

# Municipality of Lakeshore Committee of Adjustment Report

Growth & Sustainability



## Community Planning

**To:** Chair and Members of Committee of Adjustment  
**From:** Jacob Dickie, Planner II  
**Date:** November 5, 2024  
**Subject:** Minor Variance Application A/18/2024 – Xavier Circle

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### Recommendation

Approve Minor Variance Applications A/18/2024-1 through A/18/2024-21 for 21 semi-detached lots on Xavier Circle, to permit the encroachment of air conditioning units in the required interior side yard setback. The requested maximum allowed encroachment for each lot is listed below in Table 1.

### Proposal

The applicant is seeking to legalize non-conforming air conditioning units within a recently developed plan of subdivision by requesting relief from the following provision of Lakeshore Zoning By-law 2-2012 for 21 semi-detached lots:

- Section 6.42 m) of the Lakeshore Zoning By-law 2-2012 does not provide any encroachment allowance for air conditioning units in a required interior side yard setback. It only provides encroachment allowance with respect to required exterior side yards and required rear yards.
- The requested relief will allow for air conditioning units to encroach into the required interior side yard. The proposed maximum allowed encroachment for each lot is listed below in Table 1:

Municipal Address	Required Interior Side Yard Setback	Encroachment into Required Interior Side Yard	Minor Variance File #
310 Xavier Circle	1.5 m	0.49 m	A/18/2024-1
298 Xavier Circle	1.5 m	0.37 m	A/18/2024-2
300 Xavier Circle	1.5 m	0.41 m	A/18/2024-3
296 Xavier Circle	1.5 m	0.3 m	A/18/2024-4
290 Xavier Circle	1.5 m	0.37 m	A/18/2024-5
292 Xavier Circle	1.5 m	0.24 m	A/18/2024-6
288 Xavier Circle	1.5 m	0.53 m	A/18/2024-7
270 Xavier Circle	1.5 m	0.35 m	A/18/2024-8
272 Xavier Circle	1.5 m	0.42 m	A/18/2024-9
257 Xavier Circle	1.5 m	0.42 m	A/18/2024-10
255 Xavier Circle	1.5 m	0.42 m	A/18/2024-11
253 Xavier Circle	1.5 m	0.44 m	A/18/2024-12
261 Xavier Circle	1.5 m	0.44 m	A/18/2024-13
259 Xavier Circle	1.5 m	0.43 m	A/18/2024-14
263 Xavier Circle	1.5 m	0.32 m	A/18/2024-15
303 Xavier Circle	1.5 m	0.4 m	A/18/2024-16
301 Xavier Circle	1.5 m	0.43 m	A/18/2024-17
299 Xavier Circle	1.5 m	0.43 m	A/18/2024-18
297 Xavier Circle	1.5 m	0.43 m	A/18/2024-19
295 Xavier Circle	1.5 m	0.43 m	A/18/2024-20
293 Xavier Circle	1.5 m	0.4 m	A/18/2024-21

Table 1: Proposed Interior Side Yard Encroachments for Air Conditioning Units

The applicant is seeking to legalize non-conforming air conditioning units within a recently developed plan of subdivision, following an inspection conducted by the Building Department where the non-compliance issue was raised.

## Summary

### Location

Minor Variance Applications A/18/2024-1 through A/18/2024-21 affects 21 semi-detached lots in the recently developed Serenity Bay subdivision on Xavier Circle which is located to the south of Highway 2 (Old Tecumseh Rd), east of Flanders Road and west of Laurendale Drive. The affected lots range in size from 477 m<sup>2</sup> to 863 m<sup>2</sup> and range in frontage from 14 m to 21 m.

### Existing Uses

The affected lots have already been developed with large semi-detached buildings and wide driveways which take up significant lot coverage. The rear yards are intended to be used as private amenity space, and many of the lots have outdoor seating arrangements. The reason for locating the air conditioning units in the interior side yard

is for aesthetic reasons and to reduce noise levels impacts on the rear yard amenity space.

### Air Conditioning Unit Details

The air conditioning units are attached to each building with brackets and are either elevated off the ground or sitting on a concrete pad. The maximum projection of each air conditioning unit from the side wall of all impacted dwellings is 0.92 m.

### Surrounding Land Uses

The subject lands are located in a residential neighbourhood that is predominately comprised of singles, semis and a few townhouses. There are warehouses and railway tracks further to the south, woodlands further to the east, Lake St Clair further to the north and Pike Creek further to the west.

### County of Essex Official Plan

The subject property is designated as “Primary Settlement Area” in the current and in-effect version of the County of Essex Official Plan.

### Municipality of Lakeshore Official Plan

The subject property is designated as “Residential” in the current and in-effect version of the Municipality of Lakeshore Official Plan.

### Lakeshore Zoning By-law 2-2012

The subject property is zoned “Residential Type 2 Zone Exception 25” (R2-25) in the current and in-effect version of the Lakeshore Zoning By-law 2-2012.

### Essex Region Conservation Authority (ERCA)

310 Xavier Circle (File #A-18-2024-1), is the only lot that falls within ERCA’s regulated area. No new buildings, regrading or site alteration is proposed. ERCA has confirmed that a Conservation Development Permit is not required for the proposed Minor Variance.

### **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.

### Minor in Nature

The air conditioning units are already existing and have a minimal impact on the streetscape character. Furthermore, they do not create any significant stormwater runoff concerns. The requested encroachments from the 1.5 m interior side yard requirement ranges from 0.24 m to 0.53 m. This leaves at least 0.97 m of open space which is comparable to the maximum permitted encroachment requirement for air conditioning units into an exterior side yard which is 1.0 m to an exterior side lot line. Lastly, the proposal variances will have a minimal impact on the overall maneuverability and open landscape coverage within the interior side yard.

As such, the proposed variances are minor in nature.

### Desirability and Appropriateness

The proposed variances are considered desirable and appropriate for the subject lands. Locating the air conditioning units in the interior side yard as opposed to the rear yard is a more suitable approach for Xavier Circle given its design which features rear yard amenity spaces. The developer responded to the market, as there was a demand to keep the air conditioning units out of view from the rear yard amenity space while reducing noise impacts to create a more enjoyable place for residents to congregate and enjoy the outdoors. By location the air conditioning units in the interior side yards, the noise impacts on the abutting properties to the rear are also reduced. The size and location of the air conditioning units are appropriate as there is still an adequate amount of room for pedestrian maneuverability in the interior side yards.

As such, the proposed variances are desirable and appropriate for the subject lands.

### County of Essex Official Plan

In accordance with Section 3.2.6 b) of the County Official Plan, residential intensification is supported within Primary Settlement Areas. The proposed variances seek to rectify a non-conformity issue within a recently developed plan of subdivision. The air conditioning units are vital to the functioning of the existing homes and are located in an appropriate location that seeks maximize the enjoyment of the rear yard amenity areas for each affected lot. In accordance with section 3.2.4.1 j), the County supports universal physical access and encourages the building industry to incorporate such features into new structures. Even with the air conditioning units being located in the interior side yard, there is still an ample amount of room in the side yards to permit for accessible pedestrian maneuverability.

As such, the proposed variances meet the general intent and purpose of the County of Essex Official Plan.

### Lakeshore Official Plan

In accordance with Section 2.3.3 h) of the Local Official Plan, the proposed variances promotes good community design and is appropriate to the local character. The

developer intentionally put the air conditioning units in the interior side yards because they were consciously thinking about how it would affect the enjoyment of the rear yard amenity space. This represents good community design that is locally appropriate for a residential subdivision.

As such, the proposed variances meet the general intent and purpose of the Lakeshore Official Plan.

### Zoning By-law

The intent of limiting the encroachment of air conditioning units in the interior side yards is to ensure that there is adequate amount of space for pedestrian maneuverability. The requested encroachments into the 1.5 m interior side yard setback range from 0.24 m to 0.53 m. Administration is of the opinion that there will still be enough room for pedestrian maneuverability on each lot. Furthermore, the Operations Division has no stormwater concerns when it comes to the location and size of the air-conditioning units.

As such, the proposed variances meet the general intent and purpose of the Lakeshore Zoning By-law 2-2012

### **Conclusion**

It is the opinion of the Planner that the requested variances for file number(s) A/18/2024-1 to A/18/2024-21 pass 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.
- iii. It would maintain the general intent and purpose of the Zoning By-law.

### **Correspondence**

#### External and Internal Agencies

Minor Variance Application A/18/2024 was circulated to all applicable internal departments and external agencies including Operations, Building, Fire and the Essex Region Conservation Authority (ERCA). No significant concerns were raised.

#### 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.

### **Appendices:**

Appendix A – Aerial Map  
Appendix B – Photos  
Appendix C – ERCA Comments

**Prepared by:**

JJ

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Jacob Dickie , RPP  
Planner II

## Report Approval Details

Document Title:	Minor Variance Application A.18.2024 – Xavier Circle.docx
Attachments:	- Appendix A - Aerial Map.pdf - Appendix B - Street Photo of Air Conditioning Unit.pdf - Appendix C - ERCA Comments.pdf
Final Approval Date:	Nov 7, 2024

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

**Urvi Prajapati - Nov 6, 2024 - 4:09 PM**

**No Signature - Task assigned to Daniel Mercer was completed by workflow administrator Brianna Coughlin**

**Tammie Ryall - Nov 7, 2024 - 11:02 AM**