

# Municipality of Lakeshore Committee of Adjustment Report

## Growth & Sustainability

### Community Planning



**To:** Chair and Members of Committee of Adjustment  
**From:** Jonathan Derworiz, Planning Consultant (WSP)  
**Date:** August 14, 2024  
**Subject:** Minor Variance Application A/12/2024 – 435 Lakeview

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### Recommendation

Approve minor variance application A-12-2024, 435 Lakeview Drive, for the development of a new accessory building on the subject property, which will replace an existing 50.54 m<sup>2</sup> (544 ft<sup>2</sup>) accessory building located south of the dwelling:

- Relief from subsection 6.5 a) v) to permit the new accessory building to be setback a minimum of 3.79 metres (12.43 ft) from the front lot line to building foundation, with a minimum 3.56 metre (11.67 ft) setback from front lot line to building roof overhang (eaves, eavestrough, etc.). Subsection 6.5 a) v) requires a minimum front yard setback of 6 metres (19.68 feet) where a garage door faces the street;
- Relief from subsection 6.5 a) vii) to permit the new accessory building to be setback a minimum of 0.85 metres (2.78 feet) from the east side lot line to building foundation. Subsection 6.5 a) vii) states that accessory buildings shall not be built closer than 1.5 metre (4.92 feet) from any lot line except that common semi-detached private garages or carports may be centred on a mutual side lot line. Please note a minimum 0.52 metre (1.7 feet) setback from the east side lot line to building roof overhang (eaves, eavestrough, etc.) is planned.
- Relief from subsection 6.5 a) ix) to permit the new accessory building to have a maximum gross floor area of 87.4 m<sup>2</sup> (940 ft<sup>2</sup>). Subsection 6.5 a) ix) states that an accessory building shall not exceed a gross floor area of 55 m<sup>2</sup> (592 ft<sup>2</sup>) in the RW2 zone.
- Relief from subsection 6.5 a) x) to permit the new accessory building to be setback a minimum of 2.5 metres (8.2 ft) (wall to wall) from the porch of the dwelling, with a minimum 1.9 metre (6.23 ft) setback between roof overhangs (eaves, eavestroughs, etc.). Subsection 6.5 a) x) states that an accessory building shall not be erected within 3 metres (9.84 ft) of the main building.

Include the following Notice in the Decision: The applicant will need to ensure that the detached accessory building's proposed setback from the eastern property line

complies with the requirements of the Ontario Building Code. The owner is encouraged to incorporate noise and vibration mitigation measures in the design of the structure given its proximity to the VIA Rail Canada Inc. right-of-way. The reliefs are granted based on the use of the building being accessory to a residence. Should a commercial or residential use be proposed in the accessory 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.

## Background

The applicant is proposing to construct a new detached accessory building on the subject property, 435 Lakeview Drive, in the location of an existing detached accessory building. The proposed accessory building will have a larger gross floor area to accommodate parking of a vehicle as well as contain personal storage. There is currently a single-detached dwelling and detached accessory structure on the subject property.

The subject property is approximately 980 m<sup>2</sup> in area with approximately 15 m of frontage along Lakeview Drive. It is located on the north side of Lakeview Drive east of Lake Street.

The applicant requires a minor variance to permit the development of the new detached accessory building as it has a larger gross floor area and requires relief from Subsection 6.5 of the Lakeshore Zoning by-law, as described in the table below.

<b>Surrounding Land Uses:</b>	North: Lake St. Clair East: Low density residential South: Lakeshore Water Treatment Plant and Waterfront Trail West: Low density residential
<b>Official Plan Land Use Designation:</b>	Residential and Lake St. Clair Floodprone Areas/Inland Floodplain Development Control Area
<b>Zoning:</b>	Residential Waterfront – Lake St. Clair (RW2)
<b>Relief from Zoning By-law Request:</b>	Relief from subsection 6.5 a) v) to permit the new accessory building to be setback a minimum of 3.79 metres (12.43 ft) from the front lot line to building foundation, with a minimum 3.56 metre (11.67 ft) setback from front lot line to building roof overhang (eaves, eavestrough, etc.). Subsection 6.5 a) v) requires a minimum front yard setback of 6 metres (19.68 feet) where a garage door faces the street.
	Relief from subsection 6.5 a) vii) to permit the new accessory building to be setback a minimum of 0.85 metres (2.78 feet) from the east side lot line to building foundation. Subsection 6.5 a) vii) states that accessory buildings shall not be built closer than 1.5 metre (4.92 feet) from any lot line except that common semi-detached private garages or carports may be centred on a mutual side lot line. Please

	note a minimum 0.52 metre (1.7 feet) setback from the east side lot line to building roof overhang (eaves, eavestrough, etc.) is planned.
	Relief from subsection 6.5 a) ix) to permit the new accessory building to have a maximum gross floor area of 87.4 m <sup>2</sup> (940 ft <sup>2</sup> ). Subsection 6.5 a) ix) states that an accessory building shall not exceed a gross floor area of 55 m <sup>2</sup> (592 ft <sup>2</sup> ) in the RW2 zone.
	Relief from subsection 6.5 a) x) to permit the new accessory building to be setback a minimum of 2.5 metres (8.2 ft) (wall to wall) from the porch of the dwelling, with a minimum 1.9 metre (6.23 ft) setback between roof overhangs (eaves, eavestroughs, etc.). Subsection 6.5 a) x) states that an accessory building shall not be erected within 3 metres (9.84 ft) of the main building.

### **Planning Act 45(1)**

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.

#### County of Essex Official Plan

The subject property is included within a Primary Settlement Area in the County of Essex Official Plan. Section 3.2.4.1 b) states that:

*Primary Settlement Areas shall have full municipal sewage services and municipal water services and stormwater management services, a range of land uses and densities, a healthy mixture of housing types including affordable housing options and alternative housing forms for special needs groups, and be designed to be walkable communities with public transit options (or long-term plans for same).*

The minor variance application provides relief for the development of an accessory structure on the subject property. Further, the lot is serviced with municipal sewage and water services. These land uses meet the intent of the County of Essex Official plan within a Primary Settlement Area.

#### Lakeshore Official Plan

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

The Residential Designation states that a variety of housing types are anticipated to be developed to meet the varying demands and characteristics of the population within this designation. Section 6.6 of the Lakeshore Official Plan permits single detached dwellings and uses accessory to any of the permitted uses in the Residential Designation.

A detached building for the purpose of vehicle and personal storage is an appropriate accessory use and meets the general intent of the Official Plan. The proposed minor variance to recognize additional gross floor area and the proposed location also meets the general intent of the Official Plan.

The subject property is designated Lake St. Clair Shoreline Floodprone Area in the Lakeshore Official Plan. Subsection 5.4.1.3 states: *The flooding and erosion hazard limits for the Great Lakes, including Lake St. Clair, have been established in order to regulate development in areas susceptible to periodic flooding and/or erosion hazards. As such, the relevant Conservation Authority should be contacted when planning for new development and/or site alteration to determine permit requirements.*

ERCA was circulated the minor variance application for comment. The role of ERCA is in protecting people and property from the threats of natural hazards and regulating development hazard lands under the Conservation Authorities Act. ERCA has indicated that they have no concerns with the proposed detached accessory building.

### Zoning By-law

The general purpose and intent of the Zoning By-law is to implement the Municipality's Official Plan. Specifically, with regard to the provisions which relief is being sought, building and use provisions are intended to limit gross floor area so that accessory buildings are subordinate to the principal building and/or use on the site and located in a manner that does not conflict with the principal uses, other properties or infrastructure/servicing.

As described above, the maximum gross floor area of a detached accessory building is 55 m<sup>2</sup> whereas the proposed building is approximately 87.4 m<sup>2</sup>. The existing two-storey single detached dwelling has a gross floor area of approximately 160 m<sup>2</sup> and will not be overtaken by the detached accessory building. The Zoning By-law also regulates the lot coverage of detached accessory buildings to ensure that they remain subordinate to the principal uses and buildings on a lot. Subsection 6.5.a)viii) states that detached garages shall not exceed 15% lot coverage in all zones. The proposed garage has a lot coverage of approximately 9%.

In addition to the gross floor area, the minor variance seeks relief from setback requirements from the interior side lot line, the front lot line and the separation distance from the existing single detached dwelling. Setback requirements are generally intended to provide spatial separation for emergency services (i.e., fire), and servicing/infrastructure access. The table below illustrates the proposed setbacks versus those required by the Lakeshore Zoning By-law:

	<b>Proposed (approximately)</b>	<b>Required</b>	<b>Variance (approximately)</b>
<b>Front Lot Line</b>	3.79 m	6 m	2.11 m
<b>Interior Side Lot Lone</b>	0.85 m	1.5 m	0.75 m

<b>Distance from Principal Building</b>	2.5 m	3 m	0.5 m
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The plans submitted with the minor variance application were circulated to Building, Engineering and Fire. To confirm that the proposed setbacks from lot lines are acceptable, further review will be undertaken at the Building Permit stage. No concerns have been identified by Fire or Engineering. It should be noted that this property exists in an area where other detached accessory buildings encroach into the required yard setbacks, due to the dimensions of lots and age of the area.

The minor variance to recognize the gross floor area and provide relief from the setbacks meets the general intent of the zoning by-law.

### **Minor in Nature**

Subject to the issuance of a Building Permit confirming compliance with the Ontario Building Code, the proposal is considered minor in nature. The reliefs consist of minor deviations from the required setback and the gross floor area provisions. There are no land use compatibility issues or impacts expected from permitting the desired reliefs.

### **Desirability and Appropriateness**

The minor variance reliefs are considered desirable for the appropriate development of the building and the proposal is generally compatible with the surrounding area. The proposed detached accessory building will replace an existing building although with an increased gross floor area. As described above, there other properties along Lakeview Drive that contain detached accessory buildings within required front yard setbacks.

### **Conclusion**

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.

It is recommended that the Committee of Adjustment include the following Notice in the Decision:

The applicant will need to ensure that the detached accessory building’s proposed setback from the eastern property line complies with the requirements of the Ontario Building Code. The owner is encouraged to incorporate noise and vibration mitigation measures in the design of the structure given its proximity to the VIA Rail Canada Inc. right-of-way.

## **Comments**

Comments received as of the preparation of this report include:

### ***Fire Services***

Circulation Comments:

- Indicated they have no comments.

### ***Engineering Services***

Circulation Comments:

- We recommend that the east side yard should maintain the proper grading and drainage with no impact to neighboring property owner. All the downspouts overland flows to stay within the proposed property limit.

### ***Building Services***

Circulation Comments:

- Ensure water run-off is addressed.
- Proximity to lot line shall be addressed through Building Code review.

## **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, two letters were received from the public. One of the letters details concerns with the general size, location, and potential impacts to visibility from their driveway.

The second letter details concerns with the size relative to lot area, as well as impacts to property value and greenspace. The letter also states that there is an existing garage on the property that meets the needs of the homeowner and raises concerns with the lack of a necessity behind the minor variance request.

Staff note that the proposed location of the garage is the same as that of the current garage. While the size of the structure is larger than what currently exists, the requested relief is considered minor in nature as described in this report. Regarding the concern about visibility and sightlines, the new garage is not proposed to project any further toward the road than the current garage.

## **Attachments**

Appendix A – Aerial Map  
Appendix B – Drawings

Appendix C – Photos  
Appendix D – ERCA Comments  
Appendix E – VIA Rail Canada Inc. Comments  
Appendix F – Engineering Comments

## Report Approval Details

Document Title:	A-12-2024 - 435 Lakeview Drive.docx
Attachments:	- Appendix A - Aerial Map.pdf - Appendix B - Drawings.pdf - Appendix C - Photos.pdf - Appendix D - ERCA Comments.pdf - Appendix E - VIA Rail Comment.pdf - Appendix F - Engineering Comments.pdf
Final Approval Date:	Aug 15, 2024

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

**Ryan Donally - Aug 14, 2024 - 3:09 PM**

**Tammie Ryall - Aug 15, 2024 - 8:12 AM**

**Urvi Prajapati - Aug 15, 2024 - 3:38 PM**