

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: July 12, 2023

Subject: Minor Variance Application A/24/2023 – 377 County Road 31

Recommendation

Approve minor variance application A/24/2023 to permit two new accessory structures used for agricultural purposes (storage of equipment/supplies, etc.) within the portion of the subject property zoned RW1-16 with the following reliefs from Lakeshore Zoning By-law 2-2012:

- Section 6.5 a) ix) to permit an accessory structure to have a gross floor area of 602.02 m², whereas the by-law permits a maximum gross floor area of 55 m². Relief from Section 6.5 a) xi) to permit this accessory structure to have a maximum height of 6.1 metres (halfway to its highest point from where the structure begins to curve) – 8.96 metres to its highest point – whereas the By-law permits a maximum height of 5 metres;
- Section 6.5 a) ix) to permit an accessory structure to have a gross floor area of 120.41 m², whereas the by-law permits a maximum gross floor area of 55 m². Relief from Section 6.5 a) xi) to permit this accessory structure to have a maximum height of 4.5 metres (halfway to the highest point from where the structure begins to curve) – 5.11 metres to its highest point – whereas the By-law permits a maximum height of 5 metres;

subject to the following conditions:

- 1) Both accessory structures are to be restricted for agriculture purposes (storage of equipment/supplies, etc.) and are only permitted on the lot in support of the existing agriculture use that exists on the lot;
- 2) Both accessory structures are not permitted to house livestock of any kind;
- 3) Neither accessory structure is permitted on any future lot severed from the subject property;
- 4) The 120.41 m² gross floor area accessory structure shall be setback a minimum of 60 metres from the front lot line and a maximum of 105 metres from the south side lot line;

- 5) The 602.02 m² gross floor area accessory structure shall be located in the area indicated on the site plan drawing submitted with the minor variance application, to the satisfaction of Building Services;
- 6) That if required by Building Services, the applicant provide engineering designs that include foundations for the structures and provide information regarding the location of the septic system on the property, to the satisfaction of Building Services.

Proposal

The subject property is currently used as a farming operation. The applicant is proposing to construct two new hoop style accessory structures to provide additional storage space for the operation. A dwelling, garage, and several accessory structures to the existing agriculture use already exist on the property. The proposed structures require relief from maximum gross floor area and height regulations.

The applicant has stated that the 120.41 m² accessory will be constructed as a temporary structure and desires the ability to relocate this structure to other locations on the subject property in the future.

The minor variance application was submitted to Community Planning because the structures are proposed to be located within the portion of the subject property zoned “Residential Waterfront – Watercourse Zone Exception 16” (RW1-16), while the balance of the subject property is zoned Agriculture (“A”). The land zoned RW1-16 was rezoned from Residential Waterfront – Watercourse (RW1) to this zone exception in 2015 (By-law 60-2015) to permit a new accessory structure (approx. 668.9 m²) for agricultural purposes (storage of equipment/supplies) that did not include the housing of livestock and provided exemption from Section 6.5 of the Zoning By-law to permit a maximum height of 7 metres.

The owner has been using the property for years as a farm and the agricultural use within the portion of the lot zoned RW1-16 is considered to be a “legal non-conforming use” under the Zoning By-law. As was the case in 2015 when the zone exception was granted to permit an agricultural pole barn on this portion of the land, it is not the intent of the owner to discontinue the farming operation at this time. To avoid hardship to their business, they have applied for a variance from the Zoning By-law to permit two additional accessory structures on the property of desired height and gross floor area for agricultural purpose (storage of equipment/supplies).

Summary

Location

The subject property is located on the west side of County Road 31, south of County Road 2, north of the Canadian Pacific Limited right-of-way, known municipally as 377 County Road 31. The subject property is approximately 83.18 acres in area with approximately 165 metres of frontage along County Road 31. The property also has

approximately 289 metres of frontage along Golfview Drive.

Surrounding Land Uses

The subject property, particularly the portion of the farm parcel zoned RW1-16, is surrounded by residential properties (single detached dwelling lots) to the east, north and south. West of this area of interest is vacant agricultural land.

Official Plan

The subject property is mostly designated “Agricultural”, but the frontage of the property along County Road 31 is designated “Waterfront Residential”. The depth of this designation is approximately 70 metres. The subject property is also partially designated “Inland Floodplain Development Control Area” and is located within the Essex Region Conservation Authority (ERCA) regulated area.

Zoning

The subject property is split zoned A and RW1-16 in the Lakeshore Zoning By-law 2-2012. The RW1-16 zone, like the “Waterfront Residential” designation in the Official Plan, applies to the frontage of the property along County Road 31 but consists of a larger depth of approximately 150 metres.

Conclusion

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 minor variance will maintain the general intent and purpose of the Official Plan. Both structures are proposed to be located entirely within the Agricultural land use designation where uses accessory to agriculture are permitted. This includes large structures providing storage in support of a farming operation. The applicant has indicated that the structures will not be used to support livestock, so a Minimum Distance Separation calculation was not required in support of the proposal.

As previously mentioned, the subject property is located within the “Inland Floodplain Development Control Area” and Essex Region Conservation Authority (ERCA) regulated area. ERCA commented that a permit is required to be obtained from their office, and that the proposed development will be required to meet minimum floodproofing requirements. All applicable hazard land requirements for development must be satisfied.

The policies of the Waterfront Residential Designation (Section 6.4) state that the existing lakeshore/rural character of the Waterfront Residential Designation will be recognized and maintained. While the structures – including the temporary structure – are not proposed to be located within this designation, the minor variance does not threaten the existing lakeshore/rural character of the area even if the temporary structure were to be relocated to the area designated Waterfront Residential in the future. The structures are an accessory use to a farming operation and are therefore rural in nature. The Committee should impose a condition stating that neither accessory structure is permitted on any future lot severed from the property since land designation Waterfront Residential can be developed for residential use in the future.

The structures are proposed to be located at least 70 metres from the front lot line on an 83.18-acre farm parcel that has approximately 168 metres of frontage. Several buildings/structures accessory to a farming operation that are similar in size to the proposed structures already exist on the subject property. The applicant seeks the ability to relocate the proposed temporary structure in the future so it is recommended that the Committee does not impose a condition requiring it to be located as indicated on the site plan provided. However, it is recommended they require this structure to maintain a minimum 60 metre front yard setback and a maximum 105 metre south side lot line setback. This will ensure the structure remains among the existing agricultural buildings/structures and in the general vicinity of its proposed location indicated on the site plan.

The 602.02 m² permanent accessory structure shall be required to be located in the location indicated on the site plan. It is located farm from the street at this location and benefits from a treeline/vegetative buffer to the south that should assist in screening the visual impact of the structure for the abutting neighbour. If the recommended conditions are imposed, the Planner is of the opinion that the proposal maintains the general intent and purpose of the Community Design policies under Section 4.2.1 as it does not threaten the existing physical design characteristics of the Settlement Area.

Zoning By-law

The proposal meets the general intent and purpose of the Zoning By-law. The RW1-16 zone exception was implemented to recognize the desire of the owner to continue their farming operation by permitting an agricultural pole barn on the property. However, the language of the zone exception only permits the agricultural pole barn developed in 2015 and provides an exemption under Section 6.5 for this one structure. It does not include permissions or provisions for multiple structures accessory to the existing agriculture use despite the desire of the owner to continue their existing farming operation on this parcel of land.

Under this minor variance proposal, the applicants are simply proposing to construct two new storage structures of desired gross floor area and height that will support the continued farming operation. To ensure the general intent and purpose of the Zoning By-law is met, the Committee shall impose the following conditions on approval:

- 1) Both accessory structures are to be restricted for agriculture purposes (storage of equipment/supplies, etc.) and are only permitted on the lot in support of the existing agriculture use that exists on the lot.
- 2) Neither accessory structure will be permitted on any future lot severed from the property.

The reliefs for gross floor area and height meet the general intent and purpose of the Zoning By-law. The current zone exception permits an agriculture pole barn that is a maximum of 7 metres in height, which was added to the Zoning By-law when the applicants came forward in 2015 to develop this structure that has a gross floor area of approximately 668.9 m². The proposed structures are subordinate to this existing pole barn and will resemble the other structures already existing on the property in terms of size.

Minor

It is the opinion of the Planner that the requested reliefs are minor in nature. There are no anticipated impacts or land use compatibility issues. Through the recommended conditions, both structures will be restricted to locations where they will have little to no impact to neighbour properties or the character of the streetscape.

Except for the 2015 pole barn that the zone exception provides permission for, accessory buildings in the RW1-16 zone are subject to Section 6.5 which contains regulations to control the gross floor area and height of accessory buildings on typical residential lots. Permitting the two additional accessory structures of desired gross floor area and height in support of the existing agricultural operation is considered minor. The gross floor area and height of the proposed structures resemble existing structures on the property and, like them, are intended to support the continued agricultural use – not residential use. Therefore, the reliefs are considered minor in nature given the unique context.

Desirability

The requested reliefs are considered desirable for the appropriate development of the land and structures. There is an existing treeline/vegetative buffer that runs along the south side lot line that will assist in screening the appearance of the structures for the neighbour to the south. The structures will resemble those existing on the lot and their proposed size is ordinary/expected given the parcel's current use as a farming operation.

The applicant is experiencing hardship in desiring to construct these accessory structures to their agricultural use because the applicable zone exception only permits the agricultural pole barn developed in 2015, while failing to include permissions or provisions for multiple structures. This is despite the desire of the owner to continue their existing farming operation on this parcel of land.

By locating the structures in the RW1-16 zone, as opposed to within the area of the lot zoned A, current prime agricultural land used for production is preserved.

It is the opinion of the Planner that the requested variance passes the four tests prescribed under Section 45 (1) of the *Planning Act* subject to the recommended conditions in the Recommendation section of the report.

Correspondence

External and Internal Agencies

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

Building Services states that the applicant is to provide full engineering designs for the structures, including foundation. They also advise that the location of the septic system on the property should be noted. These comments have been incorporated into recommended conditions of minor variance approval. Full comments can be found in Appendix D.

ERCA has advised that the proposed development will be required to meet minimum floodproofing requirements. The property owner will be required to obtain a Permit from the Essex Region Conservation Authority prior to any construction or site alteration, and all applicable hazard land requirements for development must be satisfied. Full comments can be found in Appendix E.

The County of Essex comments that the setback from the County Road is 85 feet from the centre of the right of way. Permits are necessary for any changes to existing entrances and structures, or the construction of new structures and entrances. Full comments can be found in Appendix F.

The Operations Department provided their standard comment on these types of development proposals, stating that the construction of the accessory buildings should not adversely impact the rear yard drainage or adjacent neighbouring lands. Full comments can be found in Appendix G.

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 public comments were received.

Attachment(s):

Appendix A – Aerial Map
Appendix B – Drawings
Appendix C – Photos
Appendix D – Building Services Comments
Appendix E – ERCA Comments
Appendix F – County of Essex Comments
Appendix G – Operations Department Comments

Prepared by:



Ian Search, BES
Planner I

Report Approval Details

Document Title:	A-24-2023 - 377 County Road 31 .docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Map.pdf- Appendix B - Drawings.pdf- Appendix C - Photos.pdf- Appendix D - Building Services Comments.pdf- Appendix E - ERCA Comments.pdf- Appendix F - County of Essex Comments.pdf- Appendix G - Operations Department Comments.pdf
Final Approval Date:	Jul 14, 2023

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

Kristina Brcic - Jul 14, 2023 - 2:34 PM