

**MUNICIPALITY OF LAKESHORE
COMMITTEE OF ADJUSTMENT
WEDNESDAY, JANUARY 27, 2021 @ 5:45 P.M.**

The meeting opened at 6:00 P.M. with the following members present:

Chairman	- Mark Hacon
Members	- Steve Diemer
	- Ron Barrette
	- Robert Sylvestre
	- Michael Hoffman
Secretary-Treasurer	- Ian Search
Planner III, Manager of Development Services	- Aaron Hair

The Chair introduced the Committee members and support staff and provided a brief outline of the process followed through the hearings.

The Chair also inquired if there were any disclosures of pecuniary interest and the general nature thereof with the applications proposed to be heard at tonight's Committee meeting.

- There were no disclosures of pecuniary interests at this time.

APPLICATION:	A/01/2021	MAP NO. 180-09500
APPLICANT:	Jay Bistany & Jacqueline Bistany	
PROPERTY LOCATION:	1556 County Rd. 22 (Community of Belle River)	

PURPOSE OF APPLICATION

The applicant is seeking relief from the Lakeshore Zoning By-law 2-2012 to permit a new accessory structure for the following relief:

- Relief from Section 6.5 a) ix) and 6.5 a) xi) of Lakeshore Zoning By-law 2-2012 to permit a gross floor area of 204.39 m² (2,200 ft²) and a height of 6 metres (19.66 feet)

Section 6.5 a) ix) of the Lakeshore Zoning By-law 2-2012, restricts accessory buildings in an R1, R2, R3, RW1, RW2, RM or HR zone to not exceed a gross floor area of 55 m² (592 ft²)

Section 6.5 a) xi) restricts accessory structures to not exceed a height of 5 metres unless within an Agriculture Zone.

PRESENT AT MEETING

Jay Bistany, Authorized Applicant

CORRESPONDENCE RECEIVED

1. Lakeshore Building Dept. – No comments
2. Lakeshore Drainage Dept. – No objection
3. Lakeshore Engineering Dept. – Construction of the accessory buildings should not adversely impact the rear yard drainage or adjacent neighbouring lands.
4. Lakeshore Fire – This property has an existing accessory structure with a floor area of 139.35 m² in addition to the proposed accessory structure being considered. If it is planned for storage of any hazardous materials, large quantity of combustible materials or if the space is being used as a business please contact Lakeshore Fire Department as Ontario Fire Code requirements may apply
5. Lakeshore Planning Dept. –

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 four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved:

Given that the subject property is located in the Lake St. Clair Flood Prone Area, it is recommended that if the Committee chooses to approve the minor variance, that they make the approval conditional on ERCA's satisfaction.

The intent behind the size restriction provision in the Zoning By-law is to prevent overbuilding on a given lot and to encourage a consistent and compatible built form. The subject property and the surrounding residential lots north of County Road 22 have very large depth and are not the type of residential lots one would encounter in a typical subdivision. The accessory structure can be setback a considerable distance from the front lot line to ensure greater compatibility with surrounding residential properties. In terms of consistency in the area, there are a number of accessory structures on residential properties immediately to the east of the subject property that exceed the 55 m² (592 ft²) provision. These structures were constructed prior to the provision limiting the size of accessory structures to 55 m² (592 ft²) and are not as large as the proposed 204.39 m² accessory structure requested for the subject property. They appear to be approximately 130 m² (1400 ft²) on average based on measurements using an interactive mapping system.

To maintain the general intent of the Zoning By-law, an accessory structure should be subordinate to a main building on a property in accordance with the definition of

accessory in the by-law. The applicant's drawing indicates that the existing house on the subject property has a lot coverage of 268.8 m² (2893 ft²) which is larger than the lot coverage of the proposed accessory structure – 2512 ft² (includes the proposed unenclosed lean-to and entrance). With the use of an interactive mapping system, the main building appears to have an enclosed building footprint of approximately 212.3 m² (2,284 ft²) (See Attachment 'C'), while the enclosed building footprint of the proposed accessory structure is to be 204.39 m² (2,200 ft²). The Committee does have the option to defer the application if they feel that the accessory structure is not truly subordinate.

The applicant is also seeking relief for a one metre increase in height. This aspect of the proposal is not considered offensive with respect to proposed location of the accessory structure, and with the purpose being to store a motor home and trailers.

The appearance of the streetscape will not be affected as the structure is proposed to be located behind the main building on the subject property in the rear yard. In addition, the accessory structure may improve visibility impacts by allowing the applicant to store various vehicles in an accessory structure rather than out in the open.

It is important for the applicant to understand that the accessory structure cannot be used to support a gainful occupation which may include an electrical, woodworking, window frame, welding, plumbing or machine shop, or other similar type use, conducted in whole or in part of the accessory structure.

If the Committee concludes that the requested variance meets the following four tests prescribed under Section 45 (1) of the *Planning Act*, it is recommended that the following conditions be imposed on the decision:

- Condition(s):
 - Satisfaction of Essex Region Conservation Authority (ERCA) if required by the Authority
- 6. ERCA – The property owner will be required to obtain a Permit from Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act. The subject property may support habitat of endangered species and threatened species. Prior to initiating any proposed works on this property, it is the applicant's responsibility to contact the Species at Risk Branch of the Ontario Ministry of Environment, Conservation & Parks (MECP) to ensure all issues related to the Endangered Species Act are addressed.
- 7. County of Essex – Setback and entrance permits will be as per MTO corridor control procedures. Permits are necessary for any changes to existing structures, or the construction of new structures.

APPLICANTS AMENDMENTS

- None

DISCUSSION

The Chair inquired if anyone in the audience wished to speak to the application. No response was received.

Jay Bistany stated that everything was pretty clear to him and that he was working on his permit with Essex Region Conservation Authority

Member Sylvestre asked if the lot coverage was included as part of the minor variance. Ian Search explained that lot coverage was not included in the variance, but that the lot coverage and floor area of the proposed structure was considered when determining if it was subordinate.

Member Diemer asked how deep the lot was. Jay Bistany stated that it was approximately 960 feet.

Member Barrette asked if the accessory structure where the proposed accessory structure is to be located will be demolished. Jay Bistany confirmed.

**Moved by Member Diemer
2nd by Member Sylvestre**

That Minor Variance application A/01/2021 by Jay & Jacqueline Bistany be approved subject to the recommended condition from the Planning Department.

- Carried -

APPLICATION:	A/02/2021	MAP NO.
APPLICANT:	2658981 Ontario Inc. c/o MMA Architect Inc.	
PROPERTY LOCATION:	1935 Ellis Side Road (Community of Maidstone)	

PURPOSE OF APPLICATION

The applicant is seeking relief from the Lakeshore Zoning By-law 2-2012 to permit a parking area and approaches for a new Transport Terminal (393.44 m² gross floor area) for the following relief:

- Relief from Section 6.41.2 k) Parking Areas and Other Parking Provisions to permit 18% of the parking area and approaches (approx. 0.273 acres) to have a cement or asphaltic binder or any other permanent type of surfacing, and 82%

of the parking area and approaches (approx. 1.2 acres) to have gravel surface

- Relief from Section 6.41.1 Parking Requirements to permit a new Transport Terminal to provide a minimum of 16 off-street parking spaces

Section 6.41.2 k) requires the parking area and approaches in the CR zone to have a cement or asphaltic binder or any other permanent type of surfacing

Section 6.41.1 requires 1.0 parking spaces per 20.0 m² of gross floor area for a Transport Terminal (20 off-street parking spaces)

PRESENT AT MEETING

MMA Architect Inc. (Stuart Miller), Authorized Applicant
2658981 Ontario Inc., Owner

CORRESPONDENCE RECEIVED

1. Lakeshore Building Dept. – Dust control measures should be in the site plan agreement
2. Lakeshore Engineering Dept. – Any new entrances will require an entrance permit from the Municipality of Lakeshore. The asphalt pavement should extend to the edge of the pavement on Ellis Sideroad. From the limit of the concrete pad to the edge of asphalt on Ellis Sideroad there should be an asphalt paved approach.
3. Lakeshore Drainage Dept. – No comments
4. Lakeshore Fire Dept. – No comments
5. Lakeshore Planning Dept. –

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 four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved:

The subject property is located in a “fringe area” that is more rural than urban in land use, and is surrounded by lots zoned Rural Commercial/Employment (CR) to the northeast, southeast and southwest. Small scale commercial and industrial uses are permitted under this designation provided they are of a dry nature and do not require excessive amounts of water for their operations, and are compatible with adjacent uses. The transport terminal is a permitted use on the property.

The requirement for parking area and approaches to have a cement or asphaltic binder or any other permanent type of surfacing in these commercial/employment zones is to address complaints from landowners received in the previous years regarding dust emissions, mud debris and loose gravel from unpaved lots, as it

affects air quality and creates a nuisance for those living nearby, as it settles in and on homes, lawns, laundry and vehicles.

The use of a Transport Terminal requires heavy trucks to come in and out of the property. The site plan indicates that the parking area and approaches at the entrance and adjacent to the proposed building will be surfaced with asphalt paving. In accordance with the Zoning By-law, the site plan also indicates that the parking area and associated driveway system will be designed in such a manner that any vehicle entering or leaving a street need not travel in a backward motion. A portion of the parking area proposed to be surfaced with gravel will be utilized by trucks to exit the lot. In addition, there will be multiple bays at the rear of the proposed building that will require vehicles to use the proposed gravel surface in their approach.

Approximately 100 metres from the subject property on the corner of County Road 34 and Ellis Sideroad are residential lots zoned Agriculture. In the spring of 2019, a site specific zoning by-law amendment was approved to permit a single detached dwelling on the neighbouring property to the southwest, known municipally as 1965 Ellis Sideroad, and now zoned Rural Commercial/Employment Zone Exception 51 (CR-51). This is the building identified as the adjacent building under construction on the site plan drawing.

To address potential land use conflicts with this sensitive land use that has now been introduced in a rural commercial/employment area, it is highly recommended that if the Committee chooses to approve this variance, that approval be subject to site plan approval, and that the applicant will be required in the implementing site plan agreement to control any dust on site. For example, the municipality has entered into site plan agreements before requiring gravel areas to be maintained with a dust control measure that utilizes Calcium Chloride. This condition would at least represent a measure taken to establish compatibility with adjacent land uses, as stated in policy 4.1.2.1 a) of the Official Plan.

While it was not stated in the application, it is presumed that the request for reduced off-street parking spaces is due to the fact that the applicant does not anticipate this Transport Terminal operation needing the required 20 off-street parking spaces. This aspect of the proposal is considered minor.

Condition(s): That the owner enter into a site plan agreement for the development of the proposed transport terminal that will require the owner to maintain all gravel areas with a dust control measure

APPLICANTS AMENDMENTS

- None

DISCUSSION

The Chair inquired if anyone in the audience wished to speak to the application. No response was received.

Member Sylvestre asked what the process would be if they decided to pave the gravel area later. Aaron Hair said the applicant would be required to go through site plan control.

Member Sylvestre asked if it was a maintenance facility. Stuart Miller confirmed, and said there would be three bays to perform maintenance.

Member Hoffman stated his main concern is the impact of the dust on the neighbour

Member Barrette asked if there would be parking in the rear yard. Stuart Miller said there would be temporary parking of trailers in the rear yard.

**Moved by Member Barrette
2nd by Member Diemer**

That Minor Variance Application A/02/2021 by 2658981 Ontario Inc. c/o MMA Architect Inc. be approved subject to the condition recommended by the Planning Department and a condition that the rear yard not be used for the permanent storage of trailers

- Carried-

APPLICATION:	A/03/2021	MAP NO.
APPLICANT:	J. Rauti Custom Homes	
PROPERTY LOCATION:	707 Faleria Street (Community of Maidstone)	

PURPOSE OF APPLICATION

The applicant is seeking relief from the Lakeshore Zoning By-law 2-2012 to permit a new single unit attached dwelling (townhouse) for the following relief:

- Relief from 9.2.16 Residential Type 2 Zone Exception 16 (R2-16) (h4) b) viii) to permit a single unit attached dwelling to have an interior side yard setback of 1.46 metres.

Section 9.2.16 Residential Type 2 Zone Exception 16 (R2-16) (h4) b) viii) requires a minimum interior side yard setback to be 1.5 m for semi-detached and single unit attached dwellings

PRESENT AT MEETING

No applicant present

CORRESPONDENCE RECEIVED

Lakeshore Building Dept. – No comments

Lakeshore Drainage Dept. – No objection

Lakeshore Engineering Dept. – No comments

Lakeshore Fire – No comments

Lakeshore Planning Dept. –

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 four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved:

The purpose of the interior side yard setback provision in the Zoning By-law is to provide the following:

- Light and air circulation, privacy – It is anticipated the variance will have little to no impact on privacy and light and air circulation. The variance only reduces the interior side yard setback by 0.04 metres (0.13 feet).
- Maintenance associated with building materials – It is not anticipated that permitting this variance will affect the ability to provide maintenance of building materials
- Fire prevention - this matter was reviewed through the building code and fire code at the time of permit issuance and both the Building Department and Fire Department were circulated notice of the minor variance application for comment.

When the applicant creates the lots from the blocks on the plan of subdivision, the Municipality will require rear yard drainage easements and access easements. This is proposed on the plan submitted with the application as a 1.2 metre right of way. The single unit attached dwelling (townhouse) was not constructed within this proposed easement. The Committee should also consider hardship in their evaluation of this minor variance given the very minor deviation from the setback requirement and the fact the dwelling is already under construction.

Therefore, the requested variance meets the following 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.

APPLICANTS AMENDMENTS

- None

DISCUSSION

The Chair inquired if anyone in the audience wished to speak to the application. No response was received.

**Moved by Member Sylvestre
2nd by Member Diemer**

That Minor Variance application A/03/2021 by J. Rauti Custom Homes be approved.

- Carried -

APPLICATION:	A/4/2021	MAP NO.
APPLICANT:	Jeffery Rusnak & Jill Dame	
PROPERTY LOCATION:	1276 County Rd. 31 (Community of Rochester)	

PURPOSE OF APPLICATION

The applicant is seeking relief from the Lakeshore Zoning By-law 2-2012 to permit a new accessory structure for the following relief:

- Relief from Section 6.5 a) ix) and 6.5 a) xi) of Lakeshore Zoning By-law 2-2012 to permit a gross floor area of 148.64 m² (1,600 ft²) and a height of 5.9 metres (19.36 feet)

Section 6.5 a) ix) of the Lakeshore Zoning By-law 2-2012, restricts accessory buildings in an R1, R2, R3, RW1, RW2, RM or HR zone to not exceed a gross floor area of 55 m² (592 ft²)

Section 6.5 a) xi) restricts accessory structures to not exceed a height of 5 metres unless within an Agriculture Zone.

PRESENT AT MEETING

Jeffery Rusnak & Jill Dame, Authorized Applicant

CORRESPONDENCE RECEIVED

Lakeshore Building Dept. – No comments

Lakeshore Drainage Dept. – No objection

Lakeshore Engineering Dept. – Construction of the accessory buildings should not adversely impact the rear yard drainage or adjacent neighboring lands.

Lakeshore Fire – No comments

Lakeshore Planning Dept. –

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 four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

Both the Hamlet and Agricultural land use designation in the Official Plan permit low density residential dwellings, and uses accessory to the permitted uses under these designations are also permitted. There are no natural heritage features or hazard lands (floodprone area, etc.) on the subject property according to the Official Plan. The subject property is located outside the Essex Region Conservation Authority (ERCA) limit of regulated area.

The intent behind the size restriction provision in the Zoning By-law is to prevent overbuilding on a given lot and to encourage a consistent and compatible built form. The subject property has large lot frontage, area, and depth, similar to the four neighbouring residential lots immediately to the north. These lot characteristics make the lot suitable for supporting larger accessory structures compared to lots in a typical subdivision which are smaller, narrower, and where there is far less separation between buildings in the surrounding area. The development of the proposed structure will only cover 3.8% of the lot.

Immediately to the south of the subject property, and on the west side of County Road 31 across from the subject property, are hamlet residential lots that resemble the type of

lots one would see in a typical subdivision. The Committee could impose a condition requiring the applicant to construct the proposed accessory structure in the very rear of the lot. Currently, a 9.14 metre (30 foot) setback from the rear lot line is depicted on the site plan drawing submitted with the application. A condition requiring the applicant to construct the accessory structure a maximum 30.48 metres (100 feet) from the rear lot line would afford the applicant flexibility, and ensure compatibility with the surrounding area/mitigate impacts on neighbouring residential lots to the south (See Attachment 'C').

The applicant is also seeking relief for a 0.9 metre (2.95 feet) increase in height. This aspect of the proposal is not considered offensive with respect to the proposed location of the accessory structure, and the purpose being to accommodate a trailer/recreational vehicle. Any impacts to neighbouring lots with respect to this variance could be curtailed by imposing the condition requiring the applicant to construct the proposed accessory structure a maximum 30.48 metres (100 feet) from the rear lot line.

It is important for the applicant to understand that the accessory structure cannot be used to support a gainful occupation which may include an electrical, woodworking, window frame, welding, plumbing or machine shop, or other similar type use, conducted in whole or in part of the accessory structure.

Therefore, the requested variance meets the following four tests prescribed under Section 45 (1) of the *Planning Act*.

- Condition(s): That the accessory structure be setback a maximum 30.48 metres (100 feet) from the rear lot line
 - 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.

APPLICANTS AMENDMENTS

- None

DISCUSSION

The Chair inquired if anyone in the audience wished to speak to the application. No response was received.

Jeffery Rusnak stated that he understood everything that was read.

Member Barrette asked Jeffery Rusnak if he was ok with the recommended condition. Jeffery Rusnak confirmed.

**Moved by Member Barrette
2nd by Member Diemer**

That the Minor Variance application A/4/2021 be approved subject to the recommended condition from the Planning Department.

- Carried -

APPLICATION:	A/5/2021	MAP NO.
APPLICANT:	Zeyad Rafih c/o Architectural Design Associates Inc.	
PROPERTY LOCATION:	344 Jordan Lane (Community of Maidstone)	

PURPOSE OF APPLICATION

The applicant is seeking relief from the Lakeshore Zoning By-law 2-2012 to permit an addition to an attached garage for the following relief:

- Relief from Section 8.1 Urban Residential Zone Regulations to permit a maximum lot coverage of 38% and a front yard setback of 4.39 metres
- Relief from Section 6.42 Permitted Encroachments in Yard Setbacks d) to permit the gutters to encroach 3.52 metres into the required front yard setback

Section 8.1 restricts the R1 zone to a maximum lot coverage of 35% and requires a front yard setback of 7.5 metres

Section 6.42 d) restricts gutters to encroach 1 metre into any required yard setback

PRESENT AT MEETING

Zeyad Rafih c/o Architectural Design Associates Inc. (Damian Kacprzak), Authorized Applicant

CORRESPONDENCE RECEIVED

Lakeshore Building Dept. – No comments

Lakeshore Drainage Dept. – No objection

Lakeshore Engineering Dept. – No comments

Lakeshore Fire – No comments

Lakeshore Planning Dept. –

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 four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved:

The purpose of the front yard setback provision in the Zoning By-law is to provide the following:

- i) Adequate separation between the road allowance and residential uses occurring in a building: There is relatively little traffic on Jordan Lane given that it is a street within a suburban community that only services single detached dwellings. The building addition is a garage extension rather than a living space that would benefit from greater separation from a road allowance.
- ii) Sufficient area for landscaping purposes: If approved, the lot will maintain 44.27% landscaped open space, while only 30% is required. Since only a small portion of the dwelling will be coming closer to the front lot line to accommodate this proposal, the visible landscaped open space from the road allowance remains largely unaffected. No landscaped open space will be lost east of the driveway. The road allowance also provides 5 metres (16.4 feet) of landscaped open space between the road and the front property line.
- iii) Three metre separation required to provide for the construction and maintenance of public services within the road allowance: If approved the front yard setback would be 4.39 metres (14.4 feet). There is a water main between the road and front property line. Engineering Services was circulated the application for comment.

The purpose of the lot coverage provision in the Zoning By-law is to ensure sufficient landscaping, drainage and outdoor amenity space. The proposal does not eliminate any meaningful outdoor amenity space, and it should not adversely affect landscaping and opportunities for drainage on the subject property. The owner is required to retain their own water which is a matter reviewed at the Building permit stage. The Building Department was also circulated the application for comment.

The proposal is not expected to disrupt uniformity of appearance in the area and is considered compatible with surroundings. The variance for the reduced front yard setback only applies to the proposed garage extension and not the rest of the dwelling. It is an addition to the existing garage that currently protrudes south from the rest of the single detached dwelling towards the front lot line. The dwelling located on the neighbouring property to the east has the same configuration. If approved, the variance will permit the garage on the subject property to be approximately a few metres closer to the front lot line than this neighbouring dwelling. According to the drawing submitted with the application, the dwelling

located on the neighbouring property to the west, which is a corner lot, will still be located closer to the Jordan Lane road allowance than the garage extension if approved. There will be at least 9.39 metres (30.8 feet) separation between the garage extension and the curb if approved.

Therefore, the requested variance meets the following 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.

ERCA – No objection. The parcel falls within the regulated area of the Lake St Clair. The property owner will be required to obtain a Permit from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

APPLICANTS AMENDMENTS

- None

DISCUSSION

The Chair inquired if anyone in the audience wished to speak to the application. No response was received.

Damian Kacprzak stated he understood everything that was read.

Member Hacon asked if the building addition would match the brick and stone of the house. Damian Kacprzak confirmed.

Moved by Member Barrette
2nd by Member Diemer

That Minor Variance application A/5/2021 be approved.

- Carried –

Moved by Member Diemer
2nd by Member Sylvestre

That the minutes of December 9, 2020 be adopted as printed and distributed.

- Carried –

**Moved by Member Diemer
2nd by Member Barrette**

THAT the meeting adjourn at 7:18 p.m.

- Carried -

Mark Hacon
Chairman

Ian Search
Secretary-Treasurer