

Municipality of Lakeshore Committee of Adjustment Report

Growth & Sustainability

Community Planning



To: Chair & Members of Committee of Adjustment

From: Ian Search, Planner I

Date: March 15, 2023

Subject: Minor Variance Application A/03/2023 – 2954 County Road 42

Recommendation

Approve minor variance application A/03/2023 to permit an accessory building to be setback 6.1 meters from the centreline of a covered municipal drain subject to the following conditions: The accessory structure will not have any doors for vehicles located on the east of the structure to the satisfaction of the Municipality of Lakeshore; The municipal drain lands, and neighbouring lands under different ownership, will not be used for accessing the rear yard during the construction of the accessory structure; Any trees on the subject property that will obstruct access to the rear yard during the construction process will be removed.

Proposal

The subject property currently supports a single-detached dwelling with an attached garage and a garden shed in the rear yard. The applicants are proposing to construct an accessory structure in the rear yard located 7.16 metres from the rear lot line, 4.4 metres from the eastern interior lot line, and 6.1 metres from an enclosed municipal drain. The proposed accessory structure will have a gross floor area of approximately 80 m². Therefore, the applicants are seeking the following relief from Lakeshore Zoning By-law 2-2012:

- Section 6.34 c) ii) to permit an accessory building to be setback 6.1 meters from the centreline of a covered municipal drain, whereas the by-law requires a minimum setback of 8.0 m between any building or structure from the centreline of a covered municipal drain.

Summary

Location

The subject property is located east of County Road 31, west of Rochester Townline Road, on the northside of County Road 42, known municipally as 2954 County Road 42. The subject property is approximately 0.46 acres in area with 30.48 metres of

frontage.

Surrounding Land Uses

The subject property is surrounded by agricultural land. There are some rural residential lots in the area across the street.

Official Plan

The subject property is designated “Residential” and “Lake St. Clair Floodprone Area” in the Lakeshore Official Plan and is located within the Essex Region Conservation Authority (ERCA) regulated area.

Zoning

The subject property is zoned “Residential Waterfront – Lake St. Clair Zone Exception 3” (RW2-3) in 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 all four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

Official Plan

Section 5.4.1.2 Inland Floodplain Development Control Area of the Official Plan states that a setback of 8 metres plus the depth of the watercourse or municipal drain, to a maximum of 15 metres, will constitute the Floodway Zone, for the majority of watercourses. The subject property is not located within the Inland Floodplain Development Control Area. Essex Region Conservation Authority (ERCA) commented that ERCA clearance has been issued for the proposed pole barn and stated that there was no objection to the requested relief.

Zoning By-law

Section 6.34 c) ii) of the Zoning By-law states that the minimum setback between any building or structure from a covered municipal drain shall be 8.0 m from the centreline of the covered municipal drain. The purpose of this regulation is to provide a sufficient maintenance corridor for municipal drainage systems and to locate buildings/structures outside a Floodway Zone. The subject property is not located within any flood hazard lands. The requested relief was sent to the Drainage Department, and it was commented that an adequate maintenance corridor can be maintained. It is anticipated that there will be sufficient space on the agricultural field east of the municipal drain to perform any required maintenance.

Minor

It is the opinion of the Planner that the requested relief is minor in nature. There are no anticipated impacts with permitting the requested relief. ERCA and the Drainage Department did not raise any issues with the application. Additionally, other municipalities in the County of Essex permit smaller setbacks from covered municipal drains. The Town of Essex permits a building/structure to be setback a minimum of 6 metres from a covered municipal drain. The Town of Kingsville and the Municipality of Leamington permit a minimum setback of 3 metres from the centreline of a covered municipal drain.

Desirability

The accessory building should not have any doors for vehicles on the east side of the building. With the reduced setback from the municipal drain, vehicles should not be driving overtop of the drain or obstructing opportunity to its future maintenance. Construction of the accessory building will require equipment and/or construction vehicles to access the rear yard. The covered municipal drain lands should not be used for moving equipment and/or any vehicles to the rear yard during construction of the building, nor should the owner trespass on any neighbouring lands. Therefore, the owner may need to remove trees on their property to access the rear yard for this purpose. It is noted that there is a septic system in the rear yard and the requested relief will assist in accommodating the required setback from the septic system.

It is the opinion of the Planner that the requested variance passes the four tests prescribed under Section 45 (1) of the *Planning Act*, subject to the following conditions:

- 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.

Conditions:

- The accessory structure will not have any doors for vehicles located on the east of the structure to the satisfaction of the Municipality of Lakeshore;
- The municipal drain lands, and neighbouring lands under different ownership, will not be used for accessing the rear yard during the construction of the accessory structure;
- Any trees on the subject property that will obstruct access to the rear yard during the construction process will be removed.

Correspondence

External and Internal Agencies

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

Engineering states that the tree located in the rear yard shall be removed prior to constructing the accessory building to ensure there is adequate space for equipment and materials to access the rear yard. This is to ensure no vehicles will be driving over the municipal drain. This opinion was also shared by the Chief Building Official.

ERCA states that clearance has been issued for the pole barn and they have no objection to the application.

The County of Essex commented that the minimum setback for any proposed structures on this property must be 85 feet from the centre of the original ROW of County Road 42. Permits are necessary for any changes to existing entrances and structures, or the construction of new entrances or structures.

Fire Services stated that the applicant will need to contact the Lakeshore Fire Department to assist with assessing the use to determine if any Ontario Fire Code requirements may apply. Due to the size of the proposed building, it should be noted that the Lakeshore Fire Department provides emergency response through its volunteer firefighter service. There is no guaranteed level of coverage. Anticipated response times, equipment and required staffing may be delayed.

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 for the public record were received.

Attachment(s):

Appendix A – Aerial Map
Appendix B – Drawings
Appendix C – Engineering Comments
Appendix D – ERCA Comments
Appendix E – County of Essex Comments
Appendix F – Fire Services Comments

Prepared by:



Ian Search,
Planner I

Report Approval Details

Document Title:	A-03-2023 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Map.pdf- Appendix B - Drawings.pdf- Appendix C - Engineering Comments.pdf- Appendix D - ERCA Comments.pdf- Appendix E - County of Essex Comments.pdf- Appendix F - Fire Services Comments.pdf
Final Approval Date:	Mar 17, 2023

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

No Signature - Task assigned to Kristina Brcic was completed by workflow administrator Brianna Coughlin

Kristina Brcic - Mar 17, 2023 - 9:13 AM