

# Municipality of Lakeshore Committee of Adjustment Report

## Growth & Sustainability

## Community Planning



**To:** Chair & Members of Committee of Adjustment

**From:** Urvi Prajapati, BEDP, MES  
Planner 1

**Date:** June 28, 2022

**Applicant:** Robert Masse,  
6209 Emerson Ave,  
Comber, ON

**Subject:** Minor Variance Application A/29/2022

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### Recommendation

Refuse Minor Variance Application A/29/2022, since the requested minor variance does not pass the four tests as the size of the proposed structure cannot be deemed minor, and the proposal is not consistent nor compatible with the existing built form.

### Proposal

The applicants of 6209 Emerson Avenue wish to construct a 118.91 m<sup>2</sup> accessory structure in the rear yard of the residential property. As a result, they are seeking a 63.91 m<sup>2</sup> relief from Section 6.5 of the Lakeshore Zoning By-law 2-2012, which limits accessory buildings to a gross floor area of 55.0 m<sup>2</sup>.

### Summary

#### Location:

The subject land is a 16,403 ft<sup>2</sup> (0.376 acres) residential lot containing an existing house and storage shed in the backyard. The storage shed is going to be demolished and the proposed accessory structure will be replacing it. The subject land, 6209 Emerson Avenue, is west of Main St., south of Wallace Avenue, and north of Canada Southern Railway.

#### Surrounding Land Uses:

North: Residential/ Employment  
South: Residential/ Central Area

East: Service Commercial/ Residential  
West: Employment

Official Plan:

The entire subject property is designated as Residential and does not fall under any areas regulated by conservation authorities.

Zoning:

The property is zoned Residential – Low Density (R1). The Lakeshore Zoning By-law permits accessory buildings within the R1 zone.

**Conclusion**

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.

- 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.

Discussion:

The first test adheres to if the variance is minor in nature. After reviewing the application, planning staff are of the opinion that the proposal is not minor in nature and hence does not pass this test. The proposed gross floor exceeds by 63.0 m<sup>2</sup> in the R1 zone, where the permitted is 55.0 m<sup>2</sup>.

Moreover, the second test determines if the proposal would be desirable with the land use. The purpose of limiting the gross floor area is to avoid overbuilding of the lot. The size restriction is to prevent overbuilding on a given lot and further encourage consistent and compatible built form. After conducting research, it was noted that a few properties within the area have accessory structures that are smaller in size varying from 75.0 - 85.0 m<sup>2</sup>. The proposed size exceeds what already exists in the neighbourhood and is not compatible with the existing built forms.

The third test looks at whether it would maintain the general intent and purpose of the Official Plan. The subject site is designated as Residential in the official plan and accessory structures are permitted. However, the purpose of limiting the gross floor area is to ensure there is enough space for landscaping and drainage. The proposal will increase the gross floor area, however, will still maintain sufficient space for landscaping and drainage. Therefore, the proposal conforms to the Official Plan.

The last test looks at whether the proposal maintains the general intent and purpose of the zoning by-law. Accessory structures are permitted in the R1 zone, however, it exceeds the permitted size in the R1 zone. The setbacks set out in the by-law ensures that the existing streetscape is maintained and that there is privacy between the private and public realm. The accessory structure is going to be located in the backyard with no abutting neighbours to the south. However, one of the main concerns with oversized accessory buildings is what they will ultimately be used for. This accessory building cannot be used as a

*‘Home Occupation – which provides gain or support for individuals permanently residing in such dwelling or dwelling unit and is clearly secondary to the main use of the dwelling unit as a private residence...’*

After reviewing the application it is recommended that the application be refused since the size of the accessory structure cannot be deemed minor and it is not consistent nor compatible with the existing built form in the area.

If the Committee decides to approve Minor Variance Application A/29/2022, it is recommended that:

- 1) The gross floor area of the accessory building be reduced to a size more consistent with accessory buildings in the area, in order for it to be deemed minor.
- 2) That in the absence of a zoning by-law amendment permitting otherwise, the accessory building will not contain a Home Occupation (as defined in the Zoning By-law) in accordance with Section 6.27.

### **Correspondence from external and internal agencies**

The application was circulated to various external and internal agencies, and the concerns expressed are summarized below.

Engineering advised that the accessory structure should not adversely impact the rear yard drainage or adjacent neighbouring lands.

Fire stated that the applicants will be required to contact the Lakeshore Fire Department to assist with assessing the use to determine if Ontario Fire Code requirements may apply.

Both Engineering and Fire comments received are enclosed as Appendix C and D respectively under attachments below.

**Attachment(s):**

Appendix A – Aerial Map  
Appendix B – Site Plan and Elevations  
Appendix C – Engineering Comments  
Appendix D – Fire Comments

**Prepared by:**



Urvi Prajapati, BEDP, MES  
Planner 1

**Report Approval Details**

Document Title:	A-29-2022 Report.docx
Attachments:	- Aerial Map.pdf - Site Plan and Elevations.pdf - Engineering Comments.pdf - Fire Comment.pdf
Final Approval Date:	Jul 8, 2022

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

Prepared by Urvi Prajapati

Approved by Kristina Brcic