

# **Municipality of Lakeshore Committee of Adjustment Report**

## **Growth & Sustainability**

### **Community Planning**



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

**From:** Ian Search, BES, Planner I

**Date:** June 7, 2023

**Subject:** Minor Variance Application A/20/2023 – 248 Notre Dame Street

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### **Recommendation**

Approve minor variance application A-20-2023 to permit a new accessory building at 248 Notre Dame Street, to have a gross floor area of 78.04 m<sup>2</sup>, subject to the following conditions:

- 1) The accessory building will be constructed a minimum 3.048 metres (10 feet) from the interior side lot line and a minimum 3.657 metres (12 feet) from the rear lot line;
- 2) Prior to building permit issuance, the applicant will submit, to the satisfaction of Community Planning, a new site plan drawing that illustrates the driveway/approach to the new accessory building and provides information regarding the minimum landscaped open space on the lot;
- 3) Prior to building permit issuance, the applicant will submit a grading plan to the satisfaction of Building Services if deemed required by Building Services.

### **Proposal**

The applicant is proposing a new accessory building on the lot and is seeking the following relief from Lakeshore Zoning By-law 2-2012:

- Section 6.5 a) ix) to permit an accessory building to have a gross floor area of 78.04 m<sup>2</sup>, whereas the by-law permits a maximum gross floor area of 55 m<sup>2</sup>.

The new accessory building is proposed to replace an existing accessory building located in the southwest corner of the lot. The application indicates that it will be used for the storage of old cars and other personal belongings.

## **Summary**

### Location

The subject property has a lot area of approximately 0.525 acres and 23.47 metres of frontage on Notre Dame Street. The subject property is located on the south side of Notre Dame Street, east of Eleventh Street, in the Community of Belle River.

### Surrounding Land Uses

There are residential dwelling lots surrounding the subject property. Directly south of the property appears to be land zoned Residential – Low Density (R1) but is used to support solar panels as part of a renewable energy project.

### Official Plan

The subject property is designated “Residential” and “Inland Floodplain Development Control Area” in the Lakeshore Official Plan and is also located within the Essex Region Conservation Authority (ERCA) regulated area.

### Zoning

The subject property is zoned “Residential – Low Density” (R1) in the Lakeshore Zoning By-law 2-2012.

## **Planning Act 45(1)**

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 all four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

### Official Plan

The Residential Designation policies of Section 6.6 permit single detached dwellings and uses accessory to this housing form such as detached accessory buildings. The designation is expected to accommodate attractive neighbourhoods, and Community Design policies of Section 4.2.1 of the Official Plan state that the Municipality will seek to maintain and improve the physical design characteristics of Settlement Areas in the context of new and existing development. Generally, high quality community design and built form will be stressed.

The minor variance maintains the general intent and purpose of these Official Plan policies. According to the site plan drawing, the accessory building will be located 3.048 metres (10 feet) from the interior side lot line and 3.657 metres (12 feet) from the rear lot line. Only a 1.5 metre (5 feet) setback from these lot lines is required. The increased setbacks provide an additional buffer from neighbouring properties. In addition, the

height of the building will be 4.572 metres (15 feet) according to the elevation drawings, which is less than the maximum permitted height of 5 metres (16.4 feet).

This proposal is not a case of overdevelopment of a lot as the resulting total lot coverage will be 19.10%, which is far less than the maximum 35% that is permitted. Lastly, the proposed building replaces an existing accessory building located in the southwest corner of the lot, which is less attractive and appears to have a deficient setback from the south interior lot line.

The subject property is designated “Inland Floodplain Development Control Area”. ERCA has indicated that the applicant 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 proposed development will be required to meet minimum floodproofing requirements.

### Zoning By-law

The general intent and purpose of the Zoning By-law regulation limiting the gross floor area of accessory buildings is to ensure that these structures do not dominate the landscape in a typical subdivision. It is also to ensure compatibility with the massing characteristics of the area.

The lot area of the subject property exceeds the minimum requirement in the Zoning By-law by over four times. It also exceeds the minimum frontage by over 8 metres. This is characteristic of the neighbouring properties on Notre Dame Street located east and west of the subject property as well. Notre Dame Street is a County Road and is identified as an Urban Arterial Road in the Lakeshore Official Plan. For these reasons, the subject property is not part of a typical subdivision and is in an area that is conducive to supporting relatively larger accessory buildings. 2022 aerial photography was utilized to identify similar accessory buildings in the rear yard of nearby properties that may not be visible from the street. Buildings that appear to exceed the gross floor area of the proposed building were observed at 272 and 268 Notre Dame Street west of the subject property and 198 Notre Dame Street east of the subject property.

### Minor in Nature

The minor variance is considered minor from a quantitative consideration given the size of the property relative to the proposed building, as well as the presence of larger accessory buildings in the immediate area. In terms of impacts, the proposed setbacks and proposed height of the building will mitigate any of the direct impacts to neighbouring properties that are usually associated with oversized structures (shadows, unsightly massing, etc.). Directly south of the subject property appears to be land used for a renewable energy project (solar panels). It is recognized that these lands are zoned R1 and could be developed for residential use in the future. The proposed rear yard setback will provide a favourable buffer with respect to any future development of this land.

## Desirability and Appropriateness

The minor variance is considered appropriate development for the use of the land and building. The proposal meets existing standards in the immediate area in terms of messiness. As previously mentioned, the proposed building will replace a less desirable building on the property. Impacts to the appearance of the streetscape are not anticipated as the building will be located at the rear of the lot behind a dwelling and an existing detached garage to the north. Similar to the concept developed at 198 Notre Dame Street, the applicant will likely extend their driveway west of their existing detached garage to this new accessory building located at the rear of the lot. In developing this extension, the applicant needs to be mindful that the Zoning By-law requires 30% minimum landscaped open space on a lot which excludes driveways.

The Building Department has advised that the area where the subject property is located has historically been subject to flooding with no outlet for stormwater. As a result, the Building Department is requesting a grading plan during building permit processing.

## **Conclusion**

It is the opinion of the Planner that the requested variance passes the 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.
- iii. It would maintain the general intent and purpose of the Zoning By-law.

It is recommended that the Committee of Adjustment impose the following conditions on approval:

- 1) The accessory building will be constructed a minimum 3.048 metres (10 feet) from the interior side lot line and a minimum 3.657 metres (12 feet) from the rear lot line;
- 2) Prior to building permit issuance, the applicant will submit, to the satisfaction of Community Planning, a new site plan drawing that illustrates the driveway/approach to the new accessory building and provides information regarding the minimum landscaped open space on the lot.

## **Correspondence**

### External and Internal Agencies

The application was circulated to various external and internal agencies, comments received are summarized below.

ERCA states the property owner will be required to obtain a Permit from the Essex Region Conservation Authority prior to any construction or site alteration. The proposed

development on this parcel will be required to meet the minimum floodproofing requirement. Full comments can be found in Appendix C.

Operations has commented that construction of the accessory building should not adversely impact the side and rear yard drainage or adjacent neighbouring lands. Full comments can be found in Appendix D.

The Building Division has requested that the applicant provide a grading plan due to flooding in the area and no outlet for stormwater. Full comments can be found in Appendix C.

#### Public Notice Circulation

Notice of Public Meeting and information regarding the requested minor variance application was sent to all property owners within 60 metres of the subject land. At the time of writing, no written comments were received.

#### **Attachment(s):**

Appendix A – Aerial Image  
Appendix B – Site Plan and Elevation  
Appendix C – ERCA Comments  
Appendix D – Operations Comments  
Appendix E – Building Division Comments  
Appendix F – Site Images

#### **Prepared by:**



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Ian Search, BES  
Planner I

## Report Approval Details

Document Title:	A-20-2023 Report.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A - Aerial Image.pdf</li><li>- Appendix B - Site Plan and Elevation.pdf</li><li>- Appendix C - ERCA Comments.pdf</li><li>- Appendix D - Operations Department Comments.pdf</li><li>- Appendix E - Building Division Comments.pdf</li><li>- Appendix F - Site Images.pdf</li></ul>
Final Approval Date:	Jun 8, 2023

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

**Kristina Brcic - Jun 8, 2023 - 3:13 PM**