



# MUNICIPALITY OF **West Elgin**

## Staff Report

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**Report To:** Council Meeting  
**From:** Heather James, Planner  
**Date:** 2020-11-12  
**Subject:** Minor Variance Report 22167 Douglas Line

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### **Recommendation:**

That West Elgin Committee of Adjustment hereby receives the report from Heather James regarding the minor variance application for File No. D13 04-2020 for Concession 14, Part of Lot 6 (being Part 1 on 11R-10562), 22167 Douglas Line; and,

That West Elgin Committee of Adjustment approve minor variance application File No. D13 04-2020, subject to the conditions on the attached decision sheet.

### **Purpose:**

An application for a minor variance was submitted by Norman Miller, owner of the subject lands. The purpose of this application is to seek relief from Section 4.1 h) Accessory Uses, Buildings and Structures of the Municipality of West Elgin Comprehensive Zoning By-law No. 2015-36 to permit a detached carport. Section 4.1 h) states an accessory building or structure shall not be erected within two (2.0) metres of the main building except where a dwelling unit is a permitted accessory use. The dwelling which is currently under major reconstruction is the main use and main building on the subject lands. The owner is proposing to construct a detached carport within 0.12 m (0.4 ft., 4") of the main building (dwelling) (as shown on the attached Schedule 'A'). The minor variance is required as the owner is unable to attach the carport to the existing foundation of the dwelling due to Lower Thames Valley Conservation Authority as the lands are completely within the Lake Erie Shoreline Regulatory Area and there is insufficient lot frontage to meet the separation distance.

### **Background:**

The subject lands are situated on the east side of Douglas Line within the community of Port Glasgow being Concession 14, Part of Lot 6 (being Part 1 on RP 11R-10562) and known municipally as 22167 Douglas Line. The subject lands are 1,181.3 m<sup>2</sup> (12,715.41 ft.<sup>2</sup>) in area with a frontage of 22.592 m (74.12 ft.) and an irregular depth. The lands currently contain an under construction single unit dwelling and two sheds and is used for seasonal residential use. The lands are serviced with municipal water and private septic system. Residential uses surround the subject lands. Location of the subject lands is shown on the attached Schedule 'A' map.

The subject lands are designated Lakeshore Residential and within the Lower Thames Valley Conservation Authority Regulated Area as shown on Figure 6 Port Glasgow Specific Policy Area in the Municipality of West Elgin Official Plan. The subject lands are zoned Hamlet Residential (HR) and are within the Lake Erie Shoreline, regulated by Lower Thames Valley Conservation Authority, as shown on Schedule "G" Port Glasgow in the Municipality of West Elgin Comprehensive Zoning By-law 2015-36.

The application was circulated to municipal staff for comment. One comment was received from the Manager of Operations and Community Services:

*'There is currently no driveway on the property. The owner is required to apply for an entrance permit from the municipality.'*

**Comment:** The owner has been notified of the requirement to apply for an entrance permit.

No other comments of concern were submitted from municipal staff.

The application was circulated to all applicable public agencies. Only one comment was received from Lower Thames Valley Conservation Authority:

*'The Authority is responsible for addressing the Natural Hazard Section of the Provincial Planning Policy Statement as well as the Conservation Authority's Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation, O. Reg. 152/06 under the Conservation Authorities Act. After reviewing our files and mapping, staff determined that the property in question is subject to the Authority's Development and Alteration to Shorelines portion of the regulations. The issue of concern in this area is the Lake Erie shoreline, stable slopes and erosion.'*

*An application from this office is required prior to any works/construction taking place within the regulated area. The lands are not subject to flooding of a general nature and as such structures are not required to be flood proofed. However, the flood proofing of structures for the purposes of prevention of flood damage from local, overland drainage waters is always recommended. Setbacks from the Lake Erie shoreline will be required to any proposed structure(s).*

*Please note, the proponent did pre-consult with LTVCA staff and an application from this office was approved on March 10, 2020, CA Application No. 072-2020 for the construction of the car port as it relates to the setback requirement from the Lake Erie shoreline. A copy of the permit was submitted to the municipal building department for their files.'*

**Comment:** The owner has been provided a copy of the comments.

#### **Financial Implications:**

None.

#### **Policies/Legislation:**

##### **Provincial Policy Statement 2020 (PPS):**

Under Section 3(5) of the *Planning Act*, the Municipality "shall be consistent with" matters of provincial interest as set out in the Provincial Policy Statements (PPS). Settlement Area, Sewage, Water and Stormwater and Natural Hazard policies were reviewed, and no concerns were evident.

Upon review of the applicable PPS policies, the application is consistent with the PPS.

#### **County of Elgin Official Plan:**

The County Official Plan designates the entire lakeshore area as Agricultural Area on Schedule 'A' Land Use. Partial municipal services are available. Limited year-round and season residential uses are permitted. Section C2.2 Agricultural Area - Location recognizes there are lands outside of settlement areas that have been designated for non-agricultural development by the lower tier Official

Plans and therefore, are deemed not be within the prime agricultural area and are instead subject to the applicable policies of this Plan and the policies of the lower tier Official Plan.

Upon review of the applicable County Official Plan policies, the application conforms to the County of Elgin Official Plan.

**Ontario Planning Act:**

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.

Four Tests of the Minor Variance

*1. Does the variance maintain the intent and purpose of the Municipality of West Elgin Official Plan?*

Yes. A detached carport is an accessory structure which is permitted, provided the main building that being the seasonal dwelling unit is in existence. The single unit dwelling to be used for seasonal use is currently under construction. Except for the reduced separation distance between the main building and the accessory structure, the application does not contravene the Municipality of West Elgin Official Plan policies.

*2. Does the variance maintain the intent and purpose of the Municipality of West Elgin Comprehensive Zoning By-law 2015-36?*

Yes. A detached carport is permitted in the Hamlet Residential (HR) Zone, provided the main building, that being the single unit dwelling has already been constructed. As the detached carport is within the Lower Thames Valley Conservation Authority Regulated Area, a permit has already been issued from the Authority. Except for the reduced separation distance between the main building and the accessory structure, the application complies with all remaining Hamlet Residential (HR) zone provisions.

*3. Is the variance requested desirable for the appropriate and orderly development and use of the lands and buildings?*

Yes. The variance will enable the owner to maximize the value and use of the property, in accordance with the Official Plan policies and Zoning By-law provisions. The reduction in the separation distance between the main building and the accessory building will allow the owner to construct a detached carport which will provide a sheltered parking space. The variance will not impede the function of the lot.

*4. Is the variance minor in nature?*

Yes. The meaning of 'minor' is not based on a specific number, where a difference of a few metres or feet determines whether or not the development is acceptable. It is more appropriate to base this test on the degree of potential impact on neighbouring property owners; the environment; and municipal functions.

The impact from the proposed variance with respect to the neighbouring property owners and the environment is minimal. There will be no impact from the proposed variance with respect to municipal functions for the municipality.

**Summary/Conclusion:**

The application has been assessed for appropriateness regarding existing policy and the impact of the proposal on the surrounding land uses. The application maintains the intent and purpose of the Official Plan and Zoning By-law and is not expected to have an impact on surrounding property owners, the environment, or municipal functions.

I am of the opinion that the application satisfies the four tests, constitutes good land use planning, and should be approved.

**Related Documents:**

Municipality of West Elgin Comprehensive Zoning By-law No. 2015-36.

**Schedule 'A'**





**Report Approval Details**

Document Title:	Minor Variance Report 22167 Douglas Line - 2020-32-Planning.docx
Attachments:	- D13 04-2020 - Miller Decision Sheet.asd.docx
Final Approval Date:	Nov 10, 2020

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

Jana Nethercott