



## **The Corporation of the Town of Tecumseh**

### **Planning Report**

**To:** Committee of Adjustment

**From:** Chad Jeffery, Manager Planning Services

**Hearing Date:** April 26, 2021

**Subject:** **Minor Variance Applications A-22-21 to A-26-21**

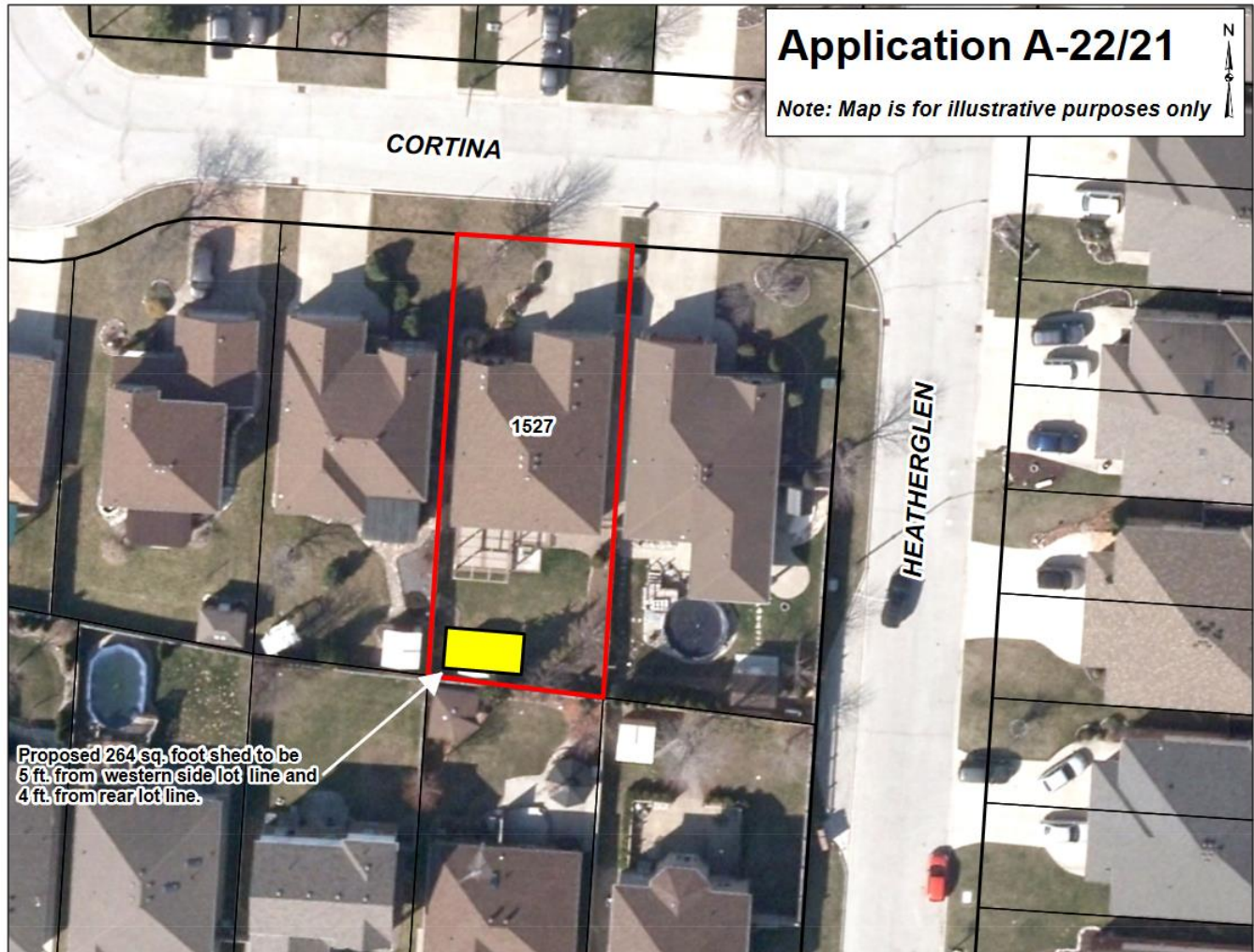
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Please note that this Planning Report was prepared as of April 23, 2021. Any public comments received after this date have not been incorporated into this Report, however consideration of such public comments will be given at the Committee of Adjustment hearing on April 26, 2021 as the normal practice.

<b>Application:</b>	<b>Minor Variance Application A-22-21</b>
<b>Applicant:</b>	<b>Peter and Kathleen Coyles</b>
<b>Location of Property:</b>	<b>1527 Cortina Crescent</b>

The purpose of the Application is to request relief from subsection 7.1.5 which establishes a maximum lot coverage of 30 percent. The Applicant is proposing to construct a 24.5 square metre (264 square foot) accessory shed resulting in 34 percent lot coverage (see sketch below).

The subject property is designated Residential in the Town of Tecumseh Official Plan and zoned Residential Zone 2 (R2-20) in the Tecumseh Zoning By-law.



In accordance with the Planning Act, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:

### **Is the intent of the Official Plan maintained?**

The subject property is designated Residential in the Official Plan. Structures accessory to residential uses are permitted within this designation. The proposed variance, which will facilitate the construction of the proposed shed, meets the intent of the Official Plan.

### **Is the intent of the Zoning By-law maintained?**

The subject property is zoned Residential Zone 2 (R2-20) in the Tecumseh Zoning By-law.

The purpose of the 30 percent maximum total lot coverage is to ensure that the scale and massing of buildings are appropriate and that the lot will be able to provide adequate areas for landscaping, parking and other amenities. The proposed lot coverage of 34 percent will not result in any deficiencies in landscaping requirements or the ability of the site to provide for parking or open space areas. All other requirements of the R2-20 zone will be complied with.

Given the foregoing, it is my opinion that the intent of the By-law will be maintained.

### **Is the variance desirable for the appropriate development or use of the land?**

The proposed variance will allow for the construction of a 24.5 square metre (264 square foot) accessory structure. Although slightly larger than most accessory structures in the surrounding neighbourhood, this proposed size of the shed is not uncommon throughout the urban areas of the Town and would be permitted if not for the total lot coverage non-compliance issue. All other zoning provisions are being met or exceeded. Accordingly, it is my opinion that the variance is desirable for the appropriate development of the land.

### **Is the variance requested minor?**

No undue adverse impact is anticipated as a result of the proposed construction of the accessory structure. Any impact the shed and resulting total lot coverage may have is mitigated as a result of its location adjacent the accessory structures on the lots to the west and south as well as the buffering effect of the existing landscaping along the rear lot line. It is therefore my opinion that the requested relief is minor in nature.

### **Administration/Agency Comments**

#### **1. Engineering**

- As part of the building permit process, the owner will be required to provide details on how runoff from the proposed addition will be controlled to prevent it from flowing onto neighbouring properties to the satisfaction of the Chief Building Official.

#### **2. Building Department**

- No comments.

#### **3. Fire Services**

- No comments received.

#### **4. Essex Region Conservation Authority**

- With the review of background information and aerial photograph, ERCA has no objection to this application for Minor Variance.

## Public Comments

No public comments were received as of the time of the writing of this report.

## Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act*. The intent of the Official Plan has been met, the intent of the Zoning By-law has been met, the variance will result in appropriate development, the variance will not create undue adverse impact on adjacent properties and the variance is minor in nature.

The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

## Recommendation Conditions

None are recommended.

<b>Application:</b>	<b>Minor Variance Application A-23-21</b>
<b>Applicant:</b>	<b>Robert and Bilijana Uzonyi</b>
<b>Location of Property:</b>	<b>12431 Meander Crescent</b>

The purpose of the Application is to request relief from subsection 5.25.2 c) which establishes the minimum side width for private outdoor swimming pools on a corner lot where the side yard abuts a public street shall be 4.0 metres (13.1 feet). The Applicant is proposing to install an in-ground swimming pool 2.2 metres (7.5 feet) from the westerly lot line.

The subject property is designated Residential in the Town of Tecumseh Official Plan and zoned Resident Zone 1 (R1) in the Tecumseh Zoning By-law.





In accordance with the Planning Act, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:

### **Is the intent of the Official Plan maintained?**

The subject property is designated Residential in the Official Plan. A swimming pool is considered accessory to the main residential use of the property. Accordingly, it is my opinion that the intent of the Official Plan is maintained.

### **Is the intent of the Zoning By-law maintained?**

The subject property is zoned Resident Zone 1 (R1) in the Tecumseh Zoning By-law.

The purpose of the 4.0 metre (13.1 foot) minimum side width provision for private outdoor swimming pools on corner lots where side yard abuts a public street is to ensure that there is sufficient separation between the pool and the abutting roadway.

The proposed variance to allow a 2.2-metre (7.5-foot) side yard for the pool will continue to provide adequate separation distance from the pool to the abutting roadway (Meander Crescent). When combined with the significant boulevard width of approximately 5.3 metres (17.5 feet) along the east side of Meander Crescent, the proposed pool will be approximately 7.5 metres (25 feet) from the travelled portion of Meander Crescent. In addition, a fence currently encloses the property's rear yard and provides a visual barrier from the pool to the roadway. It should also be noted that the location of the proposed pool complies with all the other setback requirements of the Zoning By-law.

Given the foregoing, it is my opinion that the intent of the By-law will be maintained.

### **Is the variance desirable for the appropriate development or use of the land?**

Swimming pools are very common in the surrounding neighbourhood. The proposed location of the pool causes no concerns as it occupies an area that is currently grassed and fenced. The applicant has advised that complying with the side yard setback would reduce the amount of passive outdoor area in the middle of the rear yard.

Based on the foregoing, it is my opinion that the proposed pool will be in keeping with the character of the surrounding residential area and the location is desirable for the appropriate use of the land.

### **Is the variance requested minor?**

Given that any potential negative impact from a reduced side yard is mitigated by the fact that the proposed pool will not be abutting another residential property's side yard, is still an acceptable distance from the roadway and is within the existing fenced rear yard of the property, no undue adverse impact is anticipated. It is therefore my opinion that the proposed decrease in minimum side yard width is minor in nature.

### **Administration/Agency Comments**

#### **1. Engineering**

- No comments.

#### **2. Building Department**

- No comment.

#### **3. Fire Services**

- No comments received.

#### **4. Essex Region Conservation Authority**

- With the review of background information and aerial photograph, ERCA has no objection to this application for Minor Variance.

## Public Comments

No public comments were received as of time of the writing of this report.

## Summary/Recommendation

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act*. The intent of the Official Plan has been met, the intent of the Zoning By-law has been met, the variance will result in appropriate development, the variance will not create undue adverse impact on adjacent properties and the variance is minor in nature.

The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

## Recommendation Conditions

None are recommended.

<b>Application:</b>	<b>Minor Variance Application A-24-21</b>
<b>Applicant:</b>	<b>Marc Tourangeau</b>
<b>Location of Property:</b>	<b>844 Lesperance Road</b>

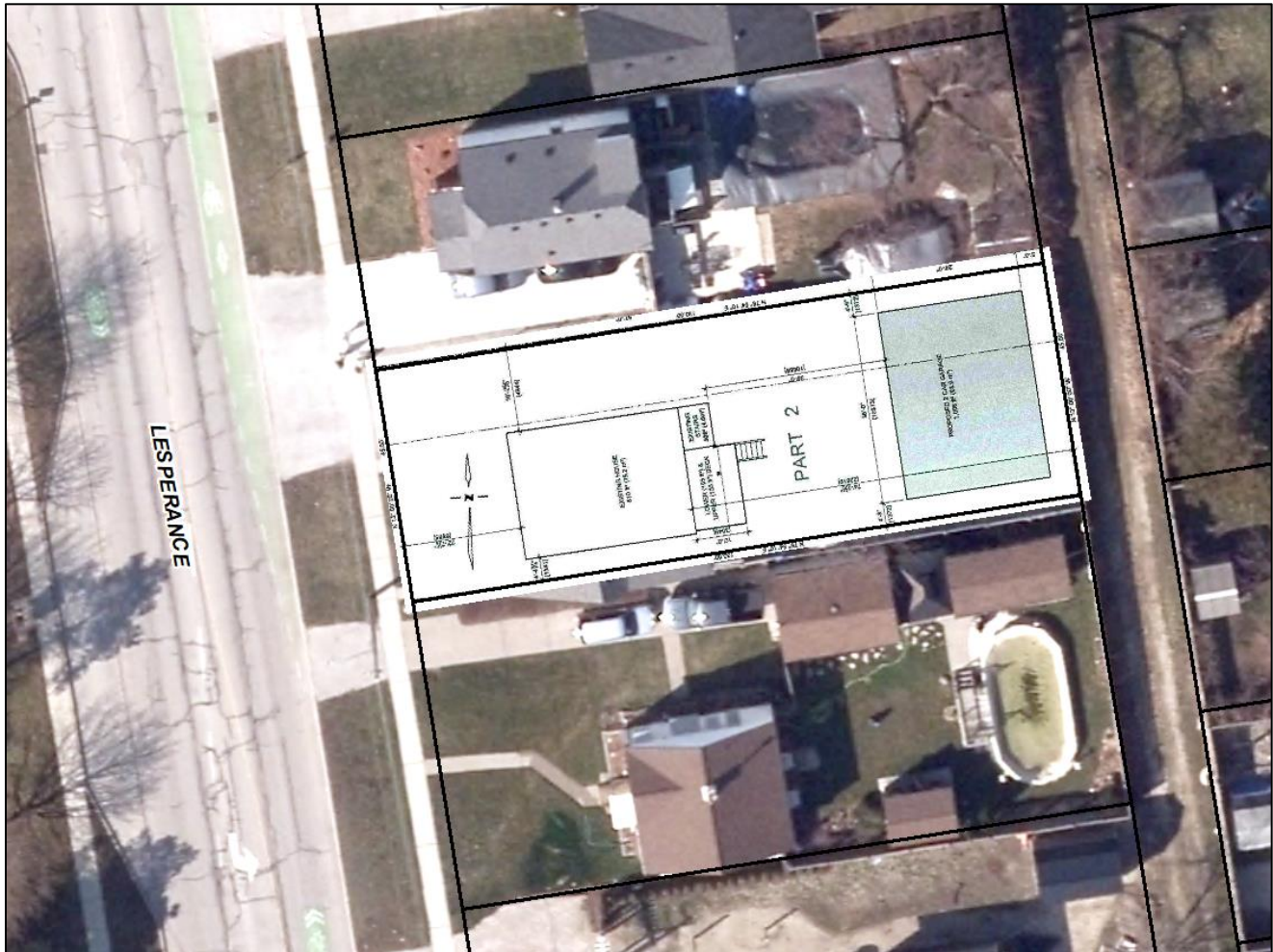
The purpose of the Application is to request relief from the following subsections of Zoning By-law 1746:

1. Subsection 5.25.1 d) i) which establishes that accessory buildings in residential zones shall not exceed 10 percent of total lot area or 90 square metres in area, whichever is the lesser, and no individual accessory building or structure shall exceed 70 square metres in area; and
2. Subsection 7.1.5 which establishes the maximum lot coverage as 30 percent.

The Applicant is requesting relief to construct a 93.6 square metre (1,008 square foot) accessory building resulting in 35 percent lot coverage.

The subject property is designated Residential in the Town of Tecumseh Official Plan and zoned Residential Zone 2 (R2) in the Tecumseh Zoning By-law.





In accordance with the Planning Act, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:

### **Is the intent of the Official Plan maintained?**

The subject property is designated Residential in the Official Plan. Residential and accessory uses and buildings, such as the proposed garage/storage shed/workshop, are permitted within this designation. Accordingly, the proposed variance meets the intent of the Official Plan.

### **Is the intent of the Zoning By-law maintained?**

The subject property is zoned Residential Zone 1 (R1) in the Tecumseh Zoning By-law.

The purpose of imposing a 10 percent of total lot area maximum for accessory buildings is to ensure the presence of accessory buildings and structures do not undermine the intended residential character of the property. Given that the subject property is 543.4 square metres (5,849 square feet) in area, it could accommodate only 54.3 square metre (585 square feet) of accessory buildings and still be in keeping with the By-law requirements. The purpose of the



70 square metre (753 square foot) area maximum size for an individual accessory building or structure is to ensure the accessory structure remains normally incidental, subordinate and exclusively devoted to the main residential use and to minimize the risk of it being used for uses not permitted in the residential zone.

The purpose of the 30 percent maximum total lot coverage is to ensure that the scale and massing of buildings are appropriate and that the lot will be able to provide adequate areas for landscaping, parking and other amenities. Given that the proposed structure occupies a large majority of the rear yard, the ability to provide adequate landscaping and amenity areas is undermined. In fact, it appears that if the proposed accessory structure were to be allowed, the resulting landscaped open space would be approximately 28 percent which is under the minimum of 30 percent established in the By-law. Further, in order to provide access to the southerly garage door, additional landscaped opens space would need to be eliminated.

It is therefore my opinion that a 93.6 square metre (1,008 square foot) accessory structure resulting in 17.2 percent lot coverage fails to meet this test with respect to the foregoing provisions.

### **Is the variance desirable for the appropriate development or use of the land?**

The subject property, with a frontage of 13.7 metres (45 feet) and an area of 543.4 square metres (5,849 square feet) is relatively small but not atypical for this area of the Town. There are numerous similar sized lots with detached garages throughout the surrounding neighbourhood. There are, however, no similar sized accessory structures in the surrounding neighbourhood. Based on an aerial photo survey, it appears that the largest detached garage within the surrounding neighbourhood is approximately 89 square metres (960 square feet) and it's located on a lot that has 18.3 metres (60 feet) of frontage and an area of 1232 square metres (13,260 square feet) which results in a lot coverage of approximately 7.2 percent. Accordingly, in terms of its size, the proposed detached garage/workshop/storage area is out of context with the surrounding area and the subject lot.

It should be noted, however, that the subject property contains a two-unit dwelling. As such, it is reasonable to expect that additional garage space is necessary to accommodate the parking/storage needs of both units and a larger structure than the By-law permits may be supportable. It is my opinion, however, that the proposed 93.6 square metre (1,008 square foot) accessory structure containing a garage/workshop/storage area is not desirable for the appropriate development of the land.

### **Is the variance requested minor?**

Given the massing of the proposed structure combined with the relatively small lot size and the resulting deficiency in landscaped open space and the extent of the proposed relief, it is my opinion that the requested relief is not minor in nature.

## **Administration/Agency Comments**

### **1. Engineering**

- As part of the building permit process, the owner will be required to provide details on how runoff from the proposed building will be controlled to prevent it from flowing onto neighbouring properties the satisfaction of the Chief Building Official.

### **2. Building Department**

- In order to prevent storm water runoff from adversely affecting the abutting property, a satisfactory grading and drainage plan from a qualified person will be required before the issuance of a permit, in accordance with the Town's Grading, Filling, Dumping and Topsoil Removal By-law.

### **3. Fire Services**

- No comments received.

### **4. Essex Region Conservation Authority**

- With the review of background information and aerial photographs, ERCA has no objection to this application for Minor Variance.

## **Public Comments**

No public comments were received as of time of the writing of this report.

## **Summary/Recommendation**

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application does not satisfy the four tests of the *Planning Act*. The intent of the Zoning By-law has not been met, the variance will not result in appropriate development and the variance is not minor in nature.

The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

Based on the foregoing, the writer does not support the minor variance application.

## **Recommendation Conditions**

In order to prevent storm water runoff from adversely affecting the abutting property, a satisfactory grading and drainage plan from a qualified person will be required before the issuance of a permit, in accordance with the Town's Grading, Filling, Dumping and Topsoil Removal By-law.

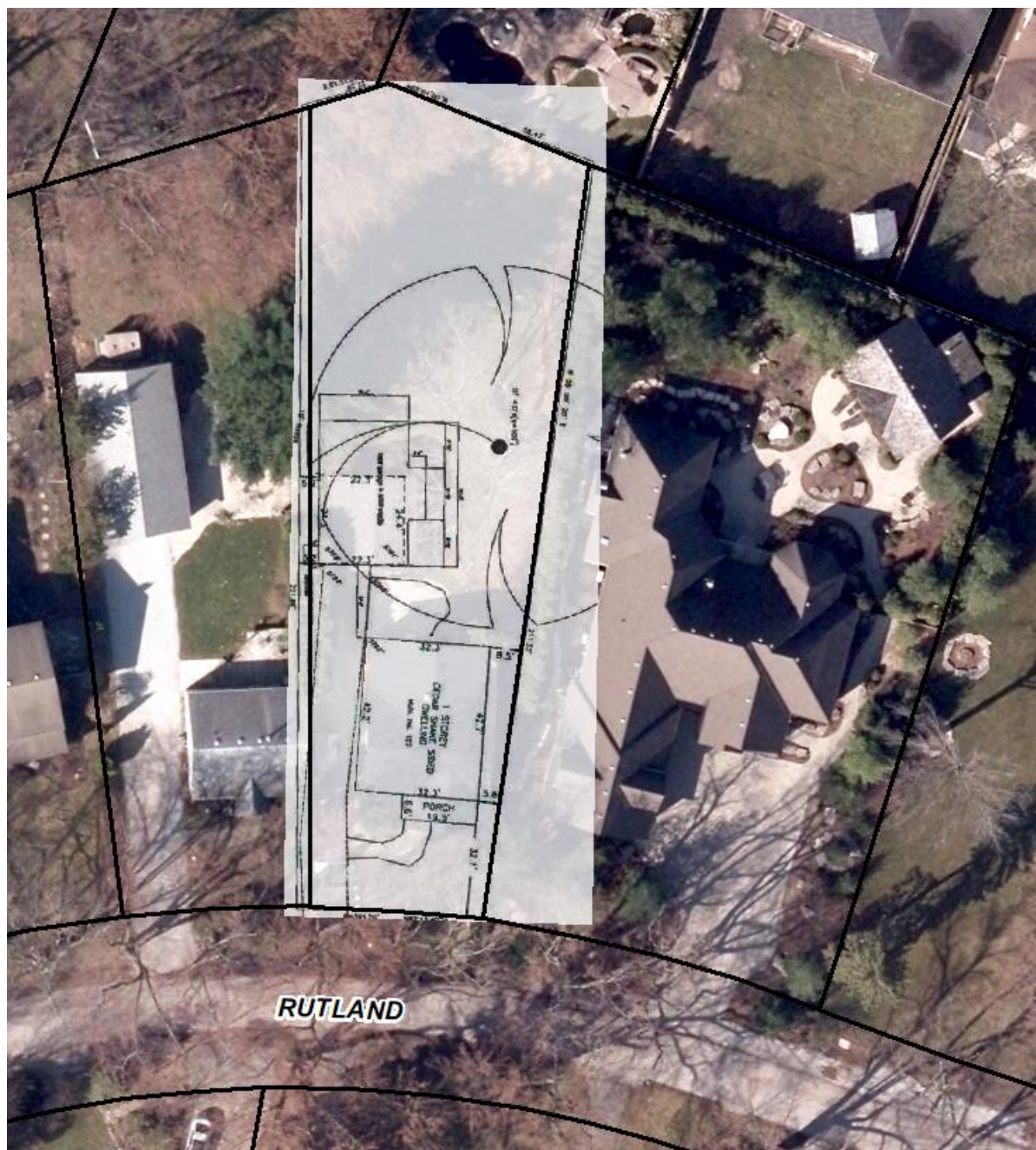
**Application: Minor Variance Application A-25-21**  
**Applicant: Warren Fullerton and Linda Simetic**  
**Location of Property: 157 Rutland Road**

The original purpose of the Application was to request relief from the following subsections of Zoning By-law 2065:

1. Subsection 5.19.1 d) i) which establishes that accessory buildings in residential zones shall not exceed 10 percent of total lot area or 90.0 square metres (969 square feet) in area, whichever is the lesser, and no individual accessory building or structure shall exceed 70 square metres (753 square feet) in area; and
2. Subsection 5.19.1 e) i) which establishes that accessory buildings in residential zones shall not exceed 4.57 metres (15 feet) in height.

The Applicants were originally requesting relief to construct a 92.3 square metre (993 square foot) two-storey accessory building having a height of 5.9 metres (19.25 feet). Subsequent the submission of the application and, as a result of discussions with the Essex Region Conservation Authority, the Applicants revised their proposal by reducing the height of the accessory building to 3.94 metres (12.92 feet) thereby eliminating the need for relief from the aforementioned maximum height provision of the Zoning By-law.

The subject property is designated Residential in the Town of Tecumseh Official Plan and zoned Residential Zone 2 (R2) in the St. Clair Beach Zoning By-law.



In accordance with the Planning Act, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:



### **Is the intent of the Official Plan maintained?**

The subject property is designated Residential in the Official Plan. Residential and accessory uses and buildings, such as the proposed detached garage, are permitted within this designation. Accordingly, the proposed variance meets the intent of the Official Plan.

### **Is the intent of the Zoning By-law maintained?**

The subject property is zoned Residential Zone 2 (R2) in the St. Clair Beach Zoning By-law.

The purpose of the 70 square metre (753 square foot) area maximum size for an individual accessory building or structure is to ensure the accessory structure remains normally incidental, subordinate and exclusively devoted to the main residential use and that the presence of accessory buildings and structures do not undermine the intended residential character of the property. It should be noted that the proposed accessory structure equates to 7.1 percent lot coverage and, when combined with the existing 434.3 square metre (1,425 square foot) dwelling, the total lot coverage is 17.3 percent. Provided that the Committee is satisfied that the structure is designed and intended for the owners' personal use, it is my opinion that the proposed variance meets the intent of this provision of the By-law.

Given the foregoing, it is my opinion that the intent of the By-law will be maintained.

### **Is the variance desirable for the appropriate development or use of the land?**

The subject property, with an area of 1296.6 square metres (13,957 square feet), is a relatively large lot and is in keeping with the character of the surrounding area. The abutting lot to the west contains an accessory structure that is approximately 92.9 square metres (1,000 square feet) and the lot to the east contains an accessory structure that is approximately 79 square metres (850 square feet). Due to the size of the subject property, the significant amount of open space and extensive landscaping, it is able to readily accommodate the proposed accessory building. It is therefore my opinion that the variance is desirable for the appropriate development of the land.

### **Is the variance requested minor?**

The resulting development is consistent with the character of the residential lots in the surrounding area and the positioning of the proposed accessory building minimizes any potential for adverse impact on abutting properties. It is therefore my opinion that the requested relief is minor in nature.

### **Administration/Agency Comments**

#### **1. Engineering**

- No comments with regard to the requested minor variance, however, the issue of ingress and egress to this site during times of flooding should be reviewed with the Tecumseh Fire Department and the Essex Region Conservation Authority.

## **2. Building Department**

- In order to prevent storm water runoff from adversely affecting the abutting property, a satisfactory grading and drainage plan from a qualified person will be required before the issuance of a permit, in accordance with the Town's Grading, Filling, Dumping and Topsoil Removal By-law.

## **3. Fire Services**

- No concerns related to safe access during flood events.

## **4. Essex Region Conservation Authority**

- The above noted lands are subject to our Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The parcel falls within the regulated area of the Lake St. Clair. The property owner will be required to obtain a Permit from the Essex Region Conservation Authority prior to any construction or site alteration or other activities affected by Section 28 of the Conservation Authorities Act.

## **Public Comments**

No public comments were received as of time of the writing of this report.

## **Summary/Recommendation**

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act*. The intent of the Official Plan has been met, the intent of the Zoning By-law has been met, the variance will result in appropriate development, the variance will not create undue adverse impact on adjacent properties and the variance is minor in nature.

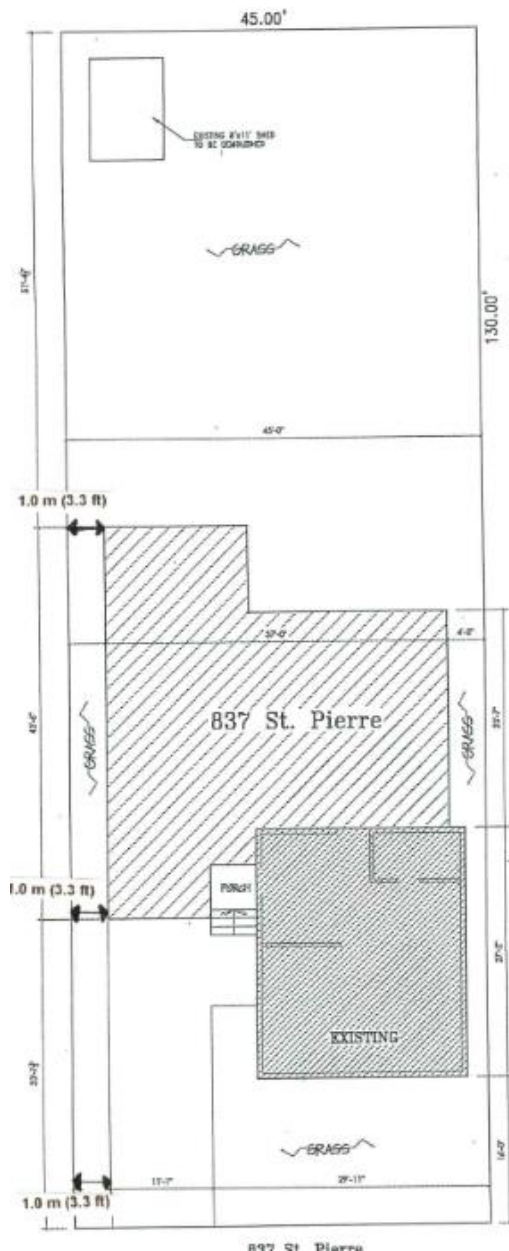
The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

## **Recommendation Conditions**

In order to prevent storm water runoff from adversely affecting the abutting property, a satisfactory grading and drainage plan from a qualified person will be required before the issuance of a permit, in accordance with the Town's Grading, Filling, Dumping and Topsoil Removal By-law.

**Applicant:** Kaitlin McCarrell  
**Location of Property:** 837 St. Pierre Street

The subject property is designated Residential in the Town of Tecumseh Official Plan and zoned Residential Zone 2 (R2) in the Tecumseh Zoning By-law.



In accordance with the Planning Act, the Committee must be satisfied that the four tests set out in subsection 45(1) are met. The following comments are offered with respect to the subject application:

### **Is the intent of the Official Plan maintained?**

The subject property is designated Residential in the Official Plan. Residential uses, including single unit dwellings and additions thereto, are permitted in this designation. Accordingly, it is my opinion that the intent of the Official Plan is maintained.

### **Is the intent of the Zoning By-law maintained?**

The subject property is zoned Residential Zone 2 (R2) in the Tecumseh Zoning By-law.

The purpose of the 1.2-metre (4-foot) interior side yard width is to ensure adequate space for rear yard access and exterior maintenance. Sufficient side yards also provide for flexibility in building design while ensuring adequate separation distance from buildings on abutting properties. Under certain development scenarios, such as the proposed dwelling addition, the Building Code imposes building restrictions in the form of building materials and limits on the number of openings (windows and doors). Further, having adequate space between a building and the side lot line assists with ensuring storm water drainage is properly conveyed and does not impact the abutting property.

Although not ideal, the proposed 1.0-metre (3.3-foot) side yard is adequate for access to the rear yard. Further, exterior maintenance should not be problematic because the proposed addition is single storey and its westerly wall contains no openings. It should also be noted that the Building Code will require restrictions on openings (i.e. no windows) and the type of building material to address fire protection. Adequate storm water measures will need to be implemented to ensure storm water conveyance is managed such that it will not negatively affect the abutting property owner. Subject to the foregoing being adequately addressed, it is my opinion that the intent of the By-law will be maintained.

### **Is the variance desirable for the appropriate development or use of the land?**

At 57 square metres (615 square feet), the existing dwelling is one of the smallest houses in the surrounding neighbourhood and has a lot coverage of only 10.5 percent. The proposed variance will facilitate the construction of an 83.7 square metre (901 square foot) single storey addition resulting in a 162.9 square metre (1,753 square foot) dwelling with a lot coverage of just under 30 percent. The resulting dwelling is in keeping with the varied character of housing types in the surrounding area and will enable the applicant to maximize the use of the property. Redevelopment on existing lots within areas of the Town that have existing municipal services and are in close proximity to commercial areas, community amenities and transit is encouraged.

Based on the foregoing, it is my opinion that the proposed addition will result in the appropriate use of the land.



## **Is the variance requested minor?**

Provided the Committee is comfortable that the proposed addition will not negatively impact the abutting property owner to the south with respect to drainage and building code issues, it does not appear that there will be any undue adverse impact as a result of the reduced side yard width. Subject to hearing any additional comments from the neighbouring property owner, it is my opinion that the proposed variance is minor in nature.

## **Administration/Agency Comments**

### **1. Engineering**

- As part of the building permit process, the owner will be required to provide details on how runoff from the proposed building will be controlled to prevent it from flowing onto neighbouring properties the satisfaction of the Chief Building Official.

### **2. Building Department**

- The downspouts should be directly connected to the municipal storm sewer, at the owner's expense, to prevent runoff from the addition onto the adjacent property and that rear yard drainage be installed.
- Since the distance is less than 4 feet the Ontario Building Code will not allow any windows and the interior of the wall is required to have 5/8 type X drywall finish (45 minute fire resistance rating).

### **3. Fire Services**

- No comments received.

### **4. Essex Region Conservation Authority**

- With the review of background information and aerial photographs, ERCA has no objection to this application for Minor Variance.

### **5. Essex Power Lines**

- Applicant will need to call in for a Hydro Service/Meter relocation. The existing service is an overhead feed where the service stack/hydro meter are located on the back side of the existing house where the proposed addition is going.

## **Public Comments**

### **1. Michael Denunzio, 843 St. Pierre Street**

- Concerned with the fire separation from the 6 ft wooden pressure treated fence.
- Concerned with respect to drainage and whether eavestroughs are proposed and where they would direct rainwater.
- Concerned whether there would be an issue with home insurance should something happen.
- Would like to assume responsibility for trimming trees due to the building being so close.
- If all these concerns are addressed, I do not have an issue with the variance.

## **Summary/Recommendation**

In the absence of additional public input or the introduction of other pertinent issues, it is the opinion of the writer that the application satisfies the four tests of the *Planning Act*. The intent of the Official Plan has been met, the intent of the Zoning By-law has been met, the variance will result in appropriate development, the variance will not create undue adverse impact on adjacent properties and the variance is minor in nature.

The public hearing, in accordance with the requirements of the *Planning Act*, will provide an opportunity to hear concerns and comments, if any, of neighbouring owners and other interested stakeholders/agencies. It is important that the concerns and comments of these stakeholders be taken into consideration as part of the full evaluation of the application.

## **Recommendation Conditions**

That the downspouts be directly connected to the municipal storm sewer to prevent runoff from the addition onto the adjacent property and that rear yard drainage be installed to the satisfaction of the Chief Building Official.