

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: September 10, 2024

Subject: Minor Variance Application A/25/2024 – 3362 Manning Road

Recommendation

Approve minor variance application A/25/2024, 3362 Manning Road, to permit the following relief from Lakeshore Zoning By-law (2-2012) for an existing accessory building (approx. 1920 ft² building footprint) that has been constructed on the Subject Property:

- Relief from subsection 6.5 a) v) to permit an accessory building to be setback a minimum of 9.5 metres (31.1 feet) from the front lot line, whereas subsection 6.5 a) v) states that an accessory building shall not be built closer to the front lot line than the minimum distance required by this By-law for the main building on the lot. The front yard setback requirement for a main building on the lot is 15 metres.

Include the following Notice in the Notice of Decision:

The owner is responsible for ensuring that the applicable permits are obtained for buildings and structures on their property and is responsible for ensuring compliance with applicable Zoning By-law regulations. Additionally, 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, if the intention is to permit a commercial or residential use in the accessory building.

Background

The Municipality of Lakeshore has received a minor variance application for a property located on the east side of County Road 19/Manning Road, south of Highway 401, north of County Road 46, known municipally as 3362 Manning Road in the Municipality of Lakeshore. The subject property is zoned "Agriculture" (A) in the Lakeshore Zoning By-law and designated "Agricultural" in the Lakeshore Official Plan.

The subject property is approximately 1.41 acres (5706 m²) in area with approximately 115 metres (377.3 feet) of frontage along County Road 19/Manning Road.

The Applicant is seeking the following relief from Lakeshore Zoning By-law (2-2012) for an existing accessory building (approx. 1920 ft²/178.4 m² building footprint) that has been constructed on the Subject Property:

- Relief from subsection 6.5 a) v) to permit an accessory building to be setback a minimum of 9.5 metres (31.1 feet) from the front lot line, whereas subsection 6.5 a) v) states that an accessory building shall not be built closer to the front lot line than the minimum distance required by this By-law for the main building on the lot. The front yard setback requirement for a main building on the lot is 15 metres.

The Applicant received minor variance approval (file: A-02-2023) on March 22, 2023, to permit development of the accessory building to be setback 10 metres (32.8 feet) from the front lot line, but then the building was constructed closer to the front lot line than what the minor variance permitted. A certificate from a surveying company revealed that the building was constructed within 9.72 metres (31.90 feet) of the front lot line.

The certificate from the surveying company was requested by Building Services during footing inspections. The Division Leader of Building Services was told that a property bar was used to establish the setback, but that the surveying company determined that the property bar had been moved in the past causing construction of the building to be non-compliant.

Please note that the Applicant intends to make an application to change the zoning of their property to permit the accessory building to be used for a gainful occupation. The request for this zoning change will be made through a future separate application to Municipality of Lakeshore Council. Separate notice of that application will be given as required under the Planning Act.

The subject property is currently zoned “A” and is recognized as a rural residential lot in the Zoning By-law due to its size, being less than 4.0 ha in area. The Zoning By-law only permits limited residential uses on this property, such as the existing single detached dwelling, as well as accessory uses/buildings in connection with the residential use of the property.

Unless the zoning of the property is successfully amended to permit a gainful occupation (“Home Industry” as defined in the Lakeshore Zoning By-law 2012), then the accessory building is limited to a non-business accessory use in connection with a rural residential lot (garage for storage of personal vehicles, storage of personal belongings, etc.).

Surrounding Land Uses	North: rural commercial South: rural residential lot East: agriculture West: rural commercial
Official Plan Land Use Designation	Lakeshore Official Plan: Agricultural County of Essex Official Plan: Agricultural
Zoning	“Agriculture” (A)

Relief from Zoning By-law requested	<ul style="list-style-type: none">• Relief from subsection 6.5 a) v) to permit an accessory building to be setback a minimum of 9.5 metres (31.1 feet) from the front lot line, whereas subsection 6.5 a) v) states that an accessory building shall not be built closer to the front lot line than the minimum distance required by this By-law for the main building on the lot. The front yard setback requirement for a main building on the lot is 15 metres.
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Comments

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 designated “Agricultural” in the County of Essex Official Plan. There are no issues of County significance in permitting a minor variance that will recognize the deficient setback (9.5 metres) of the accessory building from the front lot line. The Engineering Technologist at the County of Essex commented that they have no objections as the building meets the County setback distance from the County Road.

Lakeshore Official Plan

The subject property is designated “Agricultural” in the Lakeshore Official Plan. The proposed minor variance will maintain the general intent and purpose of the Lakeshore Official Plan. The policies in the Official Plan “protect agriculture from the intrusion of incompatible uses, such as non-farm related residential dwellings and other uses that are sensitive to contemporary agricultural practices”. A minor variance to recognize the deficient setback (9.5 metres) of the accessory building from the front lot line on this rural residential lot does not conflict with the policies in the Lakeshore Official Plan.

The subject property is also designated Inland Floodplain Development Control Area. These are areas that have been identified as being susceptible to flooding under regulatory flood conditions as implemented by the appropriate Conservation Authority – in this case the Essex Region Conservation Authority (ERCA). A permit allowing for development activities including construction, placement of fill and alterations to shorelines and watercourses is required from the relevant Conservation Authority prior to undertaking such activities. ERCA was circulated notice of the minor variance application and commented that the parcel falls within the regulated area of the Croft Drain. Their office previously issued Permit #720-22, dated October 18, 2022, for this

development. A new permit is not required. The agency has no objection to the minor variance application.

Zoning By-law

The general intent and purpose of the regulation requiring an accessory building to be setback the same distance from the front lot line as the main building on a property is to provide sufficient area for landscaping purposes in the front yard of a property and to separate a building from activities associated with a public street including construction and maintenance of public services.

Comment: The subject property is approximately 1.41 acres (5706 m²) in area with approximately 115 metres (377.3 feet) of frontage along County Road 19/Manning Road. There is sufficient opportunity for landscaping of the property, including in front of the dwelling where the accessory building is not located. Moreover, this is a rural residential lot located outside a typical subdivision and surrounded by a variety of different uses. The subject property is located on a County road and the County of Essex did not express any objection. Likewise, no objections or concerns were received from Lakeshore Operations Department.

Minor in Nature

The requested relief is considered minor in nature to address an error that occurred during development of the accessory building following initial minor variance approval. There are no land use compatibility issues or impacts anticipated from permitting the desired relief.

Desirability and Appropriateness

The minor variance relief is desirable to recognize the deficient setback of the accessory building and will permit the building to exist where it was constructed on the property. With respect to the requested setback relief specifically, there are no issues of appropriateness related to matters such as uniformity of appearance in a neighbourhood, or existing standards in the immediate area. It is recognized that the subject property is located outside the residential designations of Lakeshore and is surrounded by a variety of uses including rural commercial uses, agricultural uses and some rural residential lots.

Conclusion

It is the opinion of the Planner that each of the requested reliefs pass the four tests prescribed under subsection 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 owner is responsible for ensuring that the appropriate permits are obtained for buildings and structures on their property and is responsible for ensuring compliance with applicable Zoning By-law regulations.

Additionally, 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, if the intention is to permit a commercial or residential use in the accessory building.

Others Consulted

The Engineering Technologist at the County of Essex commented that they have no objections as the accessory building meets the County setback distance. The minimum setback for any proposed structures on this property must be 85 feet from the centre of the of County Road 19 right-of-way. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances or structures (Appendix D).

ERCA commented that they have no objection to the minor variance application. Their office previously issued Permit #720 - 22 for this development, and a new Permit is not required (Appendix E).

The Operations Department stated that they have no comments with respect to the minor variance application.

The Fire Department commented that the applicant must contact the Prevention Division of the Fire Department for inspection if the building is to be used for a commercial use. No action is required for personal use.

The Drainage Department commented that development must adhere to the setbacks from an open municipal drain as per the Zoning By-law. A building permit was previously issued for the development of the accessory building. It was constructed closer to the front lot line than what was permitted, while the municipal drain (Croft Drain) runs along the rear lot line of the subject property. Based on the drawings submitted, the required setback from the open municipal drain has been met.

As previously mentioned, the Applicant intends to make an application to change the zoning of their property to permit the accessory building to be used for a gainful occupation. The Drainage Department commented that an oil grit separator is recommended in order that no oils etc. leach into the municipal drain (Croft Drain) at the side of said property.

The Building Division stated that they have no concerns at this time.

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 – Drawings
Appendix C – Photos
Appendix D – County of Essex
Appendix E – ERCA

Prepared by:



Ian Search, BES
Planner I

Report Approval Details

Document Title:	A-25-2024 - 3362 Manning Road - Minor Variance Report.docx
Attachments:	- Appendix A - Aerial Map.pdf - Appendix B - Drawings.pdf - Appendix C - Pictures.pdf - Appendix D - County of Essex.pdf - Appendix E - ERCA.pdf
Final Approval Date:	Sep 11, 2024

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

Urvi Prajapati - Sep 11, 2024 - 1:06 PM

Ryan Donally - Sep 11, 2024 - 1:28 PM

Tammie Ryall - Sep 11, 2024 - 5:20 PM