

Municipality of Lakeshore Committee of Adjustment Report

Growth & Sustainability

Community Planning



To: Chair & Members of Committee of Adjustment
From: Ian Rawlings, Planner I
Date: February 8, 2023
Applicant: Scott and Tara Harris
Subject: Minor Variance Application A/01/2023 – 4778 St Clair Rd

Recommendation

Approve minor variance application A/01/2022 at 4778 St Clair Rd, to permit the construction of a 153 m² single detached dwelling to be located 0.91 m from the eastern interior lot line, and 1.22 m from the western interior lot line and to permit a 78 m² accessory structure with a height of 5.1 m, to be located 0.61 m from the eastern interior lot line in accordance with the site plan in Appendix B.

Proposal

The applicants are proposing to construct a new single detached dwelling and a new accessory structure within the front yard. The proposed single detached dwelling will have a gross floor area of 153 m² and will be located 0.91 m from the eastern interior lot line, and 1.22 m from the western interior lot line. Therefore, the applicants are seeking the following relief from the Lakeshore Zoning By-law 2-2012:

- Section 8.3 to permit a side yard setback of 0.91 m from the eastern lot line and 1.22 m from the western lot line, whereas the by-law states 1.5 m on either side.

The proposed accessory structure will be located in the front yard of the property with a gross floor area of 78 m², a height of 5.1 m, and will be located 0.61 m from the eastern interior lot line. Therefore, the applicants are seeking the following relief from the Lakeshore Zoning By-law 2-2012:

- Section 6.5 a) vii) to permit a setback of 0.61 m from the interior side lot line, whereas the by-law states 1.5 m;
- Section 6.5 a) ix) to permit a GFA of 77.9 m² in an RW2 zone, whereas the by-law states a maximum GFA of 55.0 m²;

- Section 6.5 a) xi) to permit a height of 5.1 m, whereas the by-law states a maximum height of 5 m.

Summary

Location

The subject property known as 4778 St Clair Rd is approximately 1873 m² in area with 12.2 m of frontage along St Clair Rd and contains a single-family home to be demolished, and a garage in the front yard to be demolished. The subject property is located on the northern side of St Clair Rd, west of Columbus Dr.

Surrounding Land Uses

North: Lake St. Clair
East: Single detached dwelling
South: Vacant Farmland
West: Single detached dwelling

Official Plan

The Lakeshore Official Plan designates the property as 'Waterfront Residential' which permits single detached residential dwellings and accessory structures.

Zoning

The subject property is zoned "Residential Waterfront – Lake St. Clair (RW2)" under the Lakeshore Zoning By-law 2-2012 which permits development of single detached residential dwellings under section 8.3 and permits accessory structures in accordance with section 6.5 a).

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 subject property is designated residential which permits the use of single detached residential dwelling units and accessory uses to be regulated through the Lakeshore Zoning By-law. Therefore, conforming to the Lakeshore Official Plan.

Construction of the Single Detached Dwelling

- Section 8.3 to permit a side yard setback of 0.91 m from the eastern lot line and 1.22 m from the western lot line, whereas the by-law states 1.5 m on either side.

The intent and purpose of the zoning by-law is met as the regulations on side yard setbacks for main structures is implemented to maintain fire prevention, circulation around the property, and drainage. A side yard setback of 0.91 meters and 1.22 meters will maintain the necessary circulation to access around the neighbouring structures should no entrances and exits exist along the side yards. The proposed structure will need to meet building code standards for fire prevention to be identified when presented for a building permit.

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. The reduction of the side yard setbacks on both sides of the proposed structure could adversely impact drainage on the lands and result in potential flooding issues. Construction of the proposed structure will need to meet above the hazard land requirements to be identified when obtaining an ERCA clearance permit to address potential issues in flooding.

The final test regards the appropriateness and desirability of the use. The proposed structure is deemed appropriate as it reflects the placement of single detached dwellings throughout the neighboring area. The proposed detached dwelling unit will not impact the character area.

Construction of the Accessory Structure

- Section 6.5 a) vii) to permit a setback of 0.61 m from the interior side lot line, whereas the by-law states 1.5 m.
- Section 6.5 a) ix) to permit a GFA of 77.9 m² in an RW2 zone, whereas the by-law states a maximum GFA of 55.0 m².
- Section 6.5 a) xi) to permit a height of 5.1 m, whereas the by-law states a maximum height of 5 m.

The intent and purpose of the zoning by-law is met as the regulations on height and gross floor area for accessory structures are implemented to maintain the use as secondary to the main structure. The proposed structure will remain secondary to the main structure as the main structure accounts for 18% of the lot coverage, and the accessory structure only accounts for 10% of lot coverage. Resulting in a lot coverage of 28% for the subject property.

The regulations on side yard setbacks for accessory structures are implemented to maintain fire prevention, circulation, and access for the subject property. A side yard setback of 0.61 meters will maintain the necessary circulation required as 3 meters remains on the opposite side allowing for circulation. The proposed accessory structure will need to meet building code standards for fire prevention to be identified when presented for a building permit.

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. No issues or concerns were raised through correspondence with external and internal agencies and the proposed accessory structure will be located in a similar position as the current accessory structure to be demolished. As no concerns with the location of the existing accessory structure were identified the proposed accessory structure then proves minor in nature.

The final test regards the appropriateness and desirability of the use. The proposed structure is deemed appropriate as it reflects the size, use, and placement of accessory structures throughout the neighboring area. The proposed accessory structure will not impact the character area and proves desirable in its use as a garage and storage area within the front yard of 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.

Engineering has expressed that the reduction of the side yard setback beyond 1.5 meter may result in adverse impact to the drainage on the private lands and create flooding issues and that the construction of the home and accessory buildings should not adversely impact the side yard drainage or adjacent neighboring lands. Full comments can be found within Appendix C.

The building department has stated that the proposed minor variance application complies with the Ontario Building Code regarding special separation. Full comments can be found within Appendix D.

ERCA has expressed that the property owners will be required to obtain a permit from the Essex Region Conservation Authority prior to the construction of the proposed dwelling and detached garage. Additionally, the structures will need to meet above noted hazard land requirements. Full comments 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 – Engineering Comments
Appendix D – Building Comments
Appendix E – ERCA Comments

Prepared by:

A handwritten signature in black ink, reading "Ian Rawlings". The signature is written in a cursive, flowing style. Below the signature is a solid horizontal line.

Ian Rawlings,
Planner 1

Report Approval Details

Document Title:	A-01-2023 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Map.pdf- Appendix B - Site Plan.pdf- Appendix C - Engineering Comments.pdf- Appendix D - Building Comments.pdf- Appendix E - ERCA Comments.pdf
Final Approval Date:	Feb 10, 2023

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

Kristina Brcic - Feb 10, 2023 - 10:54 AM