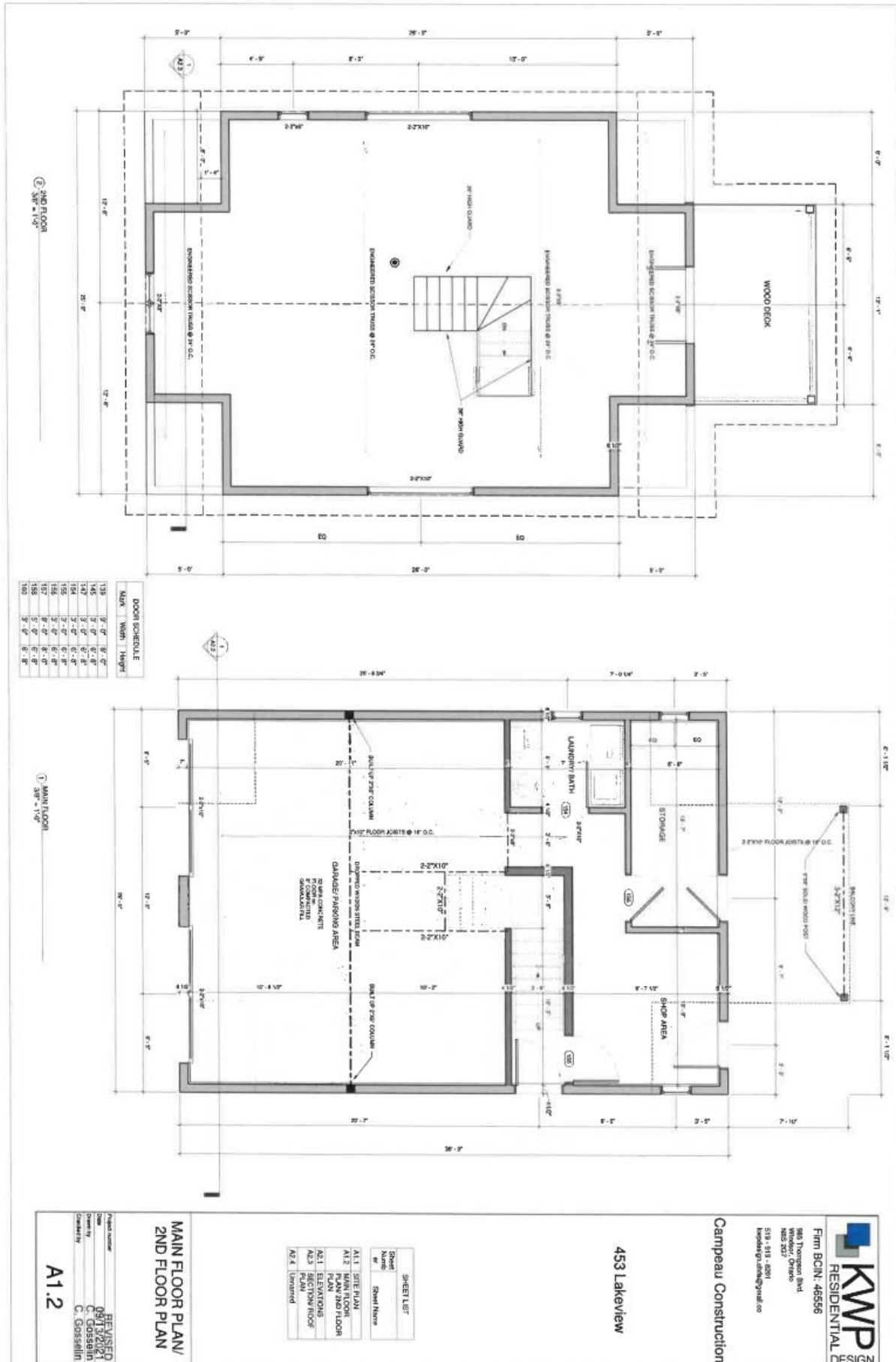


**Attachment “B” – Site Plan & Elevations**



② SITE PLAN  
1/16" = 1'-0"





### Report Approval Details

Document Title:	A-36-2021 Report.docx
Attachments:	
Final Approval Date:	Oct 18, 2021

This report and all of its attachments were approved and signed as outlined below:

Aaron Hair

# Municipality of Lakeshore Committee of Adjustment Report



## Growth & Sustainability

### Community Planning

**To:** Chair & Members of Committee of Adjustment

**From:** Ian Search, Planner I

**Date:** October 9, 2021

**Subject:** Combined Minor Variance & Consent Application B/39/A/37/2021 – 0 Ellis Sideroad (Con STR Part of Lot 287 Part 2 12R18936, PIN: 750170071)

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### Recommendation

If the Committee decides to approve consent (B/39/2021), they are advised that the proposed consent would be consistent with the Provincial Policy Statement (PPS), conforms to the Lakeshore Official Plan, subject to the following conditions of consent:

- 1) That the applicant obtain a proper Survey and Reference Plan from an Ontario Land Surveyor for the severed parcel of land to the satisfaction of the Municipality;
- 2) That all municipal taxes be paid in full prior to the stamping of the Deed;
- 3) That, if required, the applicant enter into an Agreement with the municipality prior to the stamping of the Deed regarding the apportionment of any current or future local improvements or drainage charges levied against the subject property;
- 4) That the existing driveway/approach is extended along the frontage of the severed/lot addition parcel and retained parcel so that it is sufficient to provide exclusive access from Ellis Sideroad to the parcel receiving the lot addition and to the retained parcel, to the satisfaction of the Municipality;
- 5) That the Deed for the lot addition be prepared and a copy for our records be forwarded to the Secretary for stamping;
- 6) That Section 50(3) and (5) of The Planning Act shall apply to the severance and that the lot addition lands shall be conveyed and merged to PIN: 750170076;
- 7) That the applicant produce a Deed and/or a Solicitor's Undertaking to the Secretary prior to the stamping of the severance Deed, in evidence that the severed parcel and the abutting parcel will be registered in the same name(s) in satisfaction that all parcels will merge;
- 8) That the applicant/ and or a Solicitor provide an Undertaking to the Secretary prior to the stamping of the severance Deed(s), in evidence that "Application to consolidate Pins" will be submitted to the Land Titles/ Registry Office for the lot addition and provide proof of the consolidation;
- 9) That all conditions be met in accordance with Section 53(41) of the Planning Act, R.S.O. by **October 22, 2022**. Failure to fulfil the conditions by this date, shall deem the consent refused, as per The Planning Act.

If comments received from other departments and agencies suggest no outstanding issues or concerns from their perspective, then it is recommended that the requested minor variance (A/37/2021) meets the following four tests prescribed under Section 45 (1) of the *Planning Act*.

- i. The variance would be “minor” in nature.
- ii. It would be desirable for the appropriate development or use of the land, building or structure.
- iii. It would maintain the general intent and purpose of the Official Plan.
- iv. It would maintain the general intent and purpose of the Zoning By-law.

## **Background**

The subject property is zoned Rural Commercial/Employment (CR), and is located on the south side of Ellis Sideroad in the Community of Maidstone. The subject property has 318.5 metres of frontage and an overall area of 16.99 acres (6.87 hectares). The applicant is applying to sever a lot addition from the subject property – consisting of an overall area of approximately 4410.87 m<sup>2</sup> (1.09 acres) – to be added to a neighbouring property zoned CR (Con STR Part of Lot 287 Part 1 12R18015, Part 2 12R19474, PIN: 750170076). The retained land, will have a frontage of approximately 297.38 metres and an overall area of approximately 15.9 acres.

A minor variance is required to recognize the new lot frontage (70 feet, 21.33 metres) of the property receiving the lot addition following the severance. A minimum lot frontage of 30 metres is required in the CR zone, whereas the property receiving the lot addition will have a new lot frontage of 21.33 metres.

### **Location:**

The subject property is a 16.99 acre rural commercial/employment lot located north of Highway 3, west of Naylor Sideroad (County Road 23), on the south side of Ellis Sideroad in the Community of Maidstone (See Attachment ‘A’).

## **Comments**

The subject property, located in the Essex Fringe Settlement Area, is zoned Rural Commercial/Employment (CR) in the Zoning By-law and designated Urban Fringe in the Official Plan. Section 8.3.5.2 of the Lakeshore Official Plan permits a consent for technical or legal purposes where a separate lot is not being created, such as a lot addition or boundary adjustment. In this case the proposed lot addition land will be added to a neighbouring property that is also zoned CR and located northeast of the subject property on County Road 34 (Talbot Road).

The Committee should confirm with the applicant that the purpose of the lot addition is to provide access from Ellis Sideroad for the parcel receiving the lot addition – which currently only has frontage on County Road 34 (Talbot Road). If the Committee decides to approve this boundary adjustment, the existing driveway/approach should be extended along the frontage of the severed/lot addition parcel and retained parcel so that it is

sufficient to provide exclusive access from Ellis Sideroad to the parcel receiving the lot addition and to the retained parcel, to the satisfaction of the Municipality. Engineering Services was circulated the proposal for comment. In addition, the County of Essex was circulated the proposal since the parcel receiving the lot addition currently has frontage on a county road.

Under the Zoning By-law, the parcel receiving the lot addition will become a corner lot as it will abut upon two or more streets. In the case of a corner lot, the shortest lot line that abuts a street is deemed to be the front lot line. Therefore, a minor variance is required to recognize the new lot frontage of the parcel receiving the lot addition following the severance. The purpose of the minimum lot frontage provision is to ensure sufficient width of a lot for development, and to ensure that access is provided for all municipal services including driveways.

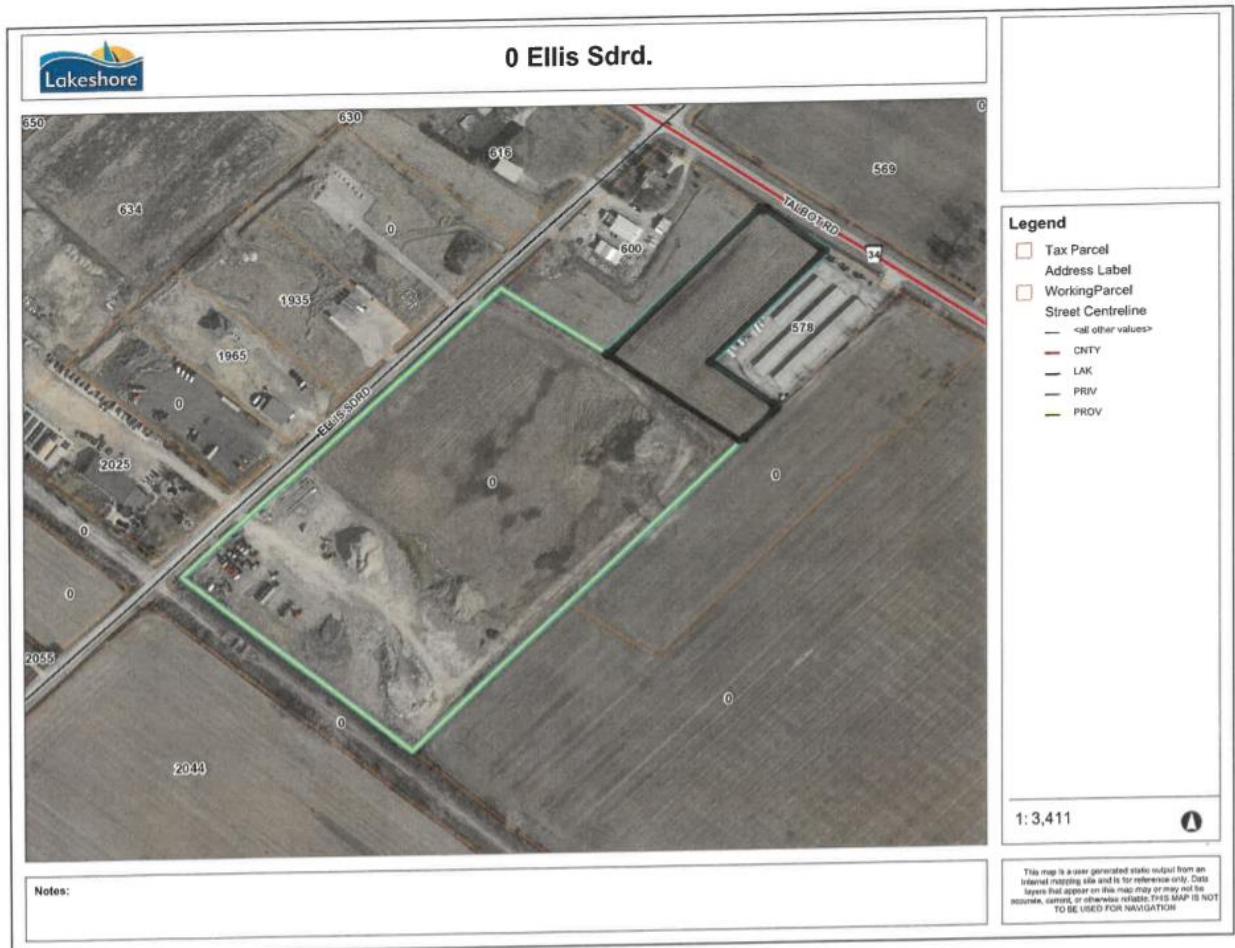
A minimum lot frontage of 30 metres is required in the CR zone, whereas this parcel will have a new lot frontage of 21.33 metres on Ellis Sideroad. According to the site plan, the parcel receiving the lot addition is irregular and has 60.96 metres (200 feet) of frontage on County Road 34 (Talbot Road). This parcel is already sufficient for development in terms of area and shape, and it appears the purpose of the lot addition is to provide access to the future development of the parcel from Ellis Sideroad. The applicant has indicated Service Trade Establishment as the proposed use in the application.

**SERVICE TRADE ESTABLISHMENT** – shall mean an establishment where an individual who performs electrical, plumbing, carpentry or other similar trade work, primarily off-site, may store materials and may have an accessory office.

The Municipality will be able to review and process future development of the land through site plan control. This includes reviewing plans showing the location of all buildings and structures to be erected, and showing the location of various facilities and works to ensure compatibility with adjacent uses. The minor variance is considered minor if Engineering Services and the County of Essex are satisfied that the proposal will not result in traffic hazards, and County and municipal transportation objectives and standards can be maintained.

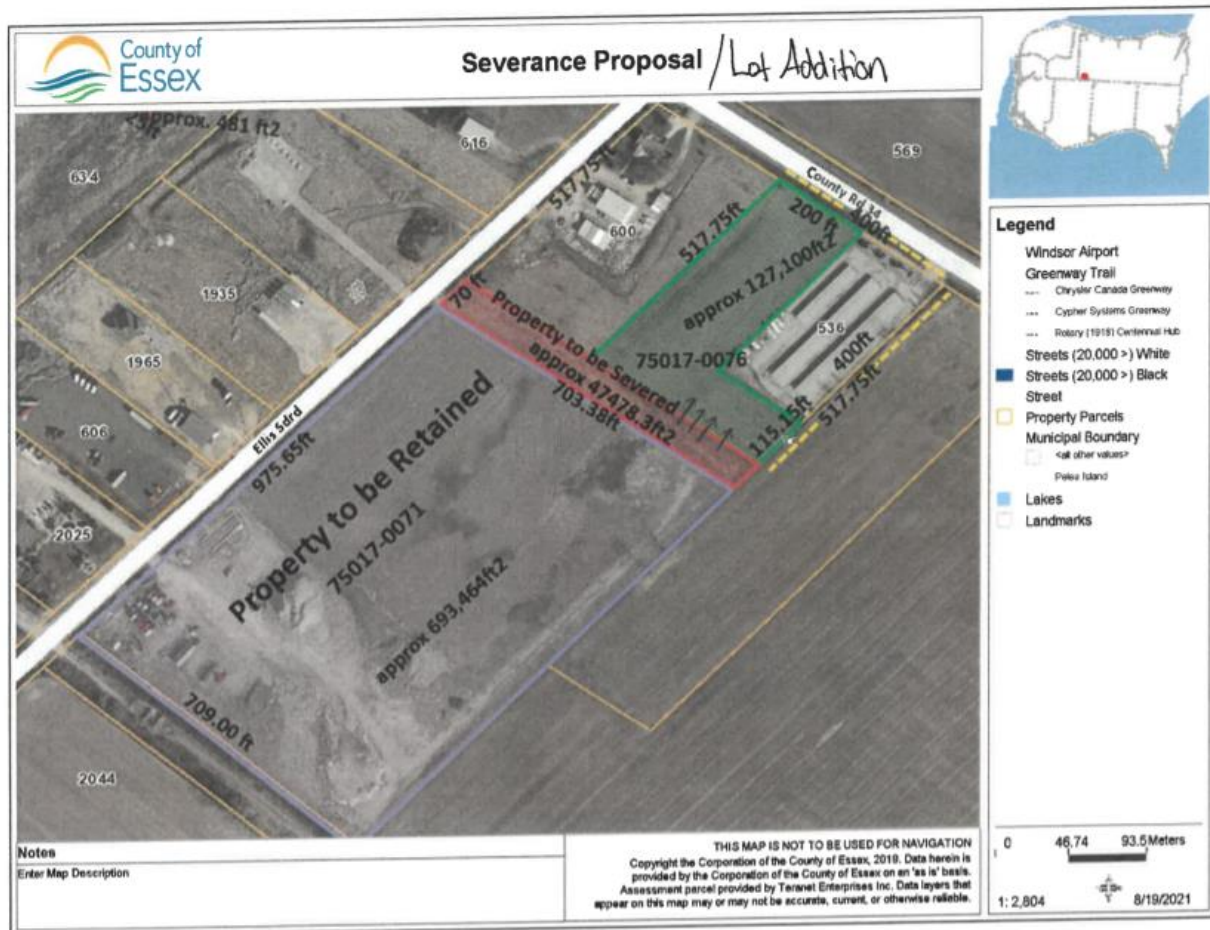


## Attachment “A” – Key Plan





## Attachment “B” – Site Plan



### Report Approval Details

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This report and all of its attachments were approved and signed as outlined below:

Aaron Hair