

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 11, 2023

Subject: Minor Variance Application A/32/2023 – 1610 County Road 22

Recommendation

Deny minor variance application A/32/2023 to permit an accessory structure to have a maximum gross floor area of 223 m² and a maximum height of 6.55 metres.

Proposal

The Municipality of Lakeshore has received a minor variance application for the subject property 1610 County Rd 22 located on the north side of County Rd 22, east of Rourke Line Road. The subject property is designated “Residential” in the Lakeshore Official Plan and zoned “Residential – Low Density (R1)” in the Lakeshore Zoning By-law 2-2012.

The subject property is approximately 1.83 acres in area with approximately 30 metres of frontage along County Road 22. The property currently contains a single detached dwelling and an accessory structure in the rear yard.

On April 12, 2023, the Committee of Adjustment granted relief from the Zoning By-law to permit the construction of a building addition to the existing accessory structure (File: A-07-2023). The existing accessory structure had a gross floor area of 111.48 m², and the building addition added an additional 55.74 m² of floor area. Therefore, the granted relief was to permit an accessory building with a gross floor area of 167.48 m².

The original design of the building addition included a roof with dormers. The maximum permitted height of an accessory building in the R1 zone is 5 metres. The applicant did not seek relief from the Zoning By-law to permit an increase in height as part of their original minor variance application (File: A-07-2023).

During construction the applicant made changes to their submitted design of the building addition by eliminating the dormers and changing the pitch of the roof/height of the building walls. As a result, the applicant now requires relief for the height of the building addition. They also require another relief for increased gross floor area of the overall building.

The building addition has the same building footprint (55.75 m²) as originally designed, but the increased height results in a two-storey structure. Gross floor area includes the total floor area in a building at the level of each storey.

Based on the foregoing, the applicants are now seeking the following reliefs from the Lakeshore Zoning By-law for an accessory structure:

- Section 6.5 a) ix) to permit an accessory structure to have a maximum gross floor area of 223 m², whereas the by-law permits a maximum gross floor area of 55 m² in an R1 zone;
- Section 6.5 a) xi) to permit an accessory structure to have a maximum height of 6.55 metres, whereas the by-law states that an accessory structure shall not exceed 5 metres in height unless within an Agriculture Zone

The application indicates that the accessory structure is proposed for the storage of personal belongings. While the applicant has not indicated an intention to use the accessory building as a dwelling unit, it is noted that the accessory building cannot support a dwelling unit at this time because of sanitary capacity constraints affecting the area where this property is located. If, in the future, the applicant decides to use part of the accessory building as a dwelling unit, then a change of use permit through the Municipality of Lakeshore's Building Division is required.

A map showing the location of the subject parcel (Appendix A), sketches of the new proposal (Appendix B), and pictures showing the construction of the building addition in progress (Appendix C) are attached. Also attached is a copy of the elevation sketch from the original proposal (Appendix D).

Summary

Location

The subject property is located east of Rourke Line Road, west of West Belle River Road, on the northside of County Road 22, known municipally as 1610 County Road 22. The subject property is approximately 1.83 acres in area with 30.48 metres of frontage.

Surrounding Land Uses

The subject property is surrounded by residential properties (single detached dwelling lots). A tool and mold business is located a few properties to the east on County Road 22.

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 – Low Density (R1)” in the Lakeshore Zoning By-law 2-2012.

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 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 states that the Residential Designation is expected to accommodate attractive neighbourhoods. Community design policies under Section 4.2.1 state that the Municipality will ensure new development is designed in keeping with the traditional character of the Settlement Areas in a manner that preserves their traditional community image and enhances their sense of place within the Municipality. Measures will be taken to ensure that permitted uses address compatibility with adjacent land uses.

The minor variance meets the general intent and purpose of the Official Plan. The subject property is a deep residential lot located on an Urban Arterial Road where other large accessory buildings have developed over time on nearby residential lots in the general area. There are no residential properties to the north that the subject lot backs onto. It is noted that the building addition is a northern extension of the accessory building that does not result in a reduced setback from the east side lot line. It was observed through site visit that the building addition has little if any impact to the traditional character of the Settlement Area from the street.

It is acknowledged that the original design as submitted included dormers, but that the applicant opted to eliminate them from the design and construct an addition with different wall height and roof pitch – a change that requires relief under the Zoning By-law for height. Although what has been constructed in the end is a more abrupt change in the appearance of height between the existing accessory building and the addition, it is noted that the peak height of the addition and the peak height of the existing building are the same.

It is the opinion of the planner that the building addition under construction is a less desirable design compared to the original in terms of preservation of traditional community image. However, the overall impact is quite similar – especially given its

location behind the dwelling, and on the northside of the existing accessory building approximately 65 metres from the front lot line.

Zoning By-law

Section 6.5 a) ix) states that an accessory building shall not exceed a gross floor area of 55 m² in the Residential – Low Density (R1) zone. Moreover, 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.

An interactive mapping system suggests that the dwelling on the property has a building footprint close to 500 m². The proposed gross floor area of the accessory building is subordinate and meets the general and intent and purpose of the Zoning By-law in this respect.

The regulation limiting the gross floor area of an accessory building to 55 m² applies across every residential zone and was designed for a residential lot in a typical subdivision. It is acknowledged that the subject property is located on an Urban Arterial Road – not in a typical subdivision – and that the lot area of the property exceeds the minimum lot area provision in the R1 zone by almost fifteen times. The subject property, like others in the immediate area, is clearly conducive to supporting larger accessory buildings, and it is the opinion of the Planner that this aspect of the minor variance meets the general intent and purpose of the Zoning By-law.

The general intent and purpose of the regulation limiting the height of an accessory building is to ensure accessory buildings are not offensive with respect to location and purpose. Furthermore, a maximum height of 5 metres suggests that the intent of the By-law is to limit accessory buildings to one-storey.

The planner is of the opinion that the minor variance does not technically meet the general intent and purpose of the Zoning By-law since the addition is two full storeys. However, it is recognized that the relief for height will only apply to the building addition portion of the accessory building which is only half the building footprint of the existing structure. Also, the addition is located north of the existing accessory building in arguably the least offensive location for the accommodation of increased height.

Minor

It is the opinion of the Planner that the minor variance application cannot technically be considered minor in nature. A 6.55 metre height results in a building addition that supports two full storeys. This is quite different from a request to increase height a couple feet to comfortably store a boat or recreational vehicle, for example. The building addition results in an accessory building that exceeds the maximum gross floor area permitted in the Zoning By-law by four times. It has doubled in gross floor area from the original request due to an increase in height.

In terms of impacts and compatibility issues alone, the requests are considered minor. The existing setback of the accessory structure from the east side lot line will be maintained and it is anticipated that there will be little to no impacts to the appearance of the streetscape. No comments from the public raising any issue with the application have been received at the time of writing this report.

Desirability

The reliefs are not considered incompatible or offensive to neighbouring properties. There are no other issues of appropriateness.

In terms of existing standards in the area, a 204 m² accessory building was recently developed at 1556 County Road 22, and a 187.3 m² accessory building was approved at 1566 County Road 22 last year. There are other oversized accessory buildings on nearby lots. While another two-storey accessory building was not observed in the immediate area, neighbourhood incompatibility is not a concern given the location of the development and its appearance from the street.

The Committee may want to consider hardship in their consideration of the minor variance application. The application suggests that the applicant changed the design of the building addition during the construction phase without knowing that it would result in the need for additional reliefs under the Zoning By-law. Construction of the building addition has commenced and has progressed to a point where rebuild would come at a significant cost to the applicant.

It is the opinion of the Planner that the minor variance does not meet the general intent and purpose of the Zoning By-law and is not minor in nature.

If the Committee is open to approving the minor variance, they should defer the application to give the applicant time to resolve ERCA's concerns. They should also consider imposing the following conditions on approval in the future:

- 1) Approval is for a building addition to an existing accessory building at the north end of the accessory building that does not result in a reduced setback from the east side lot line;
- 2) Grading is addressed to the satisfaction of the Municipality of Lakeshore;
- 3) That any use of the accessory structure as a dwelling unit is not permitted without obtaining a change of use permit through the Municipality of Lakeshore.

Correspondence

External and Internal Agencies

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

The Operations Department expressed that the applicant shall adhere to the required setbacks from the municipal drain outlined in Lakeshore's Zoning By-law. Construction of the accessory buildings should not adversely impact the rear yard drainage or adjacent neighboring lands. Full comments can be found in Appendix E.

ERCA notes that this development is not consistent with the permit that was issued previously. ERCA has not been provided with the opportunity to review the new scope and scale of works and has concerns that they may not be permissible. Full comments can be found in Appendix F.

VIA Rail Canada Inc. submitted their standard comment received in response to all development applications submitted to ERCA. It is noted that the accessory building is located approximately 180 metres from the rail corridor. Full comment 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. No written comments were received at the time of writing this report.

Attachment(s):

Appendix A – Aerial Map
Appendix B – Drawings
Appendix C – Photos
Appendix D – Original Elevation Design
Appendix E – Operations Department
Appendix F – ERCA Comments
Appendix G – VIA Rail Canada Inc.

Prepared by:



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Planner I

Report Approval Details

Document Title:	A-32-2023 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Map.pdf- Appendix B - Drawings.pdf- Appendix C - Photos.pdf- Appendix D - Original Elevation Design.pdf- Appendix E - Operations Department.pdf- Appendix F - ERCA Comments.pdf- Appendix G - VIA Rail Canada Inc.pdf
Final Approval Date:	Oct 13, 2023

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

Sahar Jamshidi - Oct 13, 2023 - 1:24 PM