

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/27/2024 – 1220 Faith Drive

Recommendation

Approve minor variance application A/27/2024 to permit the following reliefs from Lakeshore Zoning By-law (2-2012) for the development of an accessory building on the Subject Property:

- Relief from subsection 6.5 a) ix) to permit an accessory building to have a maximum gross floor area of 118.92 m² (1,280 ft²), whereas subsection 6.5 a) ix) states that an accessory building shall not exceed a gross floor area of 55 m² (592 ft²), for each accessory building on a lot in an R1, R2, R3, RW1, RW2, RM or HR zone.
- Relief from subsection 6.5 a) xi) to permit an accessory building to have a maximum height of 5.24 metres (17.17 feet), whereas subsection 6.5 a) xi) states that an accessory building shall not exceed 5 metres (16.4 feet) in height unless with an Agriculture zone.

Include the following Notices in the Notice of Decision:

The relief is granted subject to the accessory building being located in the same general location as shown on the drawings in Appendix B.

The relief is granted based on the use of the building being accessory to a residence. Should 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.

Aerial photography available to administration suggests a small building addition occurred to an existing accessory structure on the property located near the east side lot line. The applicant should contact Building Services to inquire about obtaining a permit for this structure.

The applicant should seek legal counsel with respect to the neighbouring property to the

west using the existing driveway located on the subject property for access to an accessory building on that property. Note that the Lakeshore Zoning By-law 2-2012 contains regulations respecting driveways which apply to any alterations to the situation sought. The Municipality of Lakeshore is to be contacted with respect to any proposed alterations or application for easement.

Background

The Applicant is seeking the following reliefs from Lakeshore Zoning By-law (2-2012) for the development of an accessory building on the Subject Property:

- Relief from subsection 6.5 a) ix) to permit an accessory building to have a maximum gross floor area of 118.92 m² (1,280 ft²), whereas subsection 6.5 a) ix) states that an accessory building shall not exceed a gross floor area of 55 m² (592 ft²), for each accessory building on a lot in an R1, R2, R3, RW1, RW2, RM or HR zone.
- Relief from subsection 6.5 a) xi) to permit an accessory building to have a maximum height of 5.24 metres (17.17 feet), whereas subsection 6.5 a) xi) states that an accessory building shall not exceed 5 metres (16.4 feet) in height unless with an Agriculture zone.

The minor variance application states that the building will be used for the personal storage of vehicles and maintenance equipment. The site plan drawing suggests that the building will utilize an existing driveway on the property for access to the proposed accessory building, which is also currently being utilized to provide access to an accessory building on the neighbouring property to the west.

Both the subject property and the neighbouring property to the west are zoned “Residential – Low Density” (R1). The Lakeshore Zoning By-law (2-2012) does not permit a second driveway/access to be established on the subject property for the proposed accessory building. Subsection 6.41.4 d) states that not more than one driveway shall be permitted per lot in the R1 zone. Likewise, there is an existing driveway/access on the neighbouring property to the west for access to the dwelling on that property. The Zoning By-law (2-2012) does not permit the establishment of a second driveway/access on that property either. The applicant should seek legal counsel with respect to the neighbouring property to the west using the existing driveway located on the subject property for access to an accessory building on that property.

Surrounding Land Uses	North: Low density residential South: Institutional East: Low density residential West: Low density residential
Official Plan Land Use Designation	Lakeshore Official Plan: Residential County of Essex Official Plan: Primary Settlement Area
Zoning	“Residential – Low Density” (R1)

Relief from Zoning By-law requested	<ul style="list-style-type: none">• Relief from subsection 6.5 a) ix) to permit an accessory building to have a maximum gross floor area of 118.92 m² (1,280 ft²), whereas subsection 6.5 a) ix) states that an accessory building shall not exceed a gross floor area of 55 m² (592 ft²)• Relief from subsection 6.5 a) xi) to permit an accessory building to have a maximum height of 5.24 metres (17.17 feet), whereas subsection 6.5 a) xi) states that an accessory building shall not exceed 5 metres (16.4 feet) in height unless with an Agriculture zone.
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Comments

Subsection 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

Subsection 3.2.4.1 h) of the County of Essex Official Plan states that all types of land uses are permitted within the “Settlement Areas” designation subject to the specific land use policies of the local Official Plans. The Lakeshore Official Plan permits uses accessory to the dwelling on the subject property. The minor variance application maintains the general intent and purpose of the County of Essex Official Plan.

Lakeshore Official Plan

Subsection 6.6.1 a) of the Lakeshore Official Plan states that single detached dwellings will be permitted in the Residential designation and subsection 6.6.1 k) permits uses that are accessory to any of the permitted uses.

Comment: The proposed development is for an accessory building on a residential lot containing a single detached dwelling.

Subsection 4.2.1 Community Design includes the following relevant policies:

- a) *The Town will seek to maintain and improve the physical design characteristics of the Settlement Areas in the context of new and existing development and stress a generally high quality of community design and built form.*

Comment: The subject property is 1.03 acres (4168.26 m²) and is a relatively larger residential lot in the neighbourhood. It is therefore conducive to supporting the proposed

gross floor area and height of the accessory building. The building will be subordinate to the main building on the property which is in keeping with the physical design characteristic established in the area.

- c) *Measures will be taken to ensure that the permitted uses address compatibility with adjacent land uses. Adequate separation buffering or screening will be provided between any uses where land use conflicts might be expected, such as the provision of grass strips and appropriate planting of trees and shrubs, berms or fence screening, and other means as appropriate. Modifications to building orientation may also represent appropriate buffering measures.*

Comment: The proposed accessory building is for personal storage on a residential property that will not generate land use conflicts. The proposal does not require separation buffering or screening. According to the site plan drawing, the applicant is planning on constructing the accessory building approximately 3.04 metres (10 feet) from the west side lot line which provides desirable separation from existing dwellings that have frontage of Dubois Avenue located east of the subject property.

The minor variance application maintains the general intent and purpose of the Lakeshore Official Plan.

Zoning By-law

The purpose of the regulation limiting an accessory building to a gross floor area of 55 m² (592 ft²) in the R1 zone is to ensure that these buildings do not dominate the area in a typical residential neighbourhood.

Comment: The residential neighbourhood is comprised of a variety of different lot sizes and is not a typical subdivision. As previously mentioned, the subject property is a relatively larger residential lot in the area capable of supporting a larger accessory building. Moreover, the accessory building will be subordinate to the main dwelling on the property, therefore maintaining the general intent of “accessory” definition in the Zoning By-law.

The purpose of the regulation limiting the height of an accessory building to 5 metres (16.4 feet) is to ensure that these buildings remain subordinate to the main building on a property and that they remain unoffensive with respect to location and purpose.

Comment: The minor variance application states that the dwelling on the property has a height of approximately 5.5 metres (18 feet), which is similar in height to the proposed accessory building. It is noted that the overall massing of the main building is larger than the proposed accessory building, and that the accessory building is proposed to be located in the rear yard of the property quite some distance away from the dwelling and Faith Drive roadway. In addition, plans show the proposed accessory building to be approximately 3.04 metres (10 feet) from the west side lot line which provides desirable separation from existing dwellings that have frontage of Dubois Avenue located east of

the subject property.

Minor in Nature

The requested reliefs are considered minor in nature. There are no land use compatibility issues or impacts anticipated from permitting the desired reliefs. An increase in height of 0.24 metres (0.79 feet) beyond what the regulation permits is considered minor in nature to accommodate desired storage. Likewise, the requested increase in gross floor area is considered minor to accommodate desired storage given the site and neighbourhood context.

Desirability and Appropriateness

The minor variance reliefs are desirable for the appropriate development of the building and the proposal is compatible with the surrounding area. The proposal meets existing standards in the area and a negative impact on the streetscape is not anticipated. The proposed development is compatible with its surroundings.

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 Notices in the Decision:

The relief is granted subject to the accessory building being located in the same general location as shown on the drawings in Appendix B.

The relief is granted based on the use of the building being accessory to a residence. Should 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.

Aerial photography available to administration suggests a small building addition occurred to an existing accessory structure on the property located near the east side lot line. The applicant should contact Building Services to inquire about obtaining a permit for this structure.

The applicant should seek legal counsel with respect to the neighbouring property to the west using the existing driveway located on the subject property for access to an

accessory building on that property. Note that the Lakeshore Zoning By-law 2-2012 contains regulations respecting driveways which apply to any alterations to the situation sought. The Municipality of Lakeshore is to be contacted with respect to any proposed alterations.

Others Consulted

Essex Region Conservation Authority (ERCA) commented that they have no objection to A-27-2024. Their office has already issued ERCA Permit 413 – 24 for this development, dated July 3, 2024. It is the responsibility of the Applicant to notify their office of any changes to the approved site plans. Their full comment can be found in Appendix D.

The Operations Department commented that it appears there is mutual access provided from 1220 Faith Drive to 1216 Faith Drive. They state that confirmation of a mutual agreement will be required, or alternatively, access will need to be closed to 1216 Faith Drive from the subject property. Their full comment can be found in Appendix E. In response to these comments, the applicant should seek legal counsel with respect to the neighbouring property to the west using the existing driveway located on the subject property for access to an accessory building on that property. Note that the Lakeshore Zoning By-law 2-2012 contains regulations respecting driveways which apply to any alterations to the situation sought. The Municipality of Lakeshore is to be contacted with respect to any proposed alterations or application for easement.

The Fire Department stated that they have no issue with the proposal. If a commercial use is proposed in the future – which requires additional applications and approvals under the Planning Act – then the owner must contact the Fire Department for inspection.

Building Services comments that they have no concerns at this time. Any grading required will be addressed at the time of permit application.

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.

Attachments:

Appendix A – Aerial Map
Appendix B – Drawings
Appendix C – Photos
Appendix D – ERCA
Appendix E – Operations Department

Prepared by:



Ian Search, BES
Planner I

Report Approval Details

Document Title:	A-27-2024 - 1220 Faith Drive - Minor Variance Report.docx
Attachments:	- Appendix A - Aerial Map.pdf - Appendix B - Drawings.pdf - Appendix C - Photos.pdf - Appendix D - ERCA.pdf - Appendix E - Operations Comments.pdf
Final Approval Date:	Sep 11, 2024

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

Urvi Prajapati - Sep 10, 2024 - 11:25 AM

Ryan Donally - Sep 11, 2024 - 11:28 AM

Tammie Ryall - Sep 11, 2024 - 9:49 PM