

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: October 11, 2023
Subject: Minor Variance Application A-33-2023 – 1203 Faith Drive

Recommendation

Approve the following relief from Lakeshore Zoning By-law for a pergola that is already constructed and a planned pergola on the subject property:

- Relief from Section 6.5 a) x) to permit the pergola that is already constructed and the planned pergola to be located 0 metres from the main building, whereas accessory structures shall not be erected within 3 metres of the main building.

Impose the following conditions on approval:

- 1) The combined occupant load between the proposed structures and the existing main building shall remain unchanged at 300 persons;
- 2) Panic hardware on the exit gates to be included to the satisfaction of the Municipality of Lakeshore;
- 3) That site plan approval is obtained from the Municipality of Lakeshore for development of the subject property.

Proposal

The Municipality of Lakeshore has received an application for a subject property known municipally as 1203 Faith Drive. The subject property is zoned Minor Institutional Zone Exception 3 (I2-3) in the Lakeshore Zoning By-law and designated “Major Institutional” in the Lakeshore Official Plan.

The subject property is approximately 4.57 acres in area with approximately 60 metres of frontage along Faith Drive. The current use of the property is an assembly hall used as a wedding venue.

The applicant has constructed a pergola covering an area of approximately 332.6 m² on the property located south of the main building. In addition, the applicant is planning to

construct a new pergola covering an area of approximately 112.9 m² that will cover a cooler and freezer as well as a potential future pantry. This new pergola will be located south of the main building and to the east of the existing pergola as shown on the drawings (Appendix B.)

The pergola that is already constructed and the planned pergola will be abutting the south wall of the main building, and therefore both structures require the following relief from Lakeshore Zoning Bylaw 2-2012:

- Section 6.5 a) x) to permit the pergola that is already constructed and the planned pergola to be located 0 metres from the main building, whereas accessory structures shall not be erected within 3 metres of the main building.

A map showing the location of the subject parcel (Appendix A), sketches of the proposed minor variance (Appendix B), and photos of the pergola already constructed (Appendix C) are attached.

Summary

Location

The subject property is located on the south side of Faith Drive, south of County Road 22, west of Renaud Line Road, known municipally as 1203 Faith Drive. The subject property is approximately 4.57 acres in area with approximately 60 metres of frontage along Faith Drive.

Surrounding Land Uses

The abutting property to the east contains a school – St. William Catholic Elementary School. Directly south is a portion of the school lands and undeveloped land zoned Residential – Low Density (R1) which aerial photography suggests is currently used for agricultural purposes.

Directly west of the subject property is the St. Williams Cemetery. This cemetery, known municipally as 1193 Faith Drive, is a separate lot from the subject property that does not have frontage on a street. It has an un-encumbered right-of-way access through a registered easement on the subject property – visitors and/or maintenance crew are allowed to utilize the driveway on the subject property for the purposes of accessing the cemetery. The location of this easement is provided on the site plan drawing (Appendix B) – it is located west of the main building and the already constructed and proposed pergola. Beyond the cemetery, further west, is a residential subdivision.

North of the subject property, and directly across the street on the northside of Faith Drive, are residential properties supporting single detached dwellings.

Official Plan

The subject property is designated “Major Institutional” in the Lakeshore Official Plan and County of Essex Official Plan and is partially located within the Lake St. Clair floodprone area due to the 4th Concession Drain (municipal drain) that runs along the westerly limit of the subject property. In the County of Essex Official Plan, the subject property is located within a “Primary Settlement Area” designation.

Zoning

The subject property is zoned “Minor Institutional Exception 3 (I2-3)” 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 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 maintains the general intent and purpose of the Lakeshore and County of Essex Official Plan. The proposal does not conflict with any of the Primary Settlement Area policies of Section 3.2.4.1 of the County of Essex Official Plan.

Section 6.12.1 of the Major Institutional Designation permits accessory uses to any of the permitted uses under this designation, which are established in the Zoning By-law. The minor variance application identifies the current use of the property as an “assembly hall” used as a wedding venue. The pergolas are an accessory use/structure to support and enhance this permitted use. Their position adjacent to the south wall of main building will allow direct access from the main building to this outdoor space where customers/visitors can gather under a structure that provides some shelter.

The subject property is designated Site-Specific Policy Area 6.12.3.2. This policy section simply recognizes the existing easement on the property in favour of St. Williams Cemetery and lists the permitted uses on the subject property. The pergolas are located east of the easement lands – abutting the south wall of the main building. They will respect the easement lands and will serve as an accessory use/structure on the property.

As previously noted, the subject property is located within the Lake St. Clair floodprone area. Essex Region Conservation Authority (ERCA) was circulated for comments on the proposal. ERCA confirmed that their office has already issued a permit for the development, and that they have no objection to the application.

The pergolas will meet the required setback from the east side lot line that is mutual with the St. William Catholic Elementary School property. The site plan drawing indicates a 5 metre setback from the new pergola (not yet constructed) and the property

line. According to the site plan drawing, a 1.5 metre high black iron and masonry fence is proposed along the side lot line, along with a 4.5 metre wide buffer strip as required in the Zoning By-law. The exact site design is to be finalized through the site plan control process under the Planning Act with the development meeting the general intent and purpose of the Community Design policies of Section 4.2.1.

Zoning By-law

The proposed relief maintains the general intent and purpose of the Zoning By-law.

The purpose of the regulation not allowing accessory structures to be erected within three metres of a main building is to ensure a physical separation between structures that will prevent the spread of fire between buildings. It is also an aesthetic consideration to mitigate the appearance of overbuilding on a lot.

The Building Division and Fire Services did not raise any issues with the minor variance. The Fire Services advises that the current occupancy numbers must be maintained, panic hardware is required for the exit gates, and that the structure must be unenclosed. Permitting the pergolas to abut the south wall of the main building also makes sense from a functional and aesthetic consideration.

Minor

There are no anticipated impacts or land use compatibility issues with permitting the pergolas to abut the main building. Specifically positioning the pergolas on the south side of the building screens the structures from Faith Drive. The exact design of the site will be determined through the Site Plan Control process which will confirm compliance with required setbacks and buffering.

Desirability

The requested relief is considered desirable for the appropriate development of the building and land. This is not a case of a development deviating from any established standards that exist in the immediate area. Permitting the pergolas to be located adjacent to the south wall of the main building is convenient to allow direct access from the main building to this outdoor space where customers/visitors can gather under a structure that provides some shelter.

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.

The Committee should impose the following conditions on any approval of the minor variance:

- 1) The combined occupant load between the proposed structures and the existing main building shall remain unchanged at 300 persons;
- 2) Panic hardware on the exit gates to be included to the satisfaction of the Municipality of Lakeshore;
- 3) That site plan approval is obtained from the Municipality of Lakeshore for development of the subject property.

Correspondence

External and Internal Agencies

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

Essex Region Conservation Authority (ERCA) states that their office has issued a permit for this development. They have no objection to the minor variance. Full comments can be found in Appendix D.

The Operations Division stated that they have no comments on the minor variance at this time and will provide comments through the site plan control process to the Applicant. Full comment can be found in Appendix E.

The Fire Services states that the current occupancy numbers must be maintained, panic hardware is required on the exit gates, and that the accessory structure must remain unenclosed. Full comments can be found in Appendix F.

The Building Division stated that the combined occupant load between the proposed structures and the existing main building shall remain unchanged at 300 people. 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 written comments were received.

Attachment(s):

Appendix A – Aerial Photo
Appendix B – Drawings
Appendix C – Photos
Appendix D – ERCA Comments

Appendix E – Operations Division Comments

Appendix F – Fire Services Comments

Appendix G – Building Division Comments

Prepared by:



Ian Search, BES
Planner I

Report Approval Details

Document Title:	A-33-2023 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Photo.pdf- Appendix B - Drawings.pdf- Appendix C - Photos.pdf- Appendix D - ERCA Comments.pdf- Appendix E - Operations Comments.pdf- Appendix F - Fire Department Comments.pdf- Appendix G - Building Department Comments.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 - 4:10 PM