

Municipality of Lakeshore Committee of Adjustment Report

Growth & Sustainability

Community Planning



To: Chair & Members of Committee of Adjustment
From: Ian Rawlings
Date: February 9, 2023
Applicant: Craig & Denise Madden
Subject: Minor Variance Application A/44/2022 – 742 Faleria St

Recommendation

Deny minor variance application A/44/2022 at 742 Faleria Street which seeks to legalize the construction of two accessory structures within the rear yard 0.0 m from the main structure and 0.0 m from an existing easement resulting in 46.8% total lot coverage.

Proposal:

The applicants of 742 Faleria Street are applying to legalize the construction of two accessory structures within the rear yard of their property. The first accessory structure is an un-enclosed, covered patio with a gross floor area of 20.5 m², located 0.0 m from the main dwelling and 0.0 m from an existing easement on the property. The second accessory structure is a storage shed, with a gross floor area of 7.1 m² and is located 0.0 m from an existing easement. Therefore, the applicants are seeking the following relief from the Lakeshore Zoning By-law 2-2012:

- To permit a maximum lot coverage of 46.8 %, whereas section 9.2.16 iii) permits a maximum lot coverage of 40% for exterior single attached dwellings (including accessory buildings and structures)
- To permit an accessory structure 0 m from the main building, whereas section 6.5 a) x) requires a setback of 3.0 m from the main building.
- To permit a 0.0 m setback from an existing easement, whereas section 6.6 requires a setback of 1.0 m from an existing easement with a width less than 6 m.

Summary:

Location:

The subject property known as 742 Faleria Street is approximately 457 m² in area with 12.1 m of frontage along Faleria St. The property currently contains the end unit of a dwelling triplex. The subject property contains a 1.5 m easement that runs along the rear lot line and the interior lot line on the south side of the property. This easement is in favor of the central triplex dwelling unit allowing them access to their rear yard from the outside. The subject property is located within the Lakeshore New Centre Estates Subdivision on the western side of Faleria Street, north of Campana Crescent.

Surrounding Land Uses:

North: Interior, single attached dwelling (Attached to subject property)

East: Triplex Dwelling

South: Duplex Dwelling

West: Single Detached Dwelling

Official Plan

The Lakeshore Official Plan designates the property as 'Residential'.

Zoning:

The subject property is zoned Residential Type 2 Zone Exception 16 (R2-16) which contains specific permitted uses and zoning regulations detailed within section 9.2.16 of the Lakeshore Zoning Bylaw.

Minor Variance Tests:

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 accessory structures and uses for residential designations. The Lakeshore Official Plan does not regulate lot coverage for residential designations and does not speak to easement setbacks. Therefore, conforming to the Lakeshore Official Plan.

Relief from Section 9.2.16 iii): Lot Coverage

- To permit a maximum lot coverage of 46.8 %, whereas section 9.2.16 iii) permits a maximum lot coverage of 40% for exterior single attached dwellings (including accessory buildings and structures)

The intent and purpose of the zoning by-law is not met as regulations detailing lot coverage are implemented to ensure that the size and massing of structures upon the property conform with the character area, provide outdoor amenity space, and adequate drainage for the property. The proposed increase in lot coverage maintains both private and non-private outdoor amenity space. However, the lot coverage of 40% is designed for the drainage systems implemented within the subject area. The increase in lot coverage could potentially impact the drainage systems in place and impact drainage capabilities of neighbouring properties.

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 proposed lot coverage does not prove minor as it can adversely impact the drainage systems implemented and multiple applications of this nature can overwhelm the existing drainage systems.

The final test regards the appropriateness and desirability of the use. The proposed increase in lot coverage does not prove desirable as the request for increase lot coverage can impact the drainage systems available to the neighboring properties and increase water runoff from the subject property, onto neighboring properties.

Relief from Section 6.5 a) x) Setbacks from Main Building

- To permit an accessory structure 0 m from the main building, whereas section 6.5 a) x) requires a setback of 3.0 m from the main building.

The intent and purpose of the zoning by-law which establishes a setback of 3.0 m for accessory structures from the main structure is to provide adequate circulation and fire protection. As no comments were received from the fire department or the building department and the proposed accessory structure to be located 0.0 m from the main structure is of simple wood framing and is open on all sides it is of the opinion of the planner that the intent and purpose of the Zoning By-law is met.

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 proposed accessory structure remains open on all sides and maintains circulation, the proposed setback of 0.0 meters from the main building proves minor in nature.

The final test regards the appropriateness and desirability of the use. The proposed setback of 0.0 meters appears appropriate for the intended use as a covered patio to be used for leisure and comfort. Therefore, the proposed setback appears appropriate for the development within the subject lands.

Relief from Section 6.6: Setbacks from existing Easements

- To permit a 0.0 m setback from an existing easement, whereas section 6.6 requires a setback of 1.0 m from existing easement with a width less than 6 m.

The intent and purpose of the zoning by-law and the established 1.0 m setback is to allow adequate circulation and access to easement lands for its intended use as described in an easement agreement. The use of the subject easement in question is in place to provide circulation for the residents of the interior, single attached dwelling to access their rear yard. As the intent of the easement is met without the 1.0 m setback the intent and purpose of the zoning by-law is met.

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 proposed setback of 0.0 m from the existing easement for both accessory structures reflects the setback from the easement of the main structure. As the setback of 0.0 m maintains circulation and access it is determined to be minor in nature.

The final test regards the appropriateness and desirability of the use. The proposed setback of 0.0 m from the existing easement for both accessory structures does not impede on the intent of the easement and access to the neighboring rear yard is provided. Therefore, the proposed setback of 0.0 m for both accessory structures is deemed appropriate for the intended use.

Conclusion:

The requested variance for an increase in lot coverage does not pass the following four tests prescribed under Section 45 (1) of the *Planning Act*.

- i. The variance would not be “minor” in nature.
- ii. It would not be deemed 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 not maintain the general intent and purpose of the Zoning By-law.

The requested variance for a reduced setback of 0.0 meters from the main structure and the existing easement 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 deemed 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 existing storm sewer/drainage system where the subject property outlets does not consider lot coverage beyond the scope of our zoning by-law. Engineering does not support the lot coverage variance as the additional storm water runoff may create adverse impacts on the surrounding drainage system. Engineering has also expressed that access to the easement must be maintained at all times. Full comments can be found within Appendix – C.

The building department has expressed that the neighboring unit must have appropriate access to the easement lands. Full comments can be found within Appendix – D.

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

Prepared by:



Ian Rawlings,
Planner 1

Report Approval Details

Document Title:	A-44-2022 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
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 - 9:29 AM