

Municipality of Lakeshore Report to Committee of Adjustment

Growth and Sustainability

Planning Services



To: Chair and Members of the Committee of Adjustment
From: Daniel Mercer, Division Leader – Community Planning, RPP, MCIP
Date: March 4, 2025
Subject: Minor Variance Application A/35/2024 – 1 & 3 E Pike Creek Road

Recommendation

1) Approve minor variance application A/35/2024, 1 & 3 East Pike Creek Road (Subject Land), to permit the following reliefs from Lakeshore Zoning By-law (2-2012) for the development of a non-commercial parking area on the Subject Land that will be used for staff, guests and contractors of 234 Elmgrove Drive:

Relief from Subsection 6.41.2 m) to permit the parking area to be within 124.3 metres (407.8 feet) from the location which it is intended to serve (234 Elmgrove Drive), whereas Subsection 6.41.2 m) states that parking areas shall either be located on the same lot as the use for which such parking is required or within 90 metres (295.2 feet) of the location which it is intended to.

Relief from Subsection 6.41.4 a) to permit the driveway for the parking area to be a minimum 4.4 metres (14.4 feet) in length, whereas Subsection 6.41.4 a) states that the driveway for a residential use shall have a minimum length of 6 metres (19.7 feet).

2) Approve the issuance of a certificate of consent cancellation under Subsection 53(45) of the Planning Act to merge the Subject Land (1 & 3 East Pike Creek Road) into one lot.

Impose the following conditions on the minor variance approval:

1) The Subject Land (1 & 3 East Pike Creek Road) be merged into one property to the satisfaction of the Municipality of Lakeshore;

2) A legal mechanism be implemented that prohibits the future conveyance/transfer of 234 Elmgrove Drive or the Subject Land (1 & 3 East Pike Creek Road) without the consent of the Municipality. The legal mechanism used to achieve this, any supporting agreements, and the registration of instruments on title to achieve same, will be to the satisfaction of the Municipality of Lakeshore;

3) The parking area is to be used exclusively for the residential property known

municipally as 234 Elmgrove Drive, to the satisfaction of the Municipality of Lakeshore;

4) The applicant provide, implement and maintain for the development, to the satisfaction of the Municipality of Lakeshore: lot grading and servicing requirements, stormwater quality and quantity measures, oil and grit separator, lighting plan, all to be reviewed through Engineering Reviews and obtain a Clearance Letter from the Operations Department;

5) The applicant provide, implement and maintain for the development, to the satisfaction of the Municipality of Lakeshore: a site plan and a landscaping plan;

Background

The Municipality of Lakeshore has received a minor variance application for a parcel of land (“subject land”) located at the southwest corner of East Pike Creek Road and Elmgrove Drive, known municipally as 1 and 3 East Pike Creek Road (Appendix A). The subject land is zoned “Residential Waterfront – Watercourse” (RW1) in the Lakeshore Zoning By-law and is included in the “Residential” land use designation of the Lakeshore Official Plan.

The subject land is approximately 0.63 acres (2,576 m²) in area with approximately 45.7 metres (149.93 feet) of frontage on East Pike Creek Road and approximately 72.9 metres (240 feet) of frontage on Elmgrove Drive.

The Applicant is seeking the following reliefs from Lakeshore Zoning By-law (2-2012) for the development of a parking area on the subject land that will be used for staff, guests and contractors of the owner’s nearby residential property, 234 Elmgrove Drive:

- Relief from Subsection 6.41.2 m) to permit the parking area to be within 124.3 metres (407.8 feet) from the location which it is intended to serve (234 Elmgrove Drive), whereas Subsection 6.41.2 m) states that parking areas shall either be located on the same lot as the use for which such parking is required or within 90 metres (295.2 feet) of the location which it is intended to;
- Relief from Subsection 6.41.4 a) to permit the driveway for the parking area to be a minimum 4.4 metres (14.4 feet) in length, whereas Subsection 6.41.4 a) states that the driveway for a residential use shall have a minimum length of 6 metres (19.7 feet).

The Applicant has shared information regarding the intended use of the proposed parking area: the parking area will be used primarily by cleaning services staff, kitchen staff, gardeners, contractors and invited guests. Staff parking will take place daily from 8 am to 5 pm. Staff will have the opportunity to use the main driveway at 234 Elmgrove Drive to unload their equipment before parking in the parking area. In the absence of the parking area employees and guests park on the street when parking is unavailable at 234 Elmgrove Drive. The parking area will be designed to maximize the number of

parking stalls to meet parking demand. Landscaping elements and concrete walls with ivy will be incorporated into the design to improve views in the neighbourhood.

The Applicant will need to ensure that 1 East Pike Creek Road and 3 East Pike Creek Road are merged into one property for the proposed development that utilizes both parcels. Therefore, the Applicant has applied for a certificate of consent cancellation under Subsection 53(45) Planning Act which they will attempt to register in an effort to merge the lands. An alternative method of merging the lands may be required.

Surrounding Land Uses	North: Residential South: Residential East: Residential West: Pike Creek
Official Plan Land Use Designation	Lakeshore Official Plan: Residential County of Essex Official Plan: Primary Settlement Area
Zoning	“Residential Waterfront – Watercourse” (RW1)
Status of abutting streets	Municipally maintained (East Pike Creek Road & Elmgrove Drive)
Servicing	Municipal water, municipal sanitary
Relief from Zoning By-law requested	As stated and explained in the “Background” section of the report.

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. The tests are the following:

- 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.

Additionally, all approvals under the Planning Act are to be consistent with the Provincial Planning Statement (PPS, 2024). There are no issues of provincial significance raised by this application under the PPS.

County of Essex Official Plan

The subject land is designated “Primary Settlement Area” in the County of Essex Official Plan. There are no issues of County significance raised by the 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”*. Uses accessory to any of the permitted uses in the Residential Designation are permitted in the Lakeshore Official Plan.

The subject land is located in an area susceptible to flooding in the County of Essex Official Plan and is located within the regulated area of Essex Region Conservation Authority (ERCA). ERCA was circulated the minor variance application for comment on the proposed development and the flooding hazard. ERCA commented that their office has issued an approval for the development and that they have no objection to the application (Appendix E).

The minor variance application meets the general intent and purpose of the County of Essex Official Plan.

Lakeshore Official Plan

The subject land is designated “Residential” in the Lakeshore Official Plan. Subsection 6.6.1 k) states that uses accessory to any of the permitted uses (single detached dwellings, semi-detached dwellings, etc.) in the Residential Designation are permitted.

Subsection 4.2.1 Community Design states that excellence in community design will be promoted through the review of new development applications in the Municipality, including infill development proposals. 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*. Additionally, 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: It is anticipated that the parking area will alleviate the use of on-street parking along Elmgrove Drive generated by the residential property. The subject land is surrounded by low-density residential properties and the design of the parking area can address concerns with compatibility. The Applicant is committed to including elements in their design to mitigate the visual impact of the parking area in the neighbourhood (Appendix B), including: paved asphalt surfacing, the use of concrete walls with ivy to assist in screening the development, and landscaping elements on the east and west end of the parking area.

The proposed concrete walls assist with screening vehicle headlights. The Chief Building Official commented that vegetation of desirable height is to be placed against the north and south concrete walls as opposed to waiting for ivy to grow. The current conceptual plan only shows vegetation on the east and west ends of the parking area. It is recommended that the subject land be developed based on a final site plan drawing

and landscaping plan approved by Community Planning, including a review of final design elements.

The subject land is located within the Lake St. Clair Floodprone Area overlay of the Lakeshore Official Plan, which is an area identified as being susceptible to flooding. As previously mentioned, ERCA was circulated the application for comment and stated that they have no objection.

Based on the foregoing the minor variance application maintains the general intent and purpose of the Lakeshore Official Plan.

Zoning By-law

The Subject Land is zoned “Residential Waterfront – Watercourse” (RW1). Subsection 6.41.2 m) states that parking areas shall either be located on the same lot as the use for which such parking is required or within 90 metres (295.2 feet) of the location which it is intended to. The general intent and purpose of this regulation is to keep parking areas within a reasonable walking distance of the use they are intended to serve.

The parking area is to be within 124.3 metres (407.8 feet) of the location which it is intended to serve (234 Elmgrove Drive). It serves a low-density residential property. It is not a commercial parking lot, nor does it provide parking for customers of a commercial business. Rather, it is to be used by cleaning services, kitchen staff, gardeners, contractors and invited guests.

Elmgrove Drive ends in a cul-de-sac just west of 234 Elmgrove Drive resulting in a residential area of limited traffic. Therefore, the increased walking distance from the parking area to 234 Elmgrove Drive is of no concern for the users of the parking area. The minor variance application maintains the general intent and purpose of this regulation given the proposed use of the parking area and the surrounding neighbourhood context.

Subsection 6.41.4 a) states that the driveway for a residential use shall have a minimum length of 6 metres (19.7 feet). The general intent and purpose of this regulation is to ensure that a driveway has a length capable of accommodating a parked vehicle that will not encroach into the municipal right-of-way. The Lakeshore Zoning By-law (2-2012) defines a driveway as: *that portion of a lot used to provide vehicular access from a street or private road to an off-street parking or loading area located on the same lot.*

The Applicant is applying to permit the driveway for the parking area to be a minimum 4.4 metres (14.4 feet) in length (Appendix B). Parking spaces will be available to accommodate the parking demand. The driveway connecting the parking area to the street (East Pike Creek Road) will simply be used for ingress and egress into the site. This request is a mere technical relief under the Zoning By-law. The minor variance application maintains the general intent and purpose of this regulation.

Minor in Nature

The requested relief from Subsection 6.41.2 m) to permit the parking area to be within 124.3 metres (407.8 feet) from the location which it is intended to serve (234 Elmgrove Drive) is minor in nature. As previously mentioned, staff will have the opportunity to use the main driveway at 234 Elmgrove Drive to unload their equipment before parking in the parking area so that they do not have to transport equipment by foot over the increased distance. According to the concept plan submitted for the application, the development will include a paved concrete pathway connecting the parking area to Elmgrove Drive as a way of facilitating pedestrian access.

The requested relief from Subsection 6.41.4 a) to permit the driveway for the parking area to be a minimum 4.4 metres (14.4 feet) in length, is minor in nature. The driveway will not be used to accommodate any parking itself and is simply used to provide ingress/egress into the site from East Pike Creek Road. There are no negative impacts from permitting the relief.

Based on the foregoing, the minor variance application is desirable for the appropriate development or use of the land.

Desirable for the Appropriate Development or use of the Land

With respect to the relief from Subsection 6.41.2 m), the subject land is a favourable location for the proposed parking area since it is a large corner lot that does not border residential lots on both sides. It is surrounded by low-density residential properties (to the south, across the street on the north side of Elmgrove Drive, etc.) with the Applicant proposing to address views and desirability by incorporating design elements in the overall development. It is also anticipated that the parking area will alleviate on-street parking that is currently generated by the residential property (234 Elmgrove Drive).

The requested relief for the driveway to have a minimum length of 4.4 metres (14.4 feet) does not impact the desirability of the development or its functionality. It is sufficient to accommodate vehicle ingress/egress and the proposed security gate. The entire driveway approach is 9.4 metres (30.84 feet) in length when the section of the approach in the municipal right-of-way is considered. An additional 6 metres (19.7 feet) inside the property limits itself is unwarranted since the driveway is not proposed to accommodate on-site parking itself.

Based on the foregoing, the minor variance application is desirable for the appropriate development or use of the land.

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*. It is recommended that the Committee of Adjustment approve the minor variance application subject to the conditions provided in the Recommendation section of the report.

It is recommended that the Committee of Adjustment approve the issuance of the certificate of consent cancellation to merge the two lots (1 and 3 East Pike Creek Road). Additionally, to ensure that the subject land is not conveyed to a separate owner in the future who may make different use of the parking area, it is recommended that the committee impose a condition on any minor variance approval requiring a legal mechanism that prohibits the future conveyance/transfer of 234 Elmgrove Drive or the Subject Land (1 & 3 East Pike Creek Road) without the consent of the Municipality. This restriction would be supported by an agreement stipulating that the Municipality will provide consent to any conveyance/transfer of 234 Elmgrove Drive and the Subject Land (1 & 3 East Pike Creek Road) on the condition that both properties are included together in the conveyance/transfer. The legal mechanism used to achieve this, any supporting agreements, and the registration of instruments on title to achieve same, will be to the satisfaction of the Municipality.

Others Consulted

The Fire Department commented that they have no comments on the application as presented.

The Chief Building Official states to ensure that full height vegetation is placed against the north and south concrete walls to screen the walls as opposed to waiting for ivy to grow. It is recommended that the subject land be developed based on a final site plan drawing and landscaping plan approved by Community Planning, including a review of final design elements.

The Operations Department commented that the applicant is required to appropriately address and meet Lakeshore's lot grading and servicing requirements, including stormwater quality and quantity measures through required Engineering Reviews and obtaining a Clearance Letter from Engineering. Additionally, the department states that property consolidation of 1 and 3 East Pike Creek Road should be completed to allow for one serviced lot. The full comment from the Operations Department can be found in Appendix D.

ERCA commented that they have no objection to the application and that their office has issued an ERCA approval for the development. They note that it is the responsibility of the Applicant to contact their office if any changes are required to the approved site plans. The full comment from ERCA can be found in Appendix E.

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, one public comment addressed to the Committee of Adjustment was received.

The comment provides the opinion that the proposed parking area is nowhere near the residential property it is intended to serve and that its location in a residential

subdivision is an eyesore. It further questions why staff, guests and contractors cannot continue to use on-street parking and notes staff are usually only there during the day which does not result in a hinderance to on-street parking at night.

Comment: As explained in the report, the large corner lot is an ideal parcel of land for the proposed parking area and is within reasonable walking distance of 234 Elmgrove Drive. Design elements can be incorporated into the development to mitigate visual impact of the parking area, and the development alleviates on-street parking that can be utilized by others.

Attachment(s):

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

Report Approval Details

Document Title:	A-35-2024 Report - 1 and 3 East Pike Creek Road.docx
Attachments:	- Appendix A - Aerial Map.pdf - Appendix B - Drawings.pdf - Appendix C - Photos.pdf - Appendix D - Operations Department.pdf - Appendix E - ERCA.pdf
Final Approval Date:	Mar 5, 2025