

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/27/2023 – 1406 Caille Ave

Recommendation

Defer Minor Variance Application A/27/2023 to provide the Applicant with the opportunity to reduce the height and gross floor area of the proposed accessory building.

Background

The subject property currently contains a one-storey single residential dwelling approximately 133.59 sq. m (1,438 sq. ft.) in area. The applicant wishes to construct a new detached garage / accessory building and is thus seeking the following reliefs from Lakeshore Zoning By-law 2-2012:

- Section 6.5 a) ix) to permit an accessory building to have a maximum gross floor area of 117.5 m², whereas the By-law permits a maximum gross floor area of 55 m².
- Section 6.5 a) xi) to permit an accessory building to have a maximum height of 5.7 metres, whereas the By-law permits a maximum height of 5 metres.
- Section 6.52 a) to permit an accessory building to be setback a minimum of 4 metres from the centreline of a private road, whereas the By-law requires a minimum setback of 13 metres if the garage doors are facing away from the private road.

The applicant has stated in their application that the proposed second storey of the building will be used for storage and hobby space (restoring and painting furniture, woodworking tools). The main floor garage space will be used to park vehicles and store a small boat.

Summary

Location

The subject property is located on the north side of Caille Ave, west of Rourke Line Road, known municipally as 1406 Caille Ave. The subject property is approximately 785 m² in area with approximately 19.8 metres of frontage along Caille Ave.

Surrounding Land Uses

The subject property is surrounded by residential properties (single detached dwelling lots) to the east and west. Immediately south of the subject property is the VIA Rail right-of-way.

Official Plan

The subject property is designated “Residential” and “Lake St. Clair Floodprone Area” in the Lakeshore Official Plan, and is located within the Essex Region Conservation Authority (ERCA) regulated area.

Zoning

The subject property is zoned Residential Waterfront – Lake St Clair (RW2) in the Lakeshore Zoning By-law.

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

Regarding the setback from the private road, Section 7.2.2.1 d) of the Lakeshore Official Plan states that development will only be permitted on a private road which is developed and maintained to a standard acceptable to the Municipality. The subject property is located on a portion of Caille Ave that is privately owned and identified as an Urban Residential Local Road in the Official Plan. The Operations department did not raise any issues with the condition of the road or the minor variance request to reduce the setback of the proposed structure from the centreline of the road. This specific relief maintains the physical design characteristics of the Settlement Area under the Community Design policies of Section 4.2.1 – many buildings/structures in the area have been constructed in close proximity to the centreline of Caille Ave.

Regarding the accessory building gross floor area and height, Section 6.6 of the Lakeshore Official Plan states that the Residential Designation is expected to continue

to accommodate attractive neighbourhoods. The Community Design policies of Section 4.2.1 state that the Municipality will seek to maintain and improve the physical design characteristics of the Settlement Areas in the context of new and existing development and stress a generally high quality of community design and built form. Under this section, 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.

The portion of Caille Ave analyzed with respect to these policies is an area spanning from 1400 Caille Ave (where Caille Ave ends west of the subject property) to 1504 Caille – a property supporting an oversized accessory building that is located four properties east of the Rourke Line Road and Caille Ave intersection – approximately 0.7 kilometers east of the subject property. Residential properties south of the VIA Rail right-of-way were not included in the analysis.

Only four accessory buildings supporting a second storey beyond attic space were observed in the area at 1476, 1480, 1500 and 1504 Caille Ave. According to building permit records, the buildings at 1476 and 1500 were constructed prior to the current Official Plan coming into effect in 2010, while the second-storey building at 1504 Caille Ave was constructed in 2012 but prior to the adoption of the current Zoning By-law later that year. No building permit record exists for the accessory building at 1480 Caille Ave.

It is the opinion of the Planner that these four buildings were not subjected to the same Planning documents currently in effect at the time of their development and that they are not representative of the area's overall character given that most of the accessory buildings along Caille Ave are small sheds and/or single storey structures.

The proposal should be deferred to give the applicant a chance to reduce the height of the building/eliminate or convert the second storey to attic space. This will in turn reduce the gross floor area of the proposal. The Planner is of the opinion that this revision is necessary to ensure the development maintains and improves the physical design characteristics of the area, and to ensure the site is developed in a manner that preserves the existing traditional community image.

Zoning By-law

The intention behind the regulation requiring an increased setback from the centreline of private roads is to ensure that buildings/structures are setback far enough for potential road widening if Lakeshore takes control of the road in the future. 2022 aerial photography suggests that there are already many buildings/structures located close to the centreline of Caille Ave and the Operations Department did not raise any issue with this aspect of the minor variance.

The intention of the regulation requiring a maximum height of 5 metres for an accessory building (except within an Agriculture Zone) is to ensure that these structures are unoffensive with respect to location and purpose, and that they remain subordinate to dwellings on residential properties as one-storey structures. It appears the dwelling on

the property is one-storey and the proposed accessory building – particularly on elevated grade – will exceed the height of the dwelling. Therefore, the proposed height and design of the building should be revised to achieve a more appropriate relationship with the main building on the lot. This will also assist in achieving a development that is more in keeping with the physical design characteristics of the area.

The intention of the regulation limiting the gross floor area of an accessory building to 55 m² is to ensure these structures do not dominate the landscape in a typical subdivision. Many of the lots along Caille Ave, including the subject property, have deficient lot area under the Zoning By-law. The minimum required lot area in the RW2 zone is 800 m² (where municipal sanitary servicing is available), while the subject property is approximately 785 m².

The Committee should be careful to approve requests for increased gross floor area of accessory buildings in urban areas where deficient lot sizes dominate as it could lead to overdevelopment of the area and the dense presence of large accessory buildings that is undesirable. In this case, the building footprint of the proposed structure is less than 55 m², but the proposed second storey will result in a gross floor area of 117.5 m². It is the opinion of the Planner that accessory buildings of this size are only able to meet the general intent and purpose of the Zoning By-law on larger lots in areas with a different context.

Previous Zoning By-law

It is important to note that where a building permit record exists, the oversized accessory structures previously mentioned were permitted in the area because the only regulation limiting their size in the old Maidstone Zoning By-law (adopted 1994 and in effect until 2012) was that they do not exceed 15% lot coverage in all zones. To protect the neighbourhood character in these areas, the regulations in the current Zoning By-law were introduced to curb the presence of these accessory buildings with excessive gross floor area and height and to maintain the status and presence of the main dwelling as the primary structure on the property.

Minor

Regarding the setback from the private road, it is the opinion of the Planner that this aspect of the minor variance is minor in nature. There are no anticipated impacts or land use compatibility issues with permitting this specific relief. The garage doors will face the existing driveway east of the building and the driveway will be extended. It is an orientation that will provide better ingress/egress functionality than direct access onto Caille Ave if the building is located only 4 metres from the centreline of the road. The Committee should impose a condition requiring this orientation if they choose to approve the minor variance.

Regarding the accessory building gross floor area and height, neither one of these reliefs for the proposed building is considered minor in nature for reasons already mentioned in the report. The gross floor area will exceed the provision by over two times. While the Committee has previously granted similar requests for increased gross

floor area in other areas, it is the opinion of the Planner that the request before the Committee is not minor considering this area's general built form.

The applicant is proposing a height of 5.7 metres, which is 0.7 metres (2.3 feet) greater than what is permitted. It appears based on the elevation drawings that the dormers to be placed on both sides of the building will extend the building's full length. Thus, the request for increased height is to construct a full second storey that will result in a building form that is incompatible with the physical design characteristics of the area. This is different from a request to increase the pitch of a one-storey building of gable style roof (no dormers) to comfortably store a boat for example.

Desirability

Regarding the setback from the private road, it is the opinion of the Planner that this request is desirable for the appropriate development of the building and land. The applicant desires to construct a garage on the lot and has identified the only practical space to accommodate this use. Granting the relief will enable a garage to be constructed on the lot. This aspect of the variance will meet existing standards in the area and will be appropriate development if the proposed building orientation is implemented.

Regarding the accessory building gross floor area and height, these reliefs are considered undesirable for the appropriate development of the building and land. Permitting the reliefs for the proposed design will result in a building that, in the opinion of the Planner, is incompatible with the general built form that exists in the area, and would permit the development of a building design that the current Official Plan and Zoning By-law have been implemented to mitigate.

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.

Correspondence

External and Internal Agencies

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

The Operations Department provided their standard comment for these types of development applications, stating that the construction of the accessory building should not adversely impact the rear yard drainage or adjacent neighbouring lands. They also

advise that any proposal for washroom facilities is not supportable. If the Committee decides to approve the minor variance, it is recommended that they impose a condition prohibiting washroom facilities to the satisfaction of the Operations Department. Full comments can be found in Appendix D.

ERCA was circulated notice of the application and they stated that their office has previously issued a permit for a detached, non-habitable accessory structure. They advise the applicant to apply to ERCA for a Permit Renewal for the proposed development. Full comments can be found in Appendix E.

Building Services is requiring a full set of construction drawings. They state that living space is not permitted in the accessory building. Full comments can be found in Appendix F.

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 – Photo
Appendix D – Operations Department Comments
Appendix E – ERCA Comments
Appendix F – Building Services

Prepared by:



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Planner I

Report Approval Details

Document Title:	A-27-2023 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Map.pdf- Appendix B - Drawings.pdf- Appendix C - Photo.pdf- Appendix D - Operations Department Comments.pdf- Appendix E - ERCA Comments.pdf- Appendix F - Building Services.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 - 2:00 PM