

**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 4, 2024

Subject: Minor Variance Application A/29/2024 – 1292 County Road 31

Recommendation

Approve minor variance application A/29/2024, 1292 County Road 31, to permit the following reliefs from Lakeshore Zoning By-law (2-2012) for a proposed building addition to an existing 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 130.81 m² (1,408 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 7.4 metres (24.28 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.

Impose the following conditions on minor variance approval:

The minor variance reliefs are only for a building addition (second storey) to the existing “pool house” (accessory building) on the Subject Property and development is to be in accordance with the minor variance application submission to the satisfaction of Lakeshore;

Any covered balcony included in the development will not be constructed on the northside of the accessory building;

Include the following Notice in the Notice of 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 east side of County Road 31, south of County Road 42, north of Highway 401, known municipally as 1292 County Road 31 in the Municipality of Lakeshore. The subject property is zoned “Hamlet Residential” (HR) in the Lakeshore Zoning By-law and split designated “Hamlet” and “Agricultural” in the Lakeshore Official Plan.

The subject property is approximately 1.2 acres (4856.23 m²) in area with approximately 36.58 metres (120 feet) of frontage along County Road 31.

The Applicant is seeking the following reliefs from Lakeshore Zoning By-law (2-2012) for a proposed building addition of a second storey with covered balcony to an existing “pool house” (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 130.81 m² (1,408 ft²), whereas subsection 6.5 a) ix) states that an accessory building shall not exceed a gross floor area of 55.0 m² (592.0 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 7.4 metres (24.28 feet), whereas subsection 6.5 a) xi) states that an accessory building shall not exceed 5 metres in height unless with an Agriculture zone.

There are three buildings/structures on the subject property – a dwelling, an accessory building used for storage located at the rear of the subject property, and a “pool house” accessory building that is the building subject to the minor variance application.

The subject property has received two previous minor variance approvals for prior development of the subject property. The first was in September 2020 (file: A-22-2020) to permit a gross floor area of 65.4 m² (703.96 ft²) for the “pool house” accessory building. The second minor variance approval (file: A-8-2022) occurred in February 2022 to permit the development of the storage building located at the rear of the property to have a gross floor area of 183.95 m² (1980.02 ft²).

The applicant’s development proposal to construct a building addition of a second storey with covered balcony to the existing “pool house” will increase the gross floor area of the building beyond the original minor variance approval and will increase the height of the building so that it exceeds the maximum height permitted for an accessory building. This is the reason for the minor variance application.

The applicant has indicated that the intended use of the building addition is for entertainment purposes only (game room) and additional floor area for storage. Floor plans were submitted with the minor variance application which do not show a proposed dwelling unit or business use for the building. If in the future the intention is to permit a commercial or residential use in this accessory 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.

Surrounding Land Uses	North: residential (single detached dwelling lots) South: residential (single detached dwelling lots) East: agriculture West: residential (single detached dwelling lots) and agriculture
Official Plan Land Use Designation	Lakeshore Official Plan: Hamlet and Agricultural County of Essex Official Plan: Secondary Settlement Area
Zoning	“Hamlet Residential” (HR)
Servicing	Municipal water, private septic system
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 130.81 m² (1,408 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 7.4 metres (24.28 feet), whereas subsection 6.5 a) xi) states that an accessory building shall not exceed 5 metres in height unless with an Agriculture zone.

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 minor variance application. Subsection 3.2.5 e) of the County of Essex Official Plan states “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 is permitted on land designated Hamlet and Agricultural in the Lakeshore Official Plan.

The Engineering Technologist at the County of Essex commented that they have no objections to the minor variance application. The subject property is located on a County road. The minimum setback for any proposed structures on this property must be 25.91 metres (85.0 feet) from the centre of the original right-of-way of County Road 31. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances or structures.

Lakeshore Official Plan

As previously mentioned, accessory uses to low density residential dwellings is permitted on land designated Hamlet and Agricultural in the 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: The requested reliefs under the minor variance application will maintain the general intent and purpose of these Official Plan policies. The height of the dwelling on the property is 7.87 metres (25.82 feet) according to elevation drawings submitted with the minor variance application. This exceeds the height of the proposed development for the accessory building (7.4 metres/24.28 feet), and therefore maintains the accessory building as a subordinate structure to the main building on the property in terms of massing. This is a built form characteristic common to the surrounding area.

Moreover, the accessory building is located approximately 60.9 metres (200.0 feet) from the front lot line – more or less behind the dwelling on the property. Residential properties in the surrounding area on the east side of County Road 31 are approximately 1.2 acres (4856.23 m²) in lot area and are more conducive to supporting larger accessory buildings. There are a number of large accessory buildings that have developed in the surrounding area on nearby properties:

- 1) A minor variance was granted at 1276 County Road 31 in January 2021 to permit an accessory building to have a gross floor area of 148.64 m² (1,600 ft²) and a height of 5.9 metres (19.36 ft).

- 2) A minor variance was granted at 1288 County Road 31 in December 2022 to permit an accessory building to have a gross floor area of 190.7 m² and a height of 5.7 metres (18.7 ft). This building is currently under construction and is being developed in a location near the proposed development.
- 3) A minor variance was granted at 1298 County Road 31 in August 2021 to permit an accessory building to have a gross floor area of 222.97 m² (2,400 ft²) and a height of 5.33 metres (17.5 feet)

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. However, the proposed height of the accessory building exceeds the maximum height permitted in the Zoning By-law by 2.4 metres (7.87 feet). The site plan drawing submitted with the minor variance application indicates that the accessory building is setback 7.62 metres (25 feet) from the north side lot line, which is a favourable setback that is slightly greater than the proposed height of the accessory building. There are no issues with the building orientation of the proposed development.

Zoning By-law

The general intent and purpose of the regulation limiting the gross floor area of accessory buildings to 55 m² is to ensure that accessory buildings do not dominate the landscape in a typical subdivision.

Comment: The subject property is located near the southern extent of the St. Joachim Hamlet Area on a County Road that is identified as a Rural Secondary Road in the Lakeshore Official Plan. The subject property, like its neighbouring properties on the east side of County Road 31, is a relatively large residential property in this area comprised of a variety of lot sizes. It is conducive to supporting larger accessory buildings as a property located outside a typical subdivision. The general intent and purpose of the Zoning By-law regulation will be maintained.

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 applicant has indicated that a new dwelling was developed on the subject property in 2021 and that it has a height of 7.87 metres (25.82 feet). This exceeds the height of the proposed development for the accessory building. Moreover,

the proposed use is unoffensive as a non-residential/non-commercial development. A 7.62 metres (25 feet) setback from the north side lot line provides favourable separation from the neighbouring property to the north.

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 subject property and the context of the surrounding area provide greater opportunity for considering the requested reliefs as minor deviations from the Zoning By-law.

Desirability and Appropriateness

The requested reliefs are considered desirable for the appropriate development of the property. Any impacts to the appearance of the streetscape will be mitigated by the setback distance of the accessory building from the front lot line and its existing positioning more or less behind the dwelling on the property.

The proposal is considered compatible with its surroundings. There are a number of other oversized accessory buildings in the immediate area. This includes an accessory building currently under construction on the neighbouring property to the north, which received Committee of Adjustment approval to permit a gross floor area of 190.7 m² and a height of 5.7 metres (18.7 ft). It is being developed directly across from the “pool house” on the subject property.

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 minor variance reliefs are only for a building addition (second storey) to the existing “pool house” (accessory building) on the Subject Property and development will be in accordance with the minor variance application submission, to the satisfaction of Lakeshore
- Any covered balcony will not be constructed on the northside of the accessory building

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.

Others Consulted

The Operations Department commented that, based on the proposal, it is understood that there is no additional sanitary capacity expected and the use of the building will be for the property owner only (non-residential).

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

The Engineering Technologist at the County of Essex commented that they have no objections to the minor variance application. The subject property is located on a County road. The minimum setback for any proposed structures on this property must be 25.91 metres (85 feet) from the centre of the original right-of-way of County Road 31. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances or structures.

The Chief Building Official stated that he had no comments on the minor variance application.

The Fire Department stated that they have no comments on the minor variance 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 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 – Operations Department
- Appendix E – County of Essex

Prepared by:



Ian Search, BES
Planner I

Report Approval Details

Document Title:	A-29-2024 - Report.docx
Attachments:	- Appendix A - Aerial Map.pdf - Appendix B - Drawings.pdf - Appendix C - Photos.pdf - Appendix D - Operations Dept Comment.pdf - Appendix E - County of Essex.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 - 2:53 PM

No Signature - Task assigned to Ryan Donally was completed by workflow administrator Brianna Coughlin

Ryan Donally - Oct 8, 2024 - 9:11 AM

Tammie Ryall - Oct 8, 2024 - 6:34 PM

No Signature found

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

Daniel Mercer - Oct 9, 2024 - 1:45 PM