

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: Justin Marchand
Subject: Minor Variance Application A/15/2023 – 1646 Caille Ave

Recommendation

Approve minor variance application A-15-2023 to permit a 130.06 m² accessory structure in the front yard of 1646 Caille Ave to be located 6.92 m from the front lot line, and 0.91 m from the eastern interior lot line, in accordance with the site plan provided.

Proposal

The applicants of 1646 Caille Ave are proposing to construct a 130.06 m² accessory structure with a height of 4.67 m in the front yard of their property. The first floor of the proposed accessory structure will have a floor area of approximately 92.88 m² and will contain a bathroom and a garage door that faces the street. The second floor will have a floor area of approximately 37.18 m² and will be accessed by staircase located outside the accessory structure. The accessory structure will be located 6.92 m from the front lot line, and 0.91 m from the eastern interior lot line. Therefore, the applicants are seeking the following relief from Lakeshore Zoning By-law 2-2012:

- To permit a gross floor area of 130.06 m², whereas Section 6.5 a) ix) permits a maximum gross floor area of 55 m² for accessory structures within the RW2 zone.
- To permit an interior side yard setback of 0.91 m, whereas Section 6.5 a) vii) requires a minimum setback of 1.5 m for accessory structures in all zones.

Summary

Location

The subject property is approximately 913 m² in lot area with 12.2 m of frontage along Caille Ave and currently contains a single detached dwelling and accessory structure in the front yard. The existing accessory structure is to be torn down. The subject property

is located northern side of Caille Ave, east of Rourke Line Rd.

Surrounding Land Uses

North: Lake St. Clair
East: Single Detached Dwellings
South: VIA Railway
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 identifies the entire subject lands as being hazardous lands. The Lakeshore Official Plan does not identify any natural resources, or manmade hazards on the subject property. The subject property is not within close proximity to any significant woodlands or wetlands.

Zoning

The subject property is zoned “Residential Waterfront – Lake S. Clair” (RW2) 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 permits accessory uses and structures within the Residential designation. However, regulations for accessory structures are not provided within the Lakeshore Official plan and are instead detailed within the Lakeshore Zoning By-law.

Schedule B4 of the Lakeshore Official Plan identifies the entirety of the subject lands as being located within the Lake St. Clair Floodprone area deeming the entire lands and the roadways as hazardous. Therefore, the policies within section 5.4 of the Lakeshore Official plan are applied.

Section 5.4 c) details that development and site alteration is not permitted in areas rendered inaccessible to people and vehicles during times of flooding hazards unless it has been demonstrated that the site has safe access appropriate for the intended development. ERCA has provided comments deeming the site accessible during 1:100-year flooding events deeming the construction of an accessory structure appropriate for

the site. Therefore, proving that the application conforms to the intent and purpose of the Lakeshore Official plan.

Zoning By-law

The intent and purpose of the zoning by-law is met as the regulations on setbacks from interior lot lines for accessory structures are implemented to maintain circulation, privacy, and property maintenance. The resulting setback of 0.91 meters from the eastern interior lot line maintains the ability for individuals and vehicles to circulate the site and access the main structure if needed as the structure maintains a setback of 3.88 meters between the western interior lot line and the accessory structure. Privacy for the applicant and the neighbouring property remains unchanged and the applicant and neighbouring property owner maintain the ability to construct and maintain a fencing system should they choose to install one.

The regulations for Gross Floor Area placed on accessory structures is used to maintain the functionality of the accessory structure and to make sure the structure remains secondary to the main use as a residential dwelling. The accessory structure remains secondary to the main structure as it accounts for only 10% lot coverage, whereas the main structure accounts for 16% lot coverage. Providing a total lot coverage of 26%.

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. As detailed within the comments provided no adverse impacts on the lands or any neighboring lands are anticipated. The proposed variances for lot coverage and a reduced interior side yard setback are reflective of the built structures within the neighboring area. Therefore, the variance appears minor in nature.

Desirability and Appropriateness

The final test regards the appropriateness and desirability of the use. The setback of 0.91 meters from the eastern interior lot line is deemed appropriate as it does not impede neighboring properties, poses minimal impact on drainage and drainage systems, and maintains circulation throughout the subject property. The location of the accessory structure reflects the location of existing accessory structures along Caille Ave and maintains the character of the neighborhood.

The increase in Gross Floor Area for the accessory structure is deemed appropriate as it maintains the functionality as an accessory use to the main structure. The location and size of the accessory structure reflects the use and patterns of existing accessory structures along Caille Ave.

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.

Operations states that the construction of the accessory building should not adversely impact the side yard drainage or adjacent neighboring lands. Operations has detailed that the proposed washroom in the accessory building cannot be supported at this time due to sanitary conveyance constraints within the area. However, both Planning and Building concluded that if the building was to be built without requiring a minor variance, that a washroom would be permitted. Therefore, the requirement to eliminate the washroom will not be a condition of approval. Full comments can be found within Appendix C.

The Lakeshore Fire Department states that the applicant will be required to contact the Lakeshore Fire Department to assist with assessing the use to determine if any Ontario Fire Code requirements may apply. Additionally, the Fire Department would like to note that Fire emergency services are provided through a volunteer firefighting service. Therefore, there is no guaranteed level of coverage and anticipated response times, equipment and required staffing may be delayed. Full comments can be found within Appendix D

ERCA has detailed that the low-lying nature of the roadway may result in excess water over the road during a 1:100-year flood event. ERCA has confirmed that emergency services have the ability to access the site during a 1:100-year flooding event and that the proposed works were considered by the ERCA Hearing Board as the proposal did not meet specific policy criteria provided by ERCA. The ERCA Hearing Board has approved the proposed works and granted the appropriate clearance permits. ERCA states no further opposition to this application. Full comments can be found within Appendix E.

VIA Rail has provided standard comments only.

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 – Drawings
Appendix C – Operations Comments
Appendix D – Fire Comments
Appendix E – ERCA Comments
Appendix F – VIA Rail Comments
Appendix G – Request for Alternate Representation
Appendix H – Site Images

Prepared by:



Ian Rawlings,
Planner 1

Report Approval Details

Document Title:	A-15-2023 Report.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Aerial Image.pdf- Appendix B - Drawings.pdf- Appendix C - Operations Comments.pdf- Appendix D - Fire Comments.pdf- Appendix E - ERCA Comments.pdf- Appendix F - VIA Rail Comments.pdf- Appendix G - Request for Alternate Representation.pdf- Appendix H - 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 - 4:16 PM