

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/07/2023 – 1610 County Road 22

Recommendation

Deny minor variance application A/07/2023 to permit an accessory structure with a gross floor area of 222.96 m².

Proposal

The subject property currently supports a single-detached dwelling and an accessory structure in the rear yard. The applicants are proposing to construct an addition to the existing accessory structure which currently has a gross floor area of 111.48 m² and a height of 4.87 m. The proposed addition will add 111.48 m² of gross floor area to the existing accessory structure, resulting in a total gross floor area of 222.96 m². Therefore, the applicants are seeking the following relief from Lakeshore Zoning By-law 2-2012:

- Section 6.5 a) ix) to permit an accessory structure with a gross floor area of 222.96 m², whereas the by-law permits a maximum gross floor area of 55 m² in an R1 zone

Summary

Location

The subject property is located east of Rourke Line Road, west of West Belle River Road, on the northside of County Road 22, known municipally as 1610 County Road 22. The subject property is approximately 1.83 acres in area with 30.48 m of frontage.

Surrounding Land Uses

The subject property is surrounded by residential properties (single detached dwelling lots). A tool and mold business is located a few properties to the east on County Road 22.

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 – Low Density (R1)” 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 four tests. If the Committee is not satisfied on all four tests, then the Minor Variance cannot be approved.

Official Plan

Section 6.6 of the Official Plan states that the Residential Designation is expected to accommodate attractive neighbourhoods. Community design policies under Section 4.2.1 state that the Municipality will ensure new development is designed in keeping with the traditional character of the Settlement Areas in a manner that preserves their traditional community image and enhances their sense of place within the Municipality. Measures will be taken to ensure that permitted uses address compatibility with adjacent land uses.

The subject property is a deep residential lot located on an Urban Arterial Road where other large accessory buildings have developed over time on nearby residential lots in the general area. It is noted that the building addition is a proposed northern extension of the accessory building that will not result in a reduced setback from the east side lot line. It is anticipated that there will be little if any impact to the appearance of the streetscape.

Zoning By-law

Section 6.5 a) ix) states that an accessory building shall not exceed a gross floor area of 55 m² in the Residential – Low Density (R1) zone. Moreover, the definition of “accessory” in the Zoning By-law describes a structure/building that is normally incidental, subordinate, and exclusively devoted to a main building on the same lot.

An interactive mapping system suggests that the dwelling on the property has a building footprint close to 500 m². The proposed gross floor area of the accessory building is subordinate and meets the general and intent and purpose of the Zoning By-law in this respect.

The regulation limiting the gross floor area of an accessory building to 55 m² applies across every residential zone and was designed for a residential lot in a typical subdivision. It is acknowledged that the subject property is located on an Urban Arterial Road – not in a typical subdivision – and that the lot area of the property exceeds the minimum lot area provision in the R1 zone by almost fifteen times. The subject property, like others in the immediate area, is clearly conducive to supporting larger accessory buildings, and it is the opinion of the Planner that the minor variance meets the general intent and purpose of the Zoning By-law.

Minor

It is the opinion of the Planner that it is not possible to deem the proposal as minor given the fact that the accessory building will exceed the maximum gross floor area permitted in the Zoning By-law by four times. It is recognized, however, that the existing zoning provision regulating gross floor area of accessory buildings is a blanket provision that does not currently consider different lot sizes or neighbourhood context.

The proposal is considered minor in terms of impacts and compatibility issues. The existing setback from the east side lot line will be maintained, the addition will occur adjacent to an existing accessory structure on the neighbouring property to the east, and it is anticipated that there will be little to no impacts on the appearance of the streetscape.

Desirability

The Committee should ask the applicant why a minor variance of this nature is requested. The existing dwelling has an attached garage, and the existing accessory building subject to the proposed building addition already has a gross floor area of 111 m². The applicant should be aware that an accessory building cannot be used as a Home Industry (gainful occupation – electrical, woodworking, welding, machine shop, or other similar type use) on this lot under the Zoning By-law.

There are no other issues of appropriateness. In terms of existing standards in the immediate area, a 204 m² accessory building was recently developed at 1556 County Road 22, and a 187.3 m² accessory building was approved at 1566 County Road 22 last year – although the latter structure does not appear to have been constructed at this time. There are other oversized accessory buildings in the immediate area, but those structures do not appear to exceed the provision to the extent of this request.

It is the opinion of the Planner that the requested variance does not pass all four tests prescribed under Section 45 (1) of the *Planning Act*, as the variance cannot be deemed “minor” in nature. The four tests are as follows:

- 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. The comments received are summarized below:

Building states that grading must be addressed. It is recommended that grading be addressed to the satisfaction of the Municipality of Lakeshore as a condition of any approval.

Engineering expressed that the applicant shall adhere to the required setbacks from the municipal drain outlined in Lakeshore's Zoning By-law. Construction of the accessory buildings should not adversely impact the rear yard drainage or adjacent neighboring lands.

ERCA advises that "the property owner will be required to obtain a Permit from the Essex Region Conservation Authority prior to any construction or site alteration. The proposed addition to the existing accessory structure does not meet the ERCA requirements for minimum floodproofing standards. The applicant must request in writing that the Application for Permit be considered by the ERCA Board of Directors to seek relief from the floodproofing requirements. Staff may not be in support of this proposal. ERCA recommends **deferral** and advises the owner to undertake a consultation with ERCA staff to discuss the available options".

If the Committee is open to approving the minor variance application in principle, it is recommended they defer the application until ERCA approval is obtained. Furthermore, any approval of the minor variance application should be subject to the following conditions: Approval is subject to a building addition to an existing accessory building at the north end of the accessory building that does not result in a reduced setback from the east side lot line; Grading is addressed to the satisfaction of the Municipality of Lakeshore.

The Fire Department 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.

VIA Rail provided their standard comments. It is noted that this application is for an accessory building that will be located over 150 metres from the railway right-of-way.

Public Notice Circulation

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

Attachment(s):

Appendix A – Aerial Map
Appendix B – Drawings
Appendix C – Engineering Comments
Appendix D – Building Comments
Appendix E – ERCA Comments
Appendix F – Fire Services Comments
Appendix G – VIA Rail Comments

Prepared by:



Ian Search,
Planner I

Report Approval Details

Document Title:	A-07-2023 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-Building Comments.pdf- Appendix E-ERCA Comments.pdf- Appendix F-Fire Services Comments.pdf- Appendix G-VIA Rail 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 - 9:14 AM