

Municipality of Lakeshore Committee of Adjustment Report



Growth & Sustainability

Community Planning

To: Chair & Members of Committee of Adjustment
From: Ian Rawlings, Planner I
Date: May 10, 2023
Applicant: Rami Dawoud
Subject: Minor Variance Application A/13/2023 – 211 Rafih Crescent

Recommendation

Approve minor variance application A-13-2023 to permit the construction of a covered porch in the rear yard of 211 Rafih Crescent resulting in a lot coverage of 38.9 %, in accordance with the site plan provided.

Proposal

The applicants of 211 Rafih Crescent are proposing to construct a covered porch as an addition to the existing deck within the rear yard of a single detached dwelling. The covered porch will be located 7.5 m from the rear lot line and 1.5 m from the northern interior lot line. The covered porch will have a gross floor area of 27 m² and will account for an increase of 3.9 % of lot coverage, providing a total lot coverage of 38.9 %. Therefore, the applicants are seeking the following relief from Lakeshore Zoning By-law 2-2012:

- To permit a lot coverage of 38.9 %, whereas Section 8.1 details a maximum lot coverage of 35 % for single detached dwellings within the R1 zone.

Summary

Location

The subject property is approximately 693 m² in lot area with 15 m of frontage along Rafih Crescent. The subject property is located on the western side of Rafih Crescent, south of Water Ave, within the Lakeside Estates Subdivision (Phase 1).

Surrounding Land Uses

North: Single Detached Dwellings
East: Single Detached Dwellings

South: Single Detached Dwellings
West: Single Detached Dwellings

Official Plan

The subject property is designated “Residential” and is located within the Essex Region Conservation Authority (ERCA) regulated area. The Lakeshore Official Plan does not identify any hazardous lands, natural resources, or manmade hazards on the subject property. The subject property is not within close proximity to any significant woodlands, wetlands, water bodies or watercourses.

Zoning

The subject property is zoned “Residential – Low Density” (R1) in the Lakeshore Zoning By-law 2-2012.

Planning Act 45(1)

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

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.

Zoning By-law

The intent and purpose of the zoning by-law is met as the regulations for lot coverage are implemented to provide sufficient outdoor amenity space and provide appropriate landscaping and drainage. The use of the covered porch would not impact the amount of outdoor amenity space available as it remains unenclosed, and the intended use of the covered porch is to increase the functionality of the space.

The percentage of lot coverage detailed within the Lakeshore Zoning By-law 2-2012 for a ‘Residential – Low Density (R1)’ zone (being 35%) is chosen based on the drainage capabilities of the lands and supportive capabilities of the implemented storm sewers for which the property outlets. An increase in the amount of lot coverage could potentially impact the drainage capabilities of the land and overload the existing storm sewers.

However, the current definition for lot coverage within the Lakeshore zoning by-law 2-2012 does not include the use of hard landscaping materials and specific structures

such as a decks and patios. Therefore, the existing deck constructed out of concrete within the rear yard, in which the covered porch would be located cannot be considered in the calculations for lot coverage and is permitted as depicted within Appendix E – Site Images.

LOT COVERAGE – shall mean the percentage of lot area covered by all buildings or structures and accessory buildings or structures on the lot measured at ground level, including all enclosed and/or unenclosed roofed porches and verandas; but excluding a private outdoor swimming pool and open, unenclosed terraces, patios, decks, steps, cornices, cantilevers, eaves, bay windows, chimney breasts, corbelling and similar projections. Any lot area located under water shall not be included in the calculation of lot coverage.

The applicant is now looking to construct a covered porch using the existing concrete deck within the rear yard. Due to the change in definition the use of the Porch is now considered in the calculations for lot coverage. The conversion of the concrete deck to a porch would not result in increased drainage impacts then already imposed on the property.

Based on the current definition of lot coverage and the intended use of lot coverage to maintain drainage capabilities, the proposed variance conforms with the Lakeshore Zoning By-law.

Minor in Nature

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 covered porch would be located overtop an existing concrete deck and would not substantially increase any impacts to the existing drainage system should any additional impacts arise. The proposed covered porch would not impede on the neighboring properties privacy. Therefore, the proposed increase in lot coverage proves minor in nature.

Desirability and Appropriateness

The final test regards the appropriateness and desirability of the use. The use of a covered porch would prove desirable and functional for the outdoor amenity space as it provides shaded areas with minimal impact on drainage systems. As the proposed covered porch is located in the rear yard of the property no impacts to the character area are anticipated deeming the proposal desirable.

Conclusion

It is the opinion of the Planner that the requested variance passes the 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.

ERCA has stated that the applicant will be required to obtain a clearance permit prior to any construction or site alteration. Full comments can be found in appendix C.

Operations has expressed that the existing storm sewers/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 stormwater runoff may create adverse impacts on the surrounding drainage system. However, since the porch is currently made of concrete and is impermeable, both Planning and Building are in agreement that the addition of a roof on top of the porch will not further impact the amount of runoff. Ultimately, the owners must maintain the stormwater runoff within their property limits. Therefore, Full comments can be found in appendix D.

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 Image
Appendix B – Site Plan and Elevation
Appendix C – ERCA Comments
Appendix D – Operations Comments
Appendix E – Site Images

Prepared by:



Ian Rawlings,
Planner 1

Report Approval Details

| | |
|----------------------|---|
| Document Title: | A-13-2023 Report.docx |
| Attachments: | <ul style="list-style-type: none">- Appendix A - Aerial Image.pdf- Appendix B - Site plan and Elevation.pdf- Appendix C - ERCA Comments.pdf- Appendix D - Operations Comments.pdf- Appendix E - Site Images.pdf |
| Final Approval Date: | May 11, 2023 |

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

Kristina Brcic - May 11, 2023 - 4:19 PM