



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

### **Planning Report**

**To:** Committee of Adjustment

**From:** Chad Jeffery, MA, MCIP, RPP

**Hearing Date:** December 11, 2023

**Subject:** **Minor Variance Applications A-18-23 and  
A-21-23 to A-23-23**

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Please note that this Planning Report was prepared as of December 8, 2023. 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 December 11, 2023 as the normal practice.

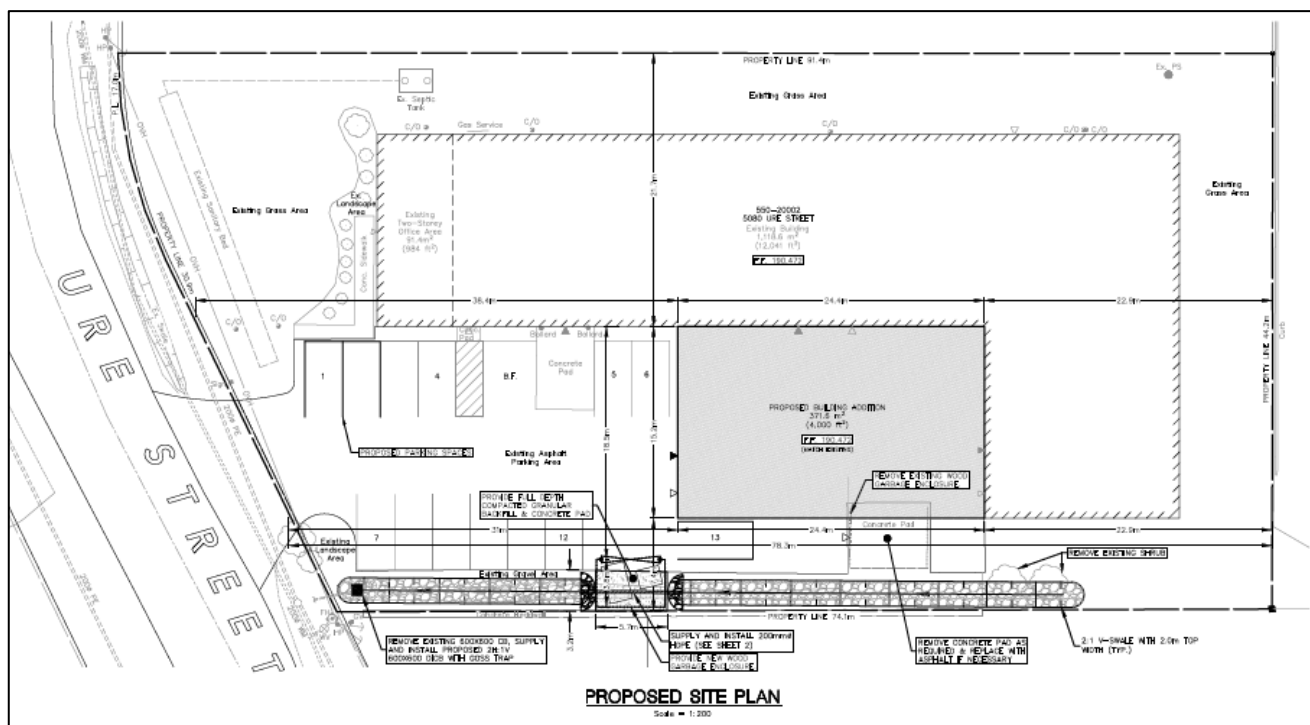
<b>Application:</b>	<b>Minor Variance Application A-18-23</b>
<b>Applicant:</b>	<b>Carolcox Management Limited</b>
<b>Location of Property:</b>	<b>5080 Ure Street</b>

The purpose of the Application to seek relief from the following subsections of Zoning By-law 85-18:

1. Subsection 5.27.3 which establishes that the minimum side yard width for accessory buildings in an industrial zone is 6.0 metres (19.68 feet); and
2. Subsection 5.33 which establishes that 26 parking spaces are required for the subject property, two of which are to be barrier free.

The Applicant is proposing to construct a 371.6 square metre (4,000 square foot) industrial addition which will result in the ability to provide 13 parking spaces, one of which will be barrier free. The Applicant is also proposing to construct a garbage enclosure 0.3 metres (0.98 feet) from the south property line. See sketch below.

The property is designated Business Park in the Official Plan and zoned Industrial (M1) in Zoning By-law 85-18.



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 Business Park in the Official Plan. The Business Park designation permits industrial uses and associated accessory structures. The proposed variance, which will facilitate the proposed addition to the existing industrial facility and the relocation of the existing garbage enclosure on the property, meets the intent of the Official Plan.

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

The lands are zoned Industrial Zone (M1) in Zoning By-law 85-18.

The purpose of the 6.0 metre (19.69 foot) minimum side yard width provision is to ensure that there is sufficient separation for a structure from its respective side lot lines to allow for rear yard access and exterior maintenance. The proposed side yard width of 0.3 metres (0.98 feet) applies only to the new structure (three-sided cement block enclosure with gate) that will be constructed to house the required on-site garbage bin that is being relocated as part of the proposed industrial addition. The balance of the future industrial addition will comply with the M1 zoning. The garbage enclosure does not prevent access to the side or rear yard and does not compromise the ability to do exterior maintenance to the main building.

The purpose of the minimum parking requirement provision is to ensure that a development is able to provide sufficient parking spaces for the anticipated number of employees and

visitors/clients that will frequent the site. Parking ratios established by the zoning by-law provide parking requirements for a range of uses but are not nuanced enough to account for uses, or a combination of uses, that may not require as many spaces due to the nature and location of the use/operation. Based on the area of the existing buildings and the proposed addition, 26 parking spaces would be required, two of which are to be barrier free spaces.

The applicant has provided correspondence advising that during the normal course of business activities, the site will employ (post expansion) a maximum of 12 workers on the day shift and seven workers on the night shift. In addition, the applicant has advised that the day/night shifts are offset by approximately 20 minutes, which would allow the day shift to leave and the night shift to arrive with no overlapping in parking space needs. Accordingly, the proposed development, which will provide 12 parking spaces and one barrier free space, can adequately accommodate the anticipated employees. The applicant has also noted that, outside of workers, there are very rarely other visitors/clients attending the site. All other zoning requirements established by the M1 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?**

Administration has reviewed the site plan depicting the proposed addition and does not have any concerns with the layout or the related on-site works. The proposed development on the property will result in a reasonable and acceptable level of industrial intensification that will result in employment opportunities without compromising the objectives of the Official Plan policies and zoning provisions. Further, the reduction of parking spaces will not adversely impact the usability of the site. Based on the foregoing, it is my opinion that the proposed relief will result in development that represents an appropriate use of the land.

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

Provided the Committee is satisfied that the reduced amount of parking can accommodate the needs of the industrial establishment, no undue adverse impact is anticipated from the parking relief or from the reduction in the southerly side yard width for the proposed garbage bin enclosure. It is therefore my opinion that the requested relief is minor in nature.

Subject to hearing from the owner and any concerned neighbouring property owners, it is my opinion that the proposed variance is minor in nature.

### **Administration/Agency Comments**

#### **1. Engineering**

- Town Engineering has no comments regarding the requested minor variances.
- Public Works and Engineering Services continues to work with the owner and its consultants regarding site servicing and stormwater management as part of the Site

Plan Control process in relation to the construction of the new building and parking areas at this address.

**2. Building Department**

- Owner to obtain a building permit prior to construction with all design details meeting the Ontario Building Code.

**3. Fire Department**

- No comments received.

**4. Essex Region Conservation Authority**

- Our office has no objection to A-18-23. As noted above, a Permit from our office is not required from ERCA for this development

**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.

Based on the foregoing, the writer supports the minor variance application and believes it to be based on sound planning principles.

**Recommendation Conditions**

That the proposed side yard width reduction apply solely to the garbage enclosure structure as identified on the submitted site plan.

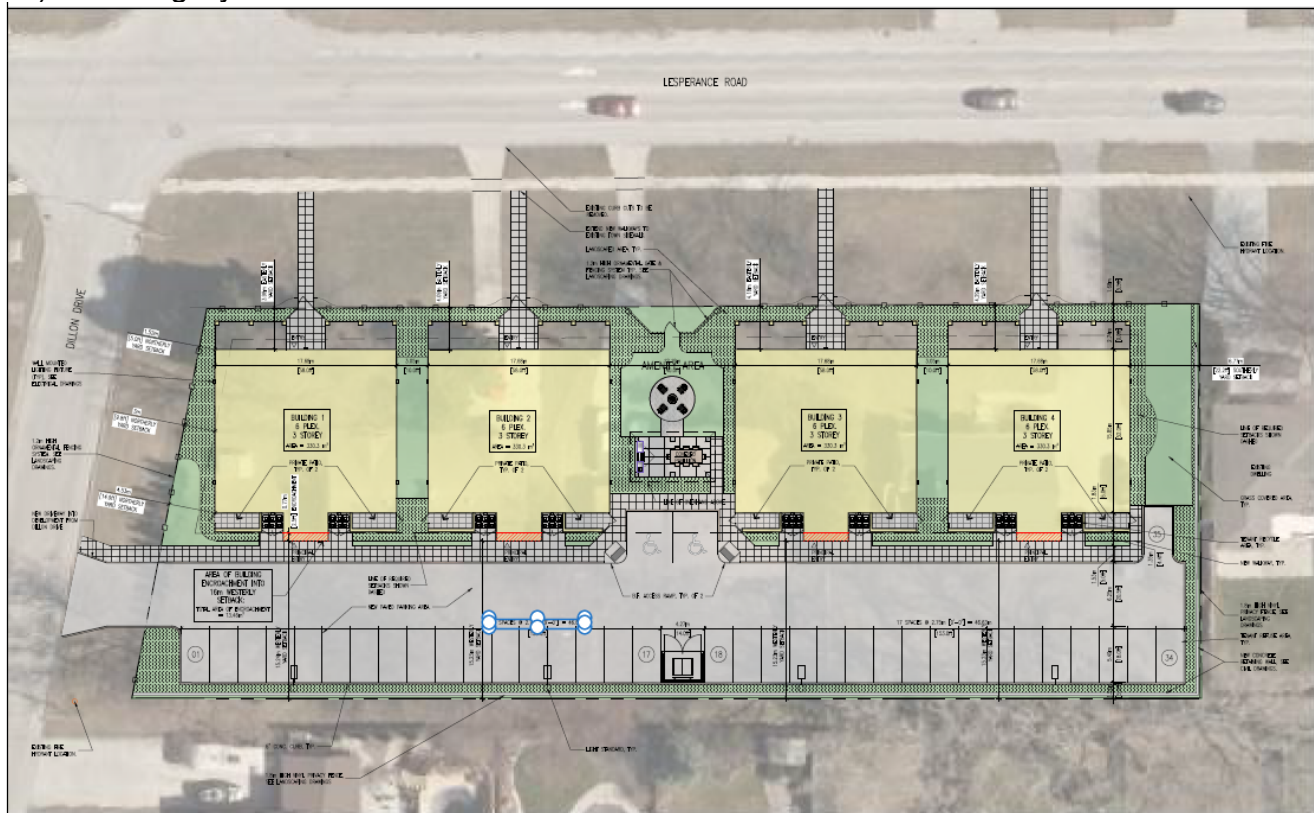
**Application: Minor Variance Application A-21-23**  
**Applicant: Suburban Construction and Management Ltd.**  
**Location of Property: 205-227 Lesperance Road**

The purpose of the Application is to seek relief from subsection 8.3.22 h) iv) of Zoning By-law 1746 which establishes a minimum westerly yard width of 16 metres (52.5 feet). The Applicant is proposing to enlarge the rear-entrance foyer area for each proposed multi-unit dwelling resulting in a westerly yard width of 15.23 metres (50 feet) (see sketch below).

The proposed residential development was subject to a Minor Variance application (Town File A-15-23), approved by Council on October 23, 2023, to permit an increased building height to facilitate a pitched roof (rather than a flat roof), a reduced northerly interior yard to accommodate elevators in the buildings, and an increased encroachment for the balconies facing Lesperance Road of the two northerly structures.

However, during finalization of construction drawings for the buildings, a minor adjustment was made to facilitate a larger rear-entrance foyer for the dwellings. The larger foyer is needed to provide adequate space for internal residential mailboxes and to accommodate a double entrance door to provide barrier-free access. As a result, a minimum westerly yard of 15.23 metres is being requested (rather than 16.0 metres), as depicted in red on the attached sketch. It should be noted that the proposed relief will apply only to the foyer entrances for each building.

The property is designated residential in the Official Plan and zoned Residential Zone 3 (R3-22) in Zoning By-law 1746.



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 lands are designed Residential in the Tecumseh Official Plan. Multiple-unit dwellings, as proposed by the application, are permitted by this designation. The proposed variance, which will facilitate minor design alterations to the rear-entrance foyer in the manner described above, meets the intent of the Official Plan.

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

The lands are zoned Residential Zone 3 (R3-22) in Zoning By-law 1746. This site-specific zoning was recently adopted by Council in July of 2022.

The 16-metre (52.5-foot) minimum westerly yard width is a reflection of the building being oriented toward Lesperance Road while accommodating the parking area behind it and a buffer strip along the westerly side lot line. These objectives are not undermined by the proposed relief which, as noted above, will only apply to the rear-entrance foyer as depicted in the submitted site plan. This will allow the foyers to be an additional 0.77 metres (2.5 feet) in depth which will provide adequate space for internal residential mailboxes and to accommodate a double entrance door to provide barrier-free access. The applicant has advised that these design features are being undertaken to accommodate the anticipated demographics of the residents that will live in the new dwelling units.

All other zoning requirements established by the R3-22 zone will be complied with.

Based on 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 requested variance will result in a residential development that will be designed to better accommodate seniors and persons with disabilities by facilitating larger rear-entrance foyer. In addition, the development will continue to be able to provide appropriate setbacks from abutting lot lines, maintain a sense of open space and enable access to all required yards. Accordingly, it is my opinion that the proposed variance will result in the appropriate use of the land.

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

No undue adverse impact on abutting properties is anticipated as a result of the proposed variance. The requested relief will accommodate a residential development that serves a

broader demographic and, in particular, seniors and persons with disabilities. It is my opinion that the proposed variance is minor in nature.

## **Administration/Agency Comments**

### **1. Engineering**

- Town Engineering has no comments regarding the requested minor variance.
- Public Works and Engineering Services continues to work with the owner and its consultants regarding site servicing and stormwater management as part of the Site Plan Control process in relation to the construction of the proposed residential dwelling units at these addresses.

### **2. Building Department**

- Owner to obtain a building permit prior to construction with all design details meeting the Ontario Building Code.

### **3. Fire Department**

- No comments received.

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

- Our office notes that the low-lying nature of the roadway may result in excess water over the road during a 1:100-year flood event. The Municipality must confirm, through applicable emergency services (i.e. Fire, police, etc.), that they have the ability to safely access this area during a 1:100-year flood event. Additionally, the applicant must obtain a new Section 28 Permit from ERCA prior to undertaking any development on the site because the site plans have changed.

## **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.

Based on the foregoing, the writer supports the minor variance application and believes it to be based on sound planning principles.

## **Recommendation Conditions**

None.

### **Application: Minor Variance Application A-22-23**

**Applicant: Bruce Hayward**

**Location of Property: 12462 Riverside Drive**

The purpose of the Application is to seek relief from subsection 5.25.1 e) i) of Zoning By-law 1746 which establishes that the maximum height for accessory structures in residential zones shall not exceed 4.57 metres (14.76 feet) in height.

The Applicant is proposing to construct a two-storey accessory building/garage having a building footprint of 64.1 square metres (690 square feet) resulting in a height of 5.0 metres (16.4 feet) as depicted on the sketch below. The existing garage is to be demolished.

The subject property is designated residential in the Official Plan and zoned Residential Zone 1 (R1) in Zoning By-law 1746.





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. Single-unit dwellings, along with accessory structures are permitted by this designation. The proposed variance, which will

permit the construction of a new accessory structure (which will replace an existing accessory structure) 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 Zoning By-law 1746.

The purpose of the 4.57 metres (14.76 feet) maximum building height for accessory residential structures is to ensure that these buildings remain accessory and subordinate in terms of scale and massing when compared to the primary use/dwelling. The applicant has indicated that the 5.0 metre (16.4 foot) height for the proposed new accessory structure is to accommodate a roofline design that will facilitate a storage/hobby room/fitness area with appropriate ceiling height above the main floor. Given that the proposed building height of 5.0 metres (16.4 feet) is only marginally above the By-law maximum.

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 accessory structure will not appear to be of context with the surrounding area/built form. The lots to the immediate west of the subject property contain similarly sized structures in a similar location relative to the dwelling on the property. The height variance will allow for adequate space in the loft of the garage to accommodate the proposed hobby room/gym for personal use. These types of rooms above detached garages are quite common throughout the municipality. Based on the foregoing, it is my opinion that the proposed relief will result in development that represents a desirable use of the land.

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

There are no concerns with respect to obstructed views or privacy as a result of the proposed structure. No undue adverse impact is anticipated as a result of the proposed variance. It is therefore my opinion that the requested relief is minor in nature.

### **Administration/Agency Comments**

#### **1. Engineering**

- Town Engineering has no comments regarding the requested minor variance.

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

- Owner to obtain a building permit prior to construction with all design details meeting the Ontario Building Code.

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

- No comments received.

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

- Our office has no objection to A-22-23.
- We note that ERCA Permit #628 - 23 was previously issued for this development on October 31, 2023. A new Permit application is required as the site plans have changed.
- The property owner will be required to obtain a new 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.

Based on the foregoing, the writer supports the minor variance application and believes it to be based on sound planning principles.

### **Recommendation Conditions**

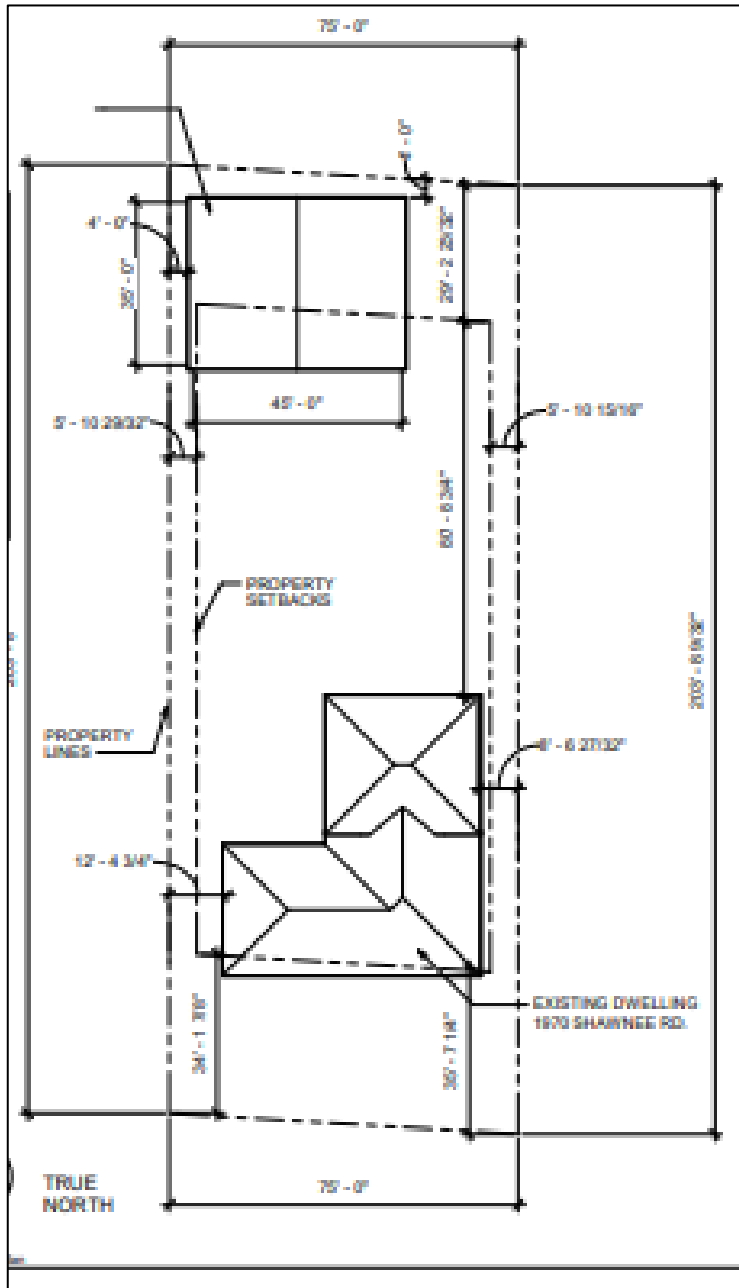
None

<b>Application:</b>	<b>Minor Variance Application A-23-23</b>
<b>Applicant:</b>	<b>Andrew McCallum</b>
<b>Location of Property:</b>	<b>1970 Shawnee Road</b>

The purpose of the Application is to request relief from subsection 5.27.1 d) i) of Zoning By-law 85-18 which establishes that accessory buildings in residential zones shall not exceed 10 percent of total lot area or 90 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. The Applicant is proposing to construct a 146 square metre (1,575 square foot)

accessory building, as shown on the sketch below. The two existing accessory buildings at the rear of the property are to be demolished.

The subject property is designated residential in the Official Plan and zoned Residential Zone 1 (R1) in Zoning By-law 85-18.



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 dwellings and accessory structures are permitted by this designation. The proposed variance, which will facilitate the construction of a building accessory to an existing residential use, 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 Zoning By-law 85-18.

The purpose of the maximum lot coverage of 10 percent for accessory structures and the 70 square metre (753 square foot) area maximum size for an individual accessory structure is to ensure that the presence of these structures do not overwhelm the intended residential character of the property and remain normally incidental, subordinate and exclusively devoted to the main residential use. Due to the large size of the lot, the proposed accessory structure would equate to 10.2 percent lot coverage, and the total lot coverage, which includes the dwelling, is only 26.0 percent. This is well under the maximum of 35 percent for the entire property established in the By-law. Further, the remaining landscaped open space on the lot will be approximately 40 percent which well exceeds the minimum of 30 percent established in the By-law. All other zoning requirements established by the R1 zone will be complied with.

Despite the ability of subject lot to accommodate a larger accessory structure, the Committee should be satisfied that the use of the proposed accessory structure is subordinate and exclusively devoted to the residential use of the property. The applicant has advised that the new structure is intended to house his camping trailer, boat, and associated items. Subject to being satisfied of this, 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 1421 square metres (15,297 square feet), is a large lot similar to the size of residential lots that front onto the east and west side of Shawnee Road. Accordingly, larger accessory structures are more easily accommodated while remaining subordinate to the principle residential use. There is at least one other example of a similar sized garage within the same block and a number of other garages in the broader neighbourhood that exceed the maximum size for accessory buildings.

As noted above, even with the proposed garage, total lot coverage for all buildings and structures is well under the maximum and landscaped open space well exceeds the minimum established in the By-law. In addition, the larger garage will replace two existing accessory

structures totalling 71.9 square metres (774 square feet), which currently occupy the general area in which the proposed new structure will be constructed.

It is therefore my opinion that the variance is desirable for the appropriate development of the land.

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

The proposed structure is positioned on the subject lot in a manner that will likely not result in any undue adverse impact on abutting properties. Although the proposed garage is large, it does not undermine the ability of the subject lot to maintain significant open space. Further, it is intended for the purpose of storing personal vehicles and items that would otherwise be stored outside.

Subject to hearing concerns, if any, from the neighbouring property owners, it is my opinion that the proposed variance is minor in nature.

### **Administration/Agency Comments**

#### **1. Engineering**

- Town Engineering has no comments regarding the requested minor variance.

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

- Owner to obtain a building permit prior to construction with all design details meeting the Ontario Building Code.

#### **3. Fire Department**

- No comments received.

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

- We have reviewed our floodline mapping for this area and it has been determined this site is not located within a regulated area that is under the jurisdiction of the ERCA (Section 28 of the Conservation Authorities Act). As a result, a permit is not required from ERCA for issues related to Section 28 of the Conservation Authorities Act, Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservations Authorities Act, (Ontario Regulation No. 158/06).
- No objection to the application.

### **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.

Based on the foregoing, the writer supports the minor variance application and believes it to be based on sound planning principles.

## **Recommendation Conditions**

That the existing accessory structures located on the property be removed prior to the construction of the proposed new accessory structure.