

Municipality of Lakeshore Committee of Adjustment Report

Growth & Sustainability

Community Planning



To: Chair & Members of Committee of Adjustment

From: Ian Search, BES, Planner I

Date: January 13, 2025

Subject: Minor Variance Application A/36/2024 – 0 Rourke Line Road

Recommendation

Approve minor variance application A/36/2024, 0 Rourke Line Road, to permit the following reliefs from Lakeshore Zoning By-law (2-2012) for the development of an elementary school on the Subject Property:

- Relief from subsection 6.41.3 g) to permit loading spaces within the front yard; whereas subsection 6.41.3 g) states that loading spaces shall not be permitted within a front yard;
- Relief from subsection 6.17 a) to permit a maximum front yard setback of 70.2 metres (230.32 feet); whereas subsection 6.17 a) requires a maximum front yard setback of 3 metres (9.84 feet) applied to 75% of the length of the lot frontage.

Background

The Municipality of Lakeshore has received a minor variance application for a property located on the west side of Rourke Line Road, near the corner of Rourke Line Road and County Road 22. An aerial map showing the location of the subject property can be found in Appendix A. The subject property is zoned “Mixed Use” (MU) with a holding symbol (h30) in the Lakeshore Zoning By-law and is designated “Mixed Use” in the Lakeshore Official Plan.

The subject property is approximately 5.92 acres (2.39 hectares) in area with approximately 20.18 metres (66.21 feet) of frontage along Rourke Line Road. It meets the definition of a corner lot in the Zoning By-law having frontage on both Rourke Line Road and Girard Drive. The lot line on Rourke Line Road is the shorter lot line abutting a street and is the front lot line of the property.

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

- Relief from subsection 6.41.3 g) to permit loading spaces within the front yard, whereas subsection 6.41.3 g) states that loading spaces shall not be permitted within a front yard;
- Relief from subsection 6.17 a) to permit a maximum front yard setback of 70.2 metres (230.32 feet); whereas subsection 6.17 a) requires a maximum front yard setback of 3 metres (9.84 feet) applied to 75% of the length of the lot frontage.

The development of the elementary school is currently proceeding through site plan control under the Planning Act and non-compliance with the Zoning By-law (2-2012) was identified during review of the site plan (Appendix C). As such, the applicant is seeking the requested reliefs from the Zoning By-law (2-2012) to address the non-compliance and continue to work towards site plan approval.

On July 12, 2022 Lakeshore Council amended the Zoning By-law (2-2012) to permit a school and accessory uses on the lands (in the general location of the subject property prior to the school site being created through Planning Act consent). That rezoning also imposed a holding symbol (h30) on the zoning that only permits existing uses, with the condition for removal of the holding symbol being that “public engagement take place to the satisfaction of the Municipality”, and “that site plan approval has been granted by the Municipality and a site plan agreement has been entered into, pursuant to the provisions of the Planning Act” (file: ZBA-8-2020, By-law 70-2022).

Following the July 12, 2022 rezoning, the subject property to support the elementary school was created through a consent application that was approved by the Lakeshore Committee of Adjustment on August 17, 2022 (file: B-14-2022).

On October 1, 2024 Lakeshore Council passed another Zoning By-law Amendment (file: ZBA-12-2024, By-law 92-2024) to rezone the entire property into its current “Mixed Use” (MU) with a holding symbol (h30) zone. The MU zone permits a public school, and the holding symbol (h30) language was unaltered by the amendment. The rezoning was passed by Council to address a discrepancy in zoning between the lands that Council rezoned on July 12, 2022 and the lot that was created via Committee of Adjustment approval on August 17, 2022. The Zoning By-law Amendment fixed the error and amended the zoning to reflect as one zone across the property that was created for the school.

On October 1, 2024, Lakeshore Council also passed a Zoning By-law Amendment (file: ZBA-14-2024, By-law 93-2024) to rezone land surrounding the subject property into a Mixed Use Zone Exception 39 (MU-39) with a holding symbol (h30) zone (Appendix B). Semi-detached dwellings were added as an additional permitted use for these surrounding lands and site-specific zone regulations were added for apartment building(s) use on the lands under this amendment. The By-law states that no sensitive land uses shall be permitted within a 150-metre buffer of the future expansion of the Dennis St. Pierre Water Pollution that is located southeast of the area on the east side of Rourke Line Road. It also imposes the same holding symbol (h30) that applies to the school property, which only permits existing uses until the holding symbol is removed.

Surrounding Land Uses	<p>North: Existing low density residential dwellings on land zoned Mixed Use Zone Exception 39 Holding Provision 30 (MU-39) (H30)</p> <p>South: Existing low density residential dwellings</p> <p>East: Commercial</p> <p>West: Existing vacant lands zoned Mixed Use Zone Exception 39 Holding Provision 30 (MU-39) (H30)</p>
Official Plan Land Use Designation	<p>Lakeshore Official Plan: Mixed Use Designation, County Road 22 Corridor Special Planning Area, Site Specific Policy Area 3.4.3.1</p> <p>County of Essex Official Plan: Primary Settlement Area</p>
Zoning	<p>“Mixed Use” (MU) with a holding symbol (h30) zone</p>
Relief from Zoning By-law requested	<p>The following reliefs are requested for development of an elementary school on the property:</p> <ul style="list-style-type: none"> • Relief from subsection 6.41.3 g) to permit loading spaces within the front yard, whereas subsection 6.41.3 g) states that loading spaces shall not be permitted within a front yard; • Relief from subsection 6.17 a) to permit a maximum front yard setback of 70.2 metres (230.32 feet); whereas subsection 6.17 a) requires a maximum front yard setback of 3 metres (9.84 feet) applied to 75% of the length of the lot frontage.

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 “Primary Settlement Area” in the County of Essex Official Plan. There are no issues of County significance raised by the minor variance application.

Subsection 3.2.4.1 h) of the County of Essex Official Plan states “All types of land use are permitted within the “Settlement Areas” designation subject to the specific land use policies of the local Official Plans.”. The Lakeshore Official Plan permits places of worship, neighbourhood community and cultural centres and *institutional uses of a similar scale* on lands designated “Mixed Use” in the Lakeshore Official Plan.

The subject property has frontage on Rourke Line Road and Girard Drive which are both municipal roads. County Road 22 is located to the north of the subject property. A comment from the Engineering Technologist at the County of Essex was received stating that they have no objections to the application.

Lakeshore Official Plan

As previously mentioned, the “Mixed Use” designation in the Lakeshore Official Plan permits places of worship, neighbourhood community and cultural centres and *institutional uses of a similar scale*.

The subject property is included in the County Road 22 Corridor Special Planning Area of the Lakeshore Official Plan. This special planning area is for the County Road 22 Mixed Use Corridor which is envisaged as a higher intensity mixed use and future transit supportive corridor extending through the Municipality between Manning Road and Belle River Urban Areas. The following policies in the Lakeshore Official Plan are relevant to the reliefs requested in the minor variance application:

Subsection 9.4 b) i): *Where a Continuous Street Frontage is identified on Schedule C11, a minimum of 75% of the length of the lot frontage will be occupied by building frontages within a building setback zone, which will be defined specifically in the implementing Zoning By-law, and will be setback a minimum distance as established by the County's building setback requirements from the County Road 22 right-of-way. The implementing Zoning By-law shall establish the maximum permitted building setback zone to ensure that buildings are located close to the street and parking areas shall not be permitted in the front yard.*

Comment: The front lot line of the property is on Rourke Line Road at a location close enough to the intersection of Rourke Line Road and County Road 22 that the frontage of the property is included in the “Continuous Street Frontage” designation of the County Road 22 Special Planning Area as indicated on Schedule C11 of the Official Plan. This is despite the property not having any frontage on County Road 22 itself. The school site is an irregular shaped property that cannot reasonably accommodate this policy that requires a minimum of 75% of the length of the lot frontage to be occupied by building frontages at a maximum setback dictated by the Zoning By-law (2-2012), in this case 3 metres (9.84 feet).

The frontage on Rourke Line Road and the narrow part of the property at this location will instead be utilized as an access road/driveway for school buses/loading vehicles and fire route for emergency services. Loading spaces are proposed to be located in the front yard between the front lot line and the elementary school building but will be over

150 metres from County Road 22 right-of-way. The inability of the development to achieve this policy does not impact the future ability of the Country Road 22 Mixed Use Corridor to ultimately develop into a pedestrian friendly corridor. The surrounding lands zoned MU-39 (h30) have frontage on County Road 22 and greater frontage on Rourke Line Road where these policy objectives can be achieved for an ultimate buildout of the corridor as planned.

Subsection 9.4 d) v) a): The lands identified as Site-Specific Policy Area 3.4.3.1 on Schedule C11 are subject to the land use compatibility and built form policies of S.3.4.3 of the Official Plan and the guidelines of the Corridor Transformation Strategy – County Road 22 Special Planning Area, in addition to the following: a) the implementing zoning by-law amendment shall establish an appropriate transition area from the rear lot line of the existing residential dwellings fronting Heritage Garden Crescent and the future mixed use area. Land uses within this transition area shall be limited to residential and accessory uses only through the implementing zoning by-law amendment.

Comment: The minor variance relief to permit a maximum front yard setback of 70.2 metres (230.32 feet) positions the elementary school use closer to the existing residential dwellings fronting on Heritage Garden Crescent. However, according to the site plan drawing, the elementary school will still be located 19 metres from the rear lot line (lot line opposite to the front lot line on Rourke Line Road), and therefore over 100 metres away from these residential dwellings. This policy objective will need to be achieved during the review of future development on lands zoned MU-39 (h30) between the elementary school property and the residential dwellings fronting Heritage Garden Crescent located to the west.

Zoning By-law

The general intent and purpose of the regulation that does not permit loading spaces in a front yard is to screen this use from public view or make that accessory use less visually prominent on a site in order to achieve improved aesthetics in a settlement area as it related to this aspect of development.

Comment: Most of the area dedicated to loading space opportunity will be located a considerable distance from Rourke Line Road and Girard Drive in the interior of the site behind a property that has yet to develop at the corner of Rourke Line Road and Girard Drive. The ultimate buildout of the lands surrounding the property will assist in future screening of the loading space area from public view on Rourke Line Road and County Road 22.

The general intent and purpose of the regulation requiring a maximum front yard setback of 3 metres (9.84 feet) applied to 75% of the length of the lot frontage is to assist in achieving the Official Plan policy objective of transforming the Country Road 22 Mixed Use Corridor into a higher intensity mixed use and future transit supportive corridor extending through the Municipality between Manning Road and Belle River Urban Areas. The regulation is an urban design objective to facilitate pedestrian activity and alternative forms of transportation along the corridor.

Comment: As previously mentioned, development of the property for the elementary school cannot reasonably comply with this regulation given the limited frontage on Rourke Line Road and the irregular shape of the parcel. Locating the school further from the front lot line on Rourke Line Road helps facilitate the development of an access road/driveway on the property for school buses/loading vehicles and an emergency fire route. Additionally, this access road/driveway will conveniently separate this traffic from the access road/driveway intended for regular motor vehicles that leads to parking areas on the site from Girard Drive.

Minor in Nature

The requested relief is 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 irregular lot shape of the property and the surrounding land use planning context (zoning, etc.) provide support for the proposal as a minor deviation from the Zoning By-law.

Desirability and Appropriateness

The requested reliefs are desirable for the appropriate development of the property. The reliefs are needed to facilitate the development of the elementary school and its accessory uses. The maximum front yard setback regulation cannot be reasonably achieved and there is no anticipated impact to policies objectives for the area in granting the relief.

It is preferable that the loading spaces are located where they are proposed on the site plan as opposed to being located north of the school where they would be more visible from County Road 22, or south of the school where they would be more visible from residential properties located on the south side of Girard Drive. Additionally, it is noted that no sensitive land uses are permitted to develop within 150 metres of the future expansion of the Denis St. Pierre Water Pollution Control Plan as provided in By-law 93-2024. This will generally preclude the development of the property located at the northwest corner of Rourke Line Road and Girard Drive for a residential use that the proposed loading space area cannot be screened from.

Conclusion

It is the opinion of the Planner that the requested reliefs 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.
- iv. It would maintain the general intent and purpose of the Zoning By-law.

Others Consulted

The Engineering Technologist at the County of Essex commented on the minor variance application. The application was not reviewed by their office from a planning perspective. The Engineering Technologist states that they have no objection to the application. Their full comment can be found in Appendix D.

Essex Region Conservation Authority (ERCA) commented that their office has no objection to the minor variance application. The property owner will be required to obtain an approval from ERCA prior to any construction or site alteration or other activities affected by Section 28 of the *Conservation Authorities Act*. Their full comment can be found in Appendix E.

The Team Leader of Development Engineering and Approvals commented that the Site Plan application is under review, and they do not have any concerns related to the minor variance application. Their full comment can be found in Appendix G.

The Lakeshore Fire Department stated that they have no comments as presented at this time.

The Lakeshore Building Department 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 property. At the time of writing, no written comments were received.

Attachment(s):

Appendix A – Aerial Map
Appendix B – Surrounding Land Zoning
Appendix C – Drawing
Appendix D – County of Essex
Appendix E – ERCA
Appendix F – Photos
Appendix G – Engineering comment

Prepared by:



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Planner I

Report Approval Details

Document Title:	A-36-2024 - 0 Rourke Line Road.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Map.pdf- Appendix B - Surrounding Land Zoning.pdf- Appendix C - Drawing.pdf- Appendix D - County of Essex.pdf- Appendix E - ERCA.pdf- Appendix F - Photos.pdf- Appendix G - Engineering comment.pdf
Final Approval Date:	Jan 15, 2025

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

Urvi Prajapati - Jan 14, 2025 - 2:09 PM

Daniel Mercer - Jan 15, 2025 - 1:58 PM

Tammie Ryall - Jan 15, 2025 - 4:24 PM