

# Municipality of Lakeshore Committee of Adjustment Report

## Growth & Sustainability

## Community Planning



**To:** Chair & Members of Committee of Adjustment  
**From:** Ian Rawlings, Planner I  
**Date:** January 17, 2023  
**Applicant:** Attila & Alina Sherman  
**Subject:** Minor Variance Application A/47/2022 – 200 Rafih Crescent

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### Recommendation

Approve minor variance application A/47/2022, to permit a 13.4 m<sup>2</sup> deck built within the rear yard of 200 Rafih Crescent, that is 0.25 m from the rear lot line and is 0.15 m in height.

### Proposal

The applicants of 200 Rafih Crescent are applying to legalize a 13.4 m<sup>2</sup> deck built within the rear yard of their property that is 0.25 m from the rear lot line and is 0.15 m in height. Therefore, the applicants are seeking relief from Section 6.12 a) of the Lakeshore Zoning By-law 2-2012 which limits a deck or patio having a maximum height of 0.2 m from grade or less to encroach into any yard setback without restriction, provided it is located no closer than 0.6 m to the rear or interior side lot line.

### Summary

#### Location

The subject property known as 200 Rafih Crescent is approximately 642 m<sup>2</sup> in area with 18.9 m of frontage along Rafih Crescent and contains a single-family home and a shed in the rear yard. The subject property is located within the Lakeside Estates Subdivision on the eastern side of Rafih Crescent, north of Water Ave.

#### Surrounding Land Uses

North: Single Detached Dwellings  
East: Single Detached Dwellings  
South: Single Detached Dwellings  
West: Single Detached Dwellings

## Official Plan

The Lakeshore Official Plan designates the property as 'Residential' which does not provide policy direction for the use of balconies, decks and patios.

## Zoning

The subject property is zoned Residential – Low Density (R1) under the Lakeshore Zoning By-law 2-2012 which permits balconies, decks, and patios in association with any residential use in accordance with section 6.12 a) of the Lakeshore Zoning By-law 2-2012.

## **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.

In review of the application, staff considered the intent and purpose of the Official Plan and are satisfied that the variance meets the intent. The Lakeshore Official Plan does not speak to the use of balconies, decks and patios and instead delegates specific regulations to the Zoning By-law. Therefore, conforming to the intent and purpose of the Official plan.

The intent and purpose of the zoning by-law is met as the regulations on setbacks and encroachments for balconies, decks, and patios are implemented to maintain privacy for adjacent neighbours and provide adequate circulation and drainage for the subject property. The resulting setback of 0.25 meters from the rear lot line in combination with a height of 0.15 meters maintains the intent of the Zoning By-law.

The third test determines whether the variance is minor in nature; the test is not solely based on quantitative calculations with respect to the request, but also includes qualitative considerations such as impacts and consistency. As the rear of the property abuts a municipal drain, and the Municipality of Lakeshores Drainage department identifies no impact on its systems. Therefore, the variance appears minor in nature.

The final test regards the appropriateness and desirability of the use. A setback of 0.25 meters from the rear lot line proves desirable as it does not impede on neighboring properties, poses little impact on drainage and drainage systems, and maintains circulation throughout the subject property.

Therefore, the requested variance passes 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.
- iii. It would maintain the general intent and purpose of the Zoning By-law.

## **Correspondence**

### External and internal agencies

The application was circulated to various external and internal agencies, comments received are summarized below.

The drainage department has noted that the Wallace Line Drain is located at the rear of the property and has no concerns with the application. Full comments can be found within Appendix – C.

ERCA has expressed no objections to Minor Variance Application A-47-2022. Full comments can be found within Appendix – D.

VIA Rail has provided Standard comments which can be found within Appendix – E.

### Public Notice Circulation

Notice of Public Meeting and information regarding the requested minor variance application was sent to all property owners within 60m of the subject land. At the time of writing, no written comments were received.

## **Attachment(s):**

Appendix A – Aerial Map  
Appendix B – Site Plan  
Appendix C – Drainage Comments  
Appendix D – ERCA Comments  
Appendix E – VIA Rail Comments

## **Prepared by:**



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Ian Rawlings,  
Planner 1

## Report Approval Details

Document Title:	A-47-2022 Report.docx
Attachments:	<ul style="list-style-type: none"><li>- Appendix A - Aerial Map.pdf</li><li>- Appendix B - Site Plan.pdf</li><li>- Appendix C - Drainage Comments.pdf</li><li>- Appendix D - ERCA Comments.pdf</li><li>- Appendix E - VIA Rail Comments.pdf</li></ul>
Final Approval Date:	Jan 20, 2023

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

**Kristina Brcic - Jan 20, 2023 - 11:49 AM**