

# Municipality of Lakeshore Committee of Adjustment Report

## Growth & Sustainability

## Community Planning



**To:** Chair and Members of Committee of Adjustment

**From:** Ian Search, BES, Planner I

**Date:** August 12, 2024

**Subject:** Deferred Application for Permission to Enlarge a Legal Non-Conforming Building A/06/2024 – 12960 Laforet Beach Road

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### Recommendation

Approve application, A-06-2024, to permit the enlargement of a legal non-conforming building (building used for personal storage without a dwelling on the subject property), subject to the following conditions:

- 1) That the recommendations in the Structural Report from Patterson Engineering, dated June 18, 2024 be implemented to the satisfaction of the Municipality of Lakeshore;
- 2) The proposed building height does not exceed 6.74 metres (22.12 feet) from proposed grade to “top of gambrel truss”, to the satisfaction of the Municipality of Lakeshore;
- 3) The building will remain in the same footprint on the property, to the satisfaction of the Municipality of Lakeshore; and
- 4) The relief is granted based on the use of the building being used for storage. Should a commercial or residential use be proposed in the building, the owner must contact the Municipality of Lakeshore to apply for the appropriate permissions under the Zoning By-law or the Building Code, as the case may be.

### Proposal

On May 22, 2024, the Committee of Adjustment heard an application for permission to enlarge a legal nonconforming building under Subsection 45(2)(a)(i) of the Planning Act and deferred the application pending comments from the Essex Region Conservation Authority (ERCA).

The subject property is located on the north side of Laforet Beach Road, north of the VIA Rail Canada Inc. right-of-way, near the corner of Laforet Beach Road and Gracey Sideroad, known municipally as 12960 Laforet Beach Road (Appendix A). The subject

property is zoned “Residential Waterfront – Lake St. Clair” (RW2) in the Lakeshore Zoning By-law and designated “Waterfront Residential” in the Lakeshore Official Plan.

The subject property is approximately 0.37 acres in area with approximately 16.2 metres of frontage. There is an existing building used for personal storage without a dwelling on the subject property, which is a legal non-conforming building/use. Section 6.5 a) iii) of Lakeshore Zoning By-law 2-2012 only permits an accessory building on a property where there is a main building located on the lot. According to the application, the building has existed on the property since a time prior to the 1950’s, and has been used for personal storage since a time prior to the 1970’s. It is used as an accessory building to a nearby cottage (12710 Laforet Beach Road), which is a cottage built and owned by the applicant’s family since the 1950’s.

An affidavit signed by multiple property owners in Lakeshore was submitted with the application stating that the current building has existed on the subject property without a main building (dwelling) since a time prior to January 1986, which was when the old Tilbury North Zoning By-law was adopted. The old Tilbury North Zoning By-law included a zone provision requiring that no accessory building be constructed prior to the construction of the main use on a lot. In addition to the affidavit, aerial photography dating back to the year 2000 that is available to Administration confirms the presence of the storage building without a main building on the property.

According to the site plan drawing submitted with the application, the building is setback 12 feet from the west side lot line, 16 feet from the east side lot line, 170 feet from the front lot line, and 62 feet from waters edge.

The building is in poor condition and the applicant is seeking to renovate it. As part of the renovation plans, the applicant is seeking permission from the Committee of Adjustment to enlarge the legal non-conforming building. The renovation includes new walls/new roof truss system that will result in the building having a height of 22 feet 1.25 inches (6.74 metres) from proposed grade to “top of gambrel truss”. The existing building is 15 feet (4.57 metres) to “top of gambrel truss”. The building will remain in the same building footprint on the property as it currently exists following the renovation. One of the four block foundation walls above proposed grade will be new. This is to eliminate the existing 10 feet by 40 feet lean-to in favour of the new walls/new roof truss system that will span over the entire 30-foot width of the building. Drawings from the original application submission are included as Appendix B.

Due to the structure being currently below grade, snow melt and ground water runoff cause flooding in the spring when the existing sump pump is overloaded. Additionally, the existing roof system needs repair, as the lean-to portion of the roof is leaking and is not designed for snow load according to the applicant.

The Committee of Adjustment deferred the application at their May 22, 2024 public meeting. The reason for the deferral was due to comments received from Essex Region Conservation Authority (ERCA) at the time, which requested deferral “until the applicant submits information from a professional engineer demonstrating that the structure does

not require reconstruction to support the proposed alterations”. The Lakeshore Building Division also advised that structural engineering would be required.

Since the May 22, 2024 deferral, the applicant obtained a Structural Report from Patterson Engineering (Appendix D). An opinion from the report reads, “the existing footings are adequate of carrying the new loadings, granted the number of block unit courses on top of the existing lean-to block masonry units is limited to 1.2 metres”. In addition to the Structural Report, an explanation of development changes proposed by the applicant along with a markup of their previously submitted cross section drawing showing proposed changes is attached as Appendix E. Please note, the cross section drawing showing markup changes to the original is not to scale.

On July 19, 2024, the above noted Structural Report and supporting materials mentioned above were circulated to external agencies and internal departments for comment and/or to confirm their support of the proposal.

It is important to note the following details that remain unchanged from the original proposal:

- The proposed building height remains as originally proposed
- The building will remain in the same footprint on the property
- As originally proposed: one block wall will have new added block, which will support the new walls/roof truss system that will span the 30-foot building width (eliminating the existing lean-to in favour of this new concept).

## Summary

Surrounding Land Uses	North: Lake St. Clair South: VIA Rail Canada Inc. East: Municipally owned land/parkette West: Low density residential
Municipal Services	Municipal water Private Road (Laforet Beach Road) Individual private septic services
Official Plan Land Use Designation	Lakeshore Official Plan: Waterfront Residential County of Essex Official Plan: Secondary Settlement Area
Zoning	“Residential Waterfront – Lake St. Clair” (RW2)
Permission requested	-Enlargement of Legal Non-Conforming Building for storage use: new height will be approx. 22 feet 1.25 inches (6.74 m), elimination of lean-to in favour of new walls/new roof truss system that will span over the entire 30-foot width of the building

	<ul style="list-style-type: none"><li>- the design proposed does not indicate that a dwelling is proposed.</li><li>- no municipal water connection or private septic system is proposed.</li></ul>
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### **Planning Act 45(2)(a)(i)**

Subsection 45(2)(a)(i) of the *Planning Act* gives the authority of granting a request for the enlargement of a legal non-conforming building to the Committee of Adjustment. No permission may be given to enlarge the building beyond the limits of the land owned and used in connection therewith.

### County of Essex Official Plan

Section 4.16 c) of the County of Essex Official Plan provides criteria for judging an application for the enlargement of a legal nonconforming use/building:

*i) The proposed expansion does not significantly increase the size of the existing use.*

Comment: The proposal will renovate the building in the same location with no expansion beyond the existing building footprint, and the applicant notes that the renovation does not increase the gross floor area of the existing building. The renovation includes additional building materials to be added that will raise the structure to grade, as well as the installation of a new engineered truss/roof system to address an existing roof in need of repair. The proposed increase in height of the building as part of a renovation to address current issues with the building is considered insignificant.

*ii) The proposed expansion does not require an adjustment to the boundary between two areas of different land use.*

Comment: No boundary adjustment between areas of different land use is required.

*iii) The proposed expansion does not increase its incompatibility with the surrounding area.*

Comment: The renovation of the building will occur in the same building footprint. The proposed height increase does not increase its incompatibility with the surrounding area. The closest dwelling to the west is located approximately 17 metres away according to a mapping system available to Administration. No impacts are anticipated. Elimination of the lean-to in favour of new walls/new roof truss system that will span over the entire 30-foot width of the building is considered a minor alteration to the appearance of the building that does not increase its incompatibility as a storage building on an otherwise vacant lot in the neighbourhood.

*iv) Conditions that may minimize any potential nuisances can be imposed including but not limited to, landscaping, screening, and setbacks; and factors such as traffic safety, parking, loading, and municipal services are not adversely affected.*

Comment: The existing use is storage, and the proposed renovation does not create any potential nuisances that need to be minimized through conditions. In response to the July 19, 2024 circulation, the Division Leader of the Building Division stated that they had no concerns, except that grading must be addressed to ensure no water runoff. This can be addressed at building permit stage.

### Lakeshore Official Plan

Section 8.3.6 d) of the Lakeshore Official Plan provides criteria for judging an application for the enlargement of a legal nonconforming use/building and the criteria is exactly the same as stated in the County of Essex Official Plan. Comments in response to these policies are provided above.

The subject property is designated Lake St. Clair Floodprone Area. Essex Region Conservation Authority (ERCA) was circulated the application for comment. Section 5.4.1.3 of the Lakeshore Official Plan contains the policies for the Lake St. Clair Shoreline Floodprone Area. Subsection f) of that section states that “where there is existing non-conforming development, repairs and minor additions to buildings and accessory uses such as boat houses may be permitted, subject to any other regulations that may apply”.

On June 24, 2024 ERCA sent Community Planning a letter stating that their office has no objection to the file (Appendix F). They note in this comment that their office received and reviewed the Structural Report from Patterson Engineering (dated: June 18, 2024). The property owner will be required to obtain a Permit from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the *Conservation Authorities Act*.

ERCA was also included in the July 19, 2024 circulation. They confirmed that their office received and reviewed the updated information for A-06-2024, and that they have no concerns at this time. They made note that a permit from their office will be required for the development.

### **Correspondence**

Correspondence received from ERCA, and the Building Division in response to the July 19, 2024 circulation of the Structural Report and supporting materials have already been included and addressed in this report.

Lakeshore’s Drainage Division, Engineering and Infrastructure Division, and Fire Department did not raise any concerns or objections in response to the July 19, 2024 circulation.

VIA Rail Canada Inc. provided their standard comment in response to circulation (Appendix G). It is noted that the building is currently proposed to be renovated in the same location and is used for storage.

### Public Notice Circulation

Notice of Public Meeting and information regarding the application was sent to all property owners within 60 metres of the subject land for the May 22, 2024 Committee of Adjustment meeting. No members of the public attended the May 22, 2024, meeting. No further notice was warranted to bring the deferred application back to the Committee of Adjustment.

### **Conclusion**

It is recommended that the Committee of Adjustment approve application, A-06-2024, to permit the enlargement of a legal non-conforming building (building used for personal storage without a dwelling on the subject property), subject to the conditions in the Recommendation section of the report.

### **Attachment(s):**

Appendix A – Aerial Map  
Appendix B – Original Drawings  
Appendix C – Photos  
Appendix D – Structural Report  
Appendix E – July 19 2024 New Materials  
Appendix F – June 24 2024 ERCA comment  
Appendix G – VIA Rail

### **Prepared by:**



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Ian Search, BES  
Planner I

## Report Approval Details

Document Title:	A-06-2024 - 12960 Laforet Beach Road - Deferred Item Revisited.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A - Aerial Map.pdf</li><li>- Appendix B - Original Drawings.pdf</li><li>- Appendix C - Photos.pdf</li><li>- Appendix D - Structural Report.pdf</li><li>- Appendix E - July 19 2024 New Materials.pdf</li><li>- Appendix F - June 24 2024 ERCA Comment.pdf</li><li>- Appendix G - VIA Rail.pdf</li></ul>
Final Approval Date:	Aug 15, 2024

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

**Urvi Prajapati - Aug 13, 2024 - 9:40 AM**

**Ryan Donally - Aug 13, 2024 - 10:23 AM**

**Tammie Ryall - Aug 15, 2024 - 12:05 AM**