

# 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:** October 7, 2024

**Subject:** Minor Variance Application A/23/2024 – 3194 St. Clair Road

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### Recommendation

Approve minor variance application A/23/2024, 3194 St. Clair Road, for the development of a new 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 177.5 m<sup>2</sup> (1,910.6 ft<sup>2</sup>), whereas subsection 6.5 a) ix) states that an accessory building shall not exceed a gross floor area of 55.0 m<sup>2</sup> (592.0 ft<sup>2</sup>) 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 5.07 metres (16.64 feet), whereas subsection 6.5 a) xi) states that an accessory building shall not exceed 5 metres (16.40 feet) in height unless within an Agriculture zone.

It is recommended that the Committee of Adjustment impose the following conditions on approval of the minor variance application:

The existing garage on the subject property (22.0 ft by 24.0 ft as noted on the site plan drawing) is to be demolished prior to development of the proposed accessory building that is the subject of this application, to the satisfaction of the Municipality of Lakeshore.

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

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 north side of St. Clair Road, north of County Road 2, west of Hale Street,

known municipally as 3194 St. Clair Road in the Municipality of Lakeshore. 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 0.35 acres (1414.66 m<sup>2</sup>) in area with approximately 15.24 metres (50.0 feet) of frontage along St. Clair Road.

The Applicant is seeking the following reliefs from Lakeshore Zoning By-law (2-2012) for the development of a new 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 177.5 m<sup>2</sup> (1,910.6 ft<sup>2</sup>), whereas 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>) 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 5.07 metres (16.64 feet), whereas subsection 6.5 a) xi) states that an accessory building shall not exceed 5.0 metres (16.4 feet) in height unless with an Agriculture zone.

There is an existing dwelling and existing detached garage currently on the subject property. The site plan drawing indicates that the existing garage (528.0 ft<sup>2</sup>/49.0 m<sup>2</sup>) will be demolished prior to development of the proposed accessory building.

The proposed accessory building will have two storeys of floor area and will include dormers in its design. Relief for height is based on the midpoint of the dormer roof.

The applicant has indicated that the intended use of the proposed accessory building is for storage of vehicles, boats, jet skis/other water recreational items, and law equipment (riding lawnmower). If in the future the intention is to permit a commercial or residential use in the building, then 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. It is noted that the proposed development does not comply with Zoning By-law regulations specific to additional residential units, and there is no sanitary capacity available in the Stoney Point servicing area for development of such a use.

Surrounding Land Uses	North: Lake St. Clair South: residential (single detached dwelling lots) and agriculture East: residential (single detached dwelling lots) West: residential (single detached dwelling lots)
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)
Servicing	Municipal water, Municipal sanitary services
Relief from Zoning By-law requested	<ul style="list-style-type: none"> <li>• Relief from subsection 6.5 a) ix) to permit an accessory building to have a maximum gross floor area of 177.5 m<sup>2</sup> (1,910.6 ft<sup>2</sup>), whereas 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>) for each accessory building on a lot in an R1, R2, R3, RW1, RW2, RM or HR zone.</li> <li>• Relief from subsection 6.5 a) xi) to permit an accessory building to have a maximum height of 5.07 metres (16.64 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.</li> </ul>

### 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**

The subject property is designated “Secondary Settlement Area” in the County of Essex Official Plan. There are no issues of County significance raised by the application. Subsection 3.2.5 e) of the County of Essex Official Plan states that “All types of land uses are permitted within the Secondary Settlement Areas designation subject to the specific land use policies of the local Official Plans”. Accessory uses to low density residential dwellings are permitted on land designated Waterfront Residential in the Lakeshore Official Plan.

### **Lakeshore Official Plan**

Subsection 4.2.1 provides community design policies in the Lakeshore Official Plan. Specifically, subsection 4.2.1 a) states that the Municipality 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.* A similar policy, subsection 4.2.1 b) i), states that *“through the review of development applications, including plans of subdivision, site plans and other*

*development proposals, the Municipality: will ensure that new development is designed in keeping with the traditional character of the Settlement Areas in a manner that both preserves their traditional community image and enhances their sense of place within the Municipality.”*

Comment: According to the application, the height of the dwelling on the property is 7.9 metres (25.9 feet) to its peak, whereas the height of the proposed accessory building will be 6.32 metres (20.75 feet) to its peak. A comparison of height based on roof peak makes sense in this case given the unique design of the dwelling on the property (Appendix C). It is also acknowledged that the request with respect to height is only to permit an increase of 0.07 metres (0.23 feet) beyond what the Zoning By-law allows.

In terms of building footprint, the proposed accessory building will only exceed the main dwelling on the property by 2.6 m<sup>2</sup> (28 ft<sup>2</sup>). Therefore, the development proposal maintains the general intent and purpose of these Official Plan policies given that the accessory building – although comparable to the size of the dwelling on the property – will not appear significantly larger than the dwelling which would be generally uncharacteristic of built form in the area.

It is recommended that the Committee of Adjustment impose a condition on the minor variance approval requiring the applicant to follow through on their plans of demolishing the existing accessory building on the property prior to development of the proposed accessory building, as detailed on the site plan drawing.

Subsection 4.2.1 c) states that *“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 accessory building is proposed to be used for a non-residential/non-commercial use that does not warrant separation buffering or screening to address land use conflicts. There are no issues with the building orientation of the proposed development. It will be located further from the dwelling on the neighbouring property to the west than the current detached accessory building. Dwellings located on neighbouring properties will not be impacted by this proposal from a land use planning perspective.

### **Zoning By-law**

The general intent and purpose of the regulation limiting the gross floor area of accessory buildings to 55.0 m<sup>2</sup> is to ensure that accessory buildings do not dominate the landscape in a typical subdivision.

Comment: The subject property is a lakefront property located on a street comprised of variable lot sizes. It is located outside a typical subdivision and there are other

oversized accessory buildings that have developed in the settlement area, particularly on lakefront properties, which are comparable to the proposed building or exceed its size.

The general intent and purpose of the regulation limiting the height of an accessory building to a maximum of 5 metres is to ensure that these buildings remain subordinate to the dwelling on a residential property and are unoffensive with respect to location and purpose.

Comment: The building is proposed to be in an area on the subject property that will not result in any land use impacts with respect to its height. It is also acknowledged that this request is only to permit an increase of 0.07 metres (0.23 feet) beyond what the Zoning By-law allows, and the proposed use of the development is non-residential/non-commercial.

### ***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 for the reasons already mentioned in the report.

The proposed gross floor area results from a building design that includes dormers and second storey floor area. The building footprint is only 101.5 m<sup>2</sup> (1092 ft<sup>2</sup>) which is comparable to some accessory buildings in the area. Height is measured to the midpoint of the proposed dormers in this case, and only results in a building height that exceeds what is permitted in the Zoning By-law by 0.07 metres (0.23 feet).

### ***Desirability and Appropriateness***

The requested reliefs are considered desirable for the appropriate development of the property. The proposal is considered compatible with its surroundings and there are other oversized accessory buildings in the immediate area.

Larger accessory buildings are common on lakefront properties to provide storage of belongings associated with living in these areas. As the application notes, the intent of the proposed development is to avoid outdoor storage of belongings and equipment, so these items are not exposed to the elements. Indoor storage of these items is desirable for the neighbourhood and the dwelling on the property is incapable of providing same.

### **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 impose the following conditions on approval of the minor variance application:

The existing garage on the subject property (22 ft by 24 ft as noted on the site plan drawing) is to be demolished prior to development of the proposed accessory building that is the subject of this application, to the satisfaction of the Municipality of Lakeshore.

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

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### **Others Consulted**

Essex Region Conservation Authority stated that their office has issued Permit 443 – 24 for this development, dated July 9, 2024. They note that minor changes to the Site Plans in the approved Permit appear to have occurred, however, a new Permit is not required. Please note that it is the responsibility of the applicant to contact their office if any further changes are required to the site plans approved in the Permit. Full comments can be found in Appendix D.

The Chief Building Official stated the proponent is to be advised that all surface water must be maintained and not adversely affect adjacent properties.

The Drainage Division stated that they have no concerns with this application.

The Engineering and Infrastructure Division stated that they have no comments on the application.

The Fire Department stated that they have no comments on the minor variance application 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 property. At the time of writing, no written comments were received.

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

Appendix A – Aerial Map  
Appendix B – Drawings

Appendix C – Photos  
Appendix D – ERCA

**Prepared by:**



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Ian Search, BES  
Planner I

## Report Approval Details

Document Title:	A-23-2024 Report.docx
Attachments:	- Appendix A - Aerial Map.pdf - Appendix B - Drawings.pdf - Appendix C - Photos.pdf - Appendix D - ERCA.pdf
Final Approval Date:	Oct 9, 2024

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

**Urvi Prajapati - Oct 7, 2024 - 2:42 PM**

**Daniel Mercer - Oct 8, 2024 - 11:50 AM**

**No Signature found**

**Ian Search - Oct 9, 2024 - 10:00 AM**

**Tammie Ryall - Oct 9, 2024 - 10:13 AM**