



MUNICIPALITY OF **West Elgin**

Staff Report

Report To: Committee of Adjustment

From: Heather James, Planner

Date: 2022-06-09

Subject: Minor Variance Application D13 01-2022 – Recommendation Report

Recommendation:

That West Elgin Committee of Adjustment hereby receives the report from Heather James, Planner, regarding the Minor Variance Application D13 01-2022 – Recommendation Report (Planning Report 2022-20);

And that West Elgin Committee of Adjustment grant Minor Variance Application D13 01-2022, by obtaining relief from Section 4.1(f) of the Municipality of West Elgin Zoning By-law 2015-36 that requires accessory buildings or structures not exceed ten (10) percent lot coverage of the total lot area, proposing an increase in maximum accessory use lot coverage to 10.33 percent, to permit the construction of a 83.61 square metres (900 square feet) accessory use detached garage, subject to the following conditions:

1. That the proposed development is substantially in accordance with Minor Variance Application D13 01-2022 drawings, as appended to Planning Report 2022-20.

Purpose:

The purpose of this application is to permit the construction of an accessory use detached garage on the subject property.

The effect of the variance is to seek relief to the Municipality of West Elgin Comprehensive Zoning By-law 2015-36 from Section 4.1(f) that requires accessory buildings or structures not to exceed ten (10) percent lot coverage of the total lot area, proposing an increase in maximum accessory use lot coverage of 10.33 %, to permit the construction of an 83.61 square metre (900 square foot) accessory use detached garage, being 9.14 metres (30 feet) by 9.14 metres (30 feet).

Please note, in the Notice of Public Hearing that was circulated, it stated that the property owners were requesting an increase in maximum accessory lot coverage of 12.5%. This error was made due to the inclusion of two decks which are attached to the dwelling and not included in the accessory lot coverage calculation. This error does not impact the proposed application as the actual request in maximum accessory lot coverage is less than what was circulated.

The Owner of the subject lands is Nadine and Shaun Vickers on the minor variance application.

The subject lands are situated on the north side of Maple Street and east of Ridge Street, within the community of West Lorne being Lot 35, Plan 72; and known municipally as 177 Maple Street, as shown in Figure One below:

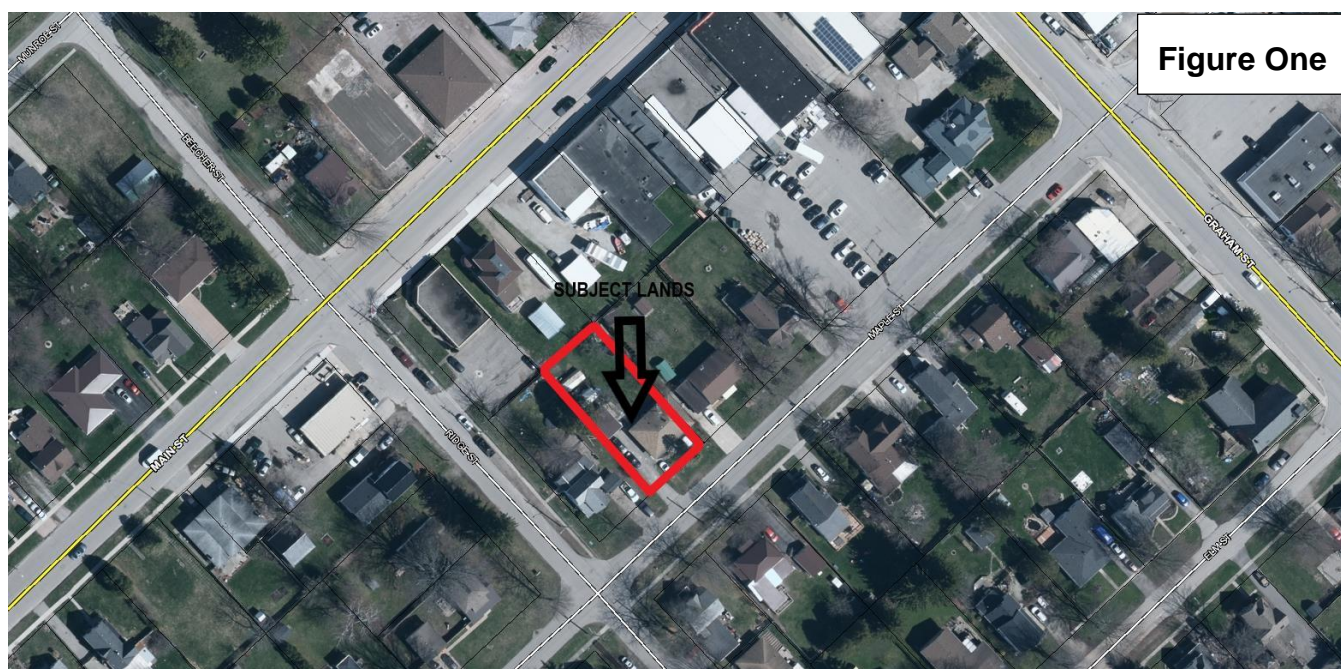


Figure One

Background:

The subject lands have an area of 809.37 square metres (8712 square feet) in area, with 20.1 metres (66 feet) of frontage along Maple Street and a depth of 40.23 metres (132 feet), with an existing single unit dwelling, accessory use detached garage and shed (both to be removed) with municipal water and municipal sewer services. The subject lands meet all other provisions of the Zoning By-law.

Financial Implications:

The proponent has submitted the minor variance application fee in accordance with the Municipality's Fees and Charges By-law, pursuant to Section 69 of the *Planning Act*. Therefore, there is no financial implications with this application, as the fee is to take in account staff's time, based on the Fees set by West Elgin Council.

Policies/Legislation:

Under Section 3(5) of the *Planning Act*, the Township "shall be consistent with" matters of provincial interest as set out in the Provincial Policy Statements (PPS).

Section 1.1.3 of the PPS states that settlement areas shall be the focus of growth and development.

This proposed Minor Variance is consistent with the PPS.

County of Elgin Official Plan

The subject lands are designated Tier 1 Settlement Area as shown on Schedule 'A' Land Use in the County of Elgin Official Plan (CEOP). In the Tier 1 Settlement Area designation, residential use such as a detached garage accessory to the single detached dwelling use is permitted.

Therefore, this proposed Minor Variance conforms to the CEOP.

Four Tests of the Minor Variance:

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.

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

Yes. The subject lands are designated Residential on Schedule 'C' of the Municipality of West Elgin Official Plan. A detached garage accessory to the single detached dwelling is permitted in the 'Residential' designation. The proposed increase maximum accessory use lot coverage does not contravene the Official Plan policies.

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

Yes. The subject lands are zoned Residential First Density (R1) Zone in the Municipality of West Elgin Zoning By-law 2015-36, Schedule C, Map 6. A single unit dwelling is a permitted use in the Residential First Density (R1) Zone, as well as accessory uses thereto, such as the proposed detached garage. With the exception of the proposed increased maximum accessory use lot coverage, the application complies with all remaining zoning provisions. The proposed accessory use detached garage would be within the rear yard of the subject lands and accessed with the driveway through Maple Street, as shown on the drawings appended to this report. The proposed increase in maximum accessory use lot coverage meets the intent and purpose of the Zoning By-law.

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 construct a detached garage accessory to the existing single unit dwelling. Due to the proposed size of the detached garage, the proposed detached garage is unable to meet the maximum accessory use lot coverage requirements for the subject lands. The variance will not impede the function of the lot and still provides for side and rear yard access and is fully contained within 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 number of 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 the municipal, County, or provincial functions.

The impact from the proposed variance is negligible with respect to the environment, municipal functions and surrounding property owners.

Circulation of the Application:

The application was circulated to the applicable Municipal Departments, Commenting Agencies and neighboring property owners within 60 metres of the subject lands on May 26, 2022, 14 days prior to the public hearing (minimum 10 days required).

Municipal Department Comments

Comments received from Municipal Departments' on the application indicated they have no concerns.

Agency Comments

At the time of submission of this report, no comments from the agencies have been received related to the Minor Variance.

Public Comments

At the time of submission of this report, one comment had been received from the public related to the Minor Variance. The comment was received from Albert and Glenna Szabo, who reside at 176 Maple Street and they are in support of the Minor Variance.

Summary/Conclusion:

The application has been assessed for appropriateness with regard to 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, desirable for the appropriate and orderly development and use of the lands and buildings and is minor in nature; and therefore the minor variance application satisfies the four tests pursuant to Section 45(1) of the *Planning Act* and constitutes good land use planning.

Planning Staff recommends that the request for Minor Variance be conditionally approved, subject to no concerns being raised through any oral and written submissions being received since the writing of this report and at the public hearing.

Once a Committee of Adjustment decision is made, Notice will be sent to those who have requested a copy and/or attended the public hearing.

There will be a 20 day appeal period from the Decision in which the Notice will be sent out within 10 days of the Decision. Any appeals received by the Municipality of West Elgin will be forwarded to the Local Planning Appeal Tribunal for a hearing, in accordance with the *Planning Act*.

Respectfully Submitted,

Heather James, MES (Pl.), MCIP, RPP
Planner
Municipality of West Elgin

Report Approval Details

Document Title:	Minor Variance Application D13 01-2022 - Recommendation Report - 2022-20-Planning.docx
Attachments:	- Planning Report 2022-20 Appendix One - Sketches.pdf - D13 02-2022 - MV Decision Sheet.docx
Final Approval Date:	Jun 6, 2022

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

Jana Nethercott