

# Municipality of Lakeshore Committee of Adjustment Report

## Growth & Sustainability

## Community Planning



**To:** Chair & Members of Committee of Adjustment  
**From:** Matt Alexander, Practice Lead WSP  
**Date:** July 10, 2023  
**Subject:** Minor Variance Application A/28/2023 – 1035 Monarch Meadows Drive

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### Recommendation

Approve minor variance application A/28/2023 to permit reduced setbacks to accommodate an existing accessory structure and pool equipment.

### Proposal

The subject property currently includes a single-detached dwelling with an attached garage, in-ground pool and shed to house pool equipment (including pool heater, pool filter, salt generator/timer, and electrical panel). The shed was constructed approximately 1.2 metres from the side lot line and 0.8 metres from the rear lot line, whereas the by-law requires a 1.5 metre setback from both lot lines.

Therefore, the applicants are seeking the following relief from Lakeshore Zoning By-law 2-2012:

- Section 6.5 a) vii) to permit an accessory structure/building to be 1.2 metres from the side lot line and 0.8 metres from the rear lot line, whereas the by-law requires a 1.5 metre setback from both lot lines.
- Section 6.5 b) iii) to have water circulating or treatment equipment such as pumps or filters, or pool heaters, located 1.2 metres from the side lot line and 0.8 metres from the rear lot line, whereas the by-law requires water circulating or treatment equipment to be located no closer than 1.5 metres from any side or rear lot line.

### Summary

#### Location

The subject property is located on the south side of Monarch Meadows Drive, east of Puce Road, and known municipally as 1035 Monarch Meadows Drive. The subject property is approximately 495 square metres in area with approximately 15 metres of frontage along Monarch Meadows Drive.

### Surrounding Land Uses

The subject property is surrounded by residential properties (single detached dwelling lots) on all sides.

### Official Plan

The subject property is designated “Residential” in the Lakeshore Official Plan.

### Zoning

The subject property is zoned ‘Residential Type 2 Zone Exception 15 (R2-15)’ in the Lakeshore Zoning By-law. Exception 15 provides specific standards for permitted uses, minimum lot area, minimum lot frontage, minimum lot coverage, minimum landscaped open space, maximum building height, minimum front yard, minimum interior and exterior side yard, a maximum number of dwelling units to be permitted within the subdivision subject to the exception, and a minimum rear yard of 7.5 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

Section 6.6 of the Official Plan applies to areas designated “Residential”. The Residential Designation applies to the Urban Areas of the Town which consist of predominately residential uses in a variety of housing forms. Permitted uses, listed under section 6.6.1 include: a) single-detached dwellings; and k) Uses accessory to any of the permitted uses in the Residential Designation.

Pools and sheds are considered appropriate accessory uses within the Residential designation. The Official Plan does not include policies related to setbacks for accessory structures.

The proposed variance does not conflict with the direction of the Official Plan and meets the general intent and purpose of the Official Plan.

### Zoning By-law

Section 6.5 a) vii) of the Zoning By-law states that accessory buildings, “shall not be built closer than 1.5 metres from any lot line except that common semi-detached private garages or carports may be centred on a mutual side lot line.”

The definition of “accessory” in the Zoning By-law describes a structure/building that is normally incidental, subordinate, and exclusively devoted to a main building on the same lot. The site plan drawing submitted with the application indicates that the proposed building is subordinate to the main building on the lot.

Section 6.5 b) iii) states, “Private outdoor swimming pools, and associated decks may be constructed and maintained as accessory uses to a dwelling, provided that such a use: [...] shall not have water circulating or treatment equipment such as pumps or filters, or pool heaters, located closer than 1.5 metres to any side or rear lot line.”

The 1.5 metre setback is intended to allow access on all sides of the accessory structure. While the proposed variance seeks relief from the 1.5 metre setback, a setback would still exist from the adjacent property and allow for access to all sides of the accessory structure. The proposal meets the general intent and purpose of the Zoning By-law.

### Minor

It is the opinion of the Planner that the requested variance is minor in nature. There are no anticipated impacts or land use compatibility issues with permitting the requested reliefs. The request for a minimum setback of 1.2 metres from the side lot line, and 0.8 metres from the rear lot line, maintains sufficient distance to provide access to the accessory structure thus meeting the intent of the Zoning By-law as described above.

### Desirability

The accessory structure was constructed without observing the required setbacks. The variance has been requested to resolve this non-compliance without the need for removing or relocating the accessory structure.

The request is considered desirable and appropriate given that the removal or relocation of the accessory structure would be onerous.

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.
- iv. 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 Building Inspector commented that the homeowner must ensure surface water does not drain to adjacent properties.

The Essex Region Conservation Authority (ERCA) indicated the subject property does not fall within ERCA regulated lands. ERCA has no objection to the proposed development.

Engineering & Infrastructure Division does not support reduction of rear yard setback as drainage on the private lands can be adversely impacted and create flooding issues between neighboring properties.

The Fire Department has no comments on the application.

### 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 Map  
Appendix B – Photos  
Appendix C – Drawing  
Appendix D – Operations Department Comments  
Appendix E – ERCA Comments  
Appendix F – Fire Department Comments

### **Prepared by:**



Matt Alexander  
Practice Lead, WSP



## Report Approval Details

Document Title:	A-28-2023 Report.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A - Aerial Map.pdf</li><li>- Appendix B - Photos.pdf</li><li>- Appendix C - Drawing.pdf</li><li>- Appendix D - Operations Department Comments.pdf</li><li>- Appendix E - ERCA Comments.pdf</li><li>- Appendix F - Fire Department Comments.pdf</li></ul>
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 - 2:23 PM**