

STAFF REPORT

TO: Committee of Adjustment

FROM: Samantha Hannah, Planner I

SUBJECT: **A00824**, Lisa-Marie Corrazza
Agent: Ron Fleer
781 River Road East
PLAN 814 W PT LOT 15 S PT; LOT 15,
Minor Variance – Reduced Interior Side Yard Setback for a Detached Accessory Building (Shed), Reduced Front Yard Landscaped Area for a Lot Containing an Accessory Dwelling Unit, Reduced Rear Yard Setback for a Detached Accessory Dwelling Unit

DATE: May 15, 2024

LANDS SUBJECT TO THE APPLICATION:

The subject lands are located at 781 River Road East, legally described as PLAN 814 W PT LOT 15 S PT; LOT 15, Town of Wasaga Beach, County of Simcoe.

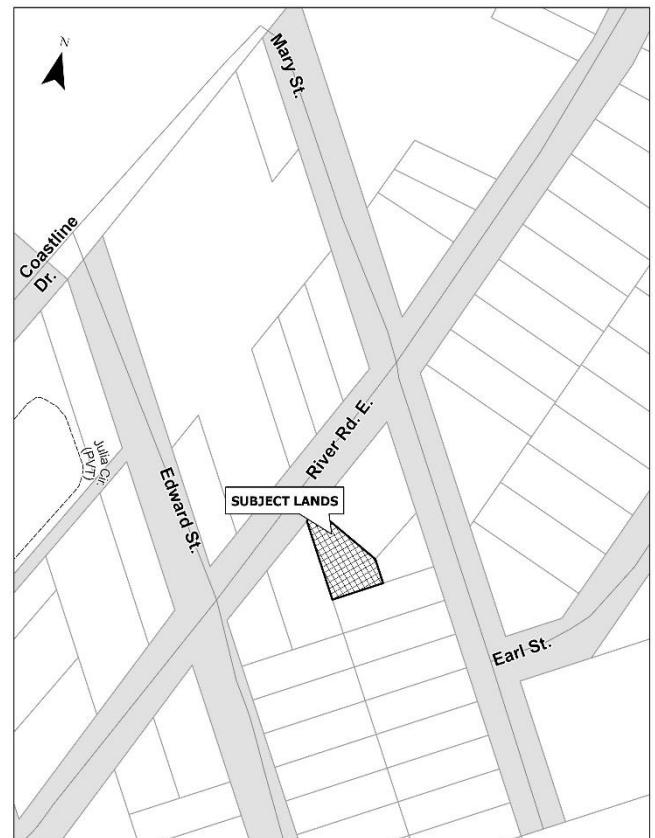
PURPOSE AND EFFECT:

An application for a Minor Variance has been submitted by Ron Fleer on behalf of Lisa-Marie Corazza, owner of the subject land. The applicant requests relief from Section 3.1, “Accessory Uses, Buildings and Structures” of Zoning By-law 2003-60, as amended, specifically:

- Section 3.1.5.5 - to recognize the location of an existing one-storey 2.4 metre (7.87 foot) tall detached accessory building (shed) with an interior side yard setback of 0.3 metres (0.98 feet) from the eastern property boundary, whereas a minimum interior side yard setback of 0.9 metres (2.95 feet) is required for accessory buildings with a height of 3.7 metres (12.14 feet) or less.

In addition to the above, the applicant requests relief from Section 3.28, “Accessory Dwelling Units in Residential Dwellings”, of Comprehensive Zoning By-law 2003-60, as amended, specifically:

Figure 1: Site Location



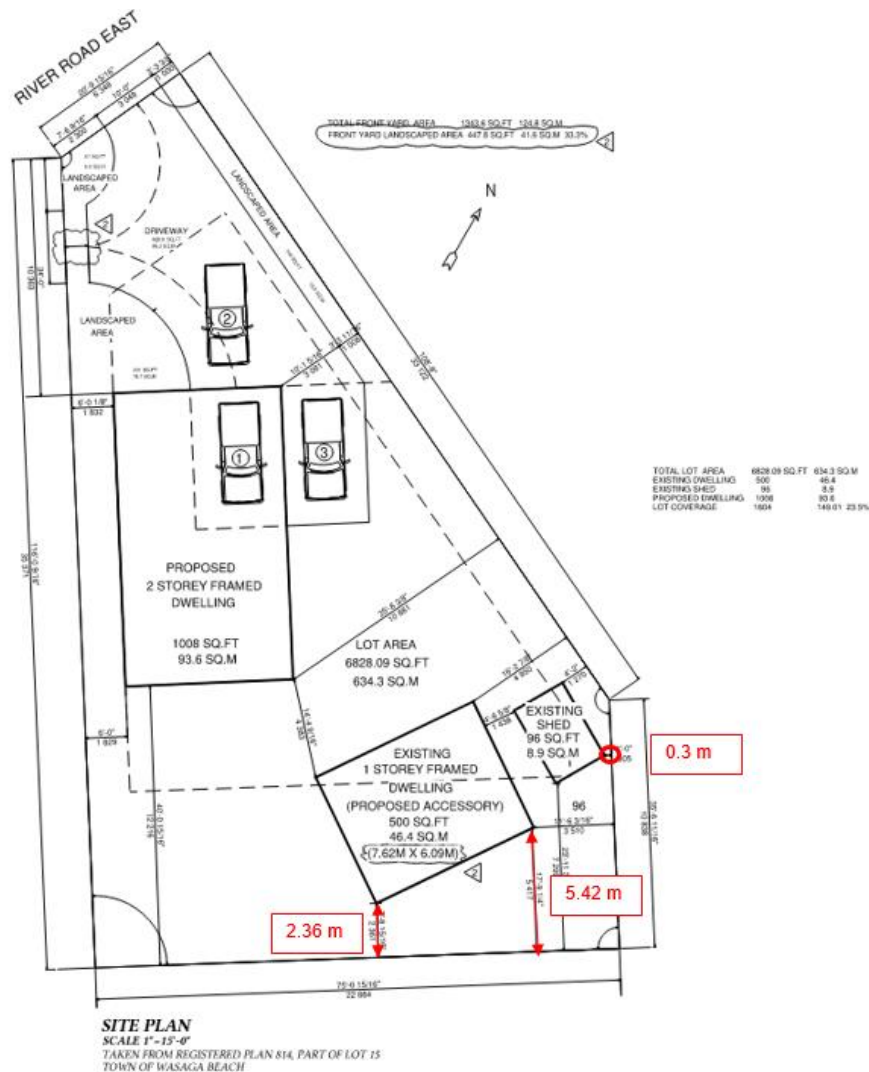
- Section 3.28.2.6 - to permit a reduced landscaped open space of 33% within the front yard between the front lot line and the proposed single-detached dwelling, whereas a minimum of 45% of the front yard for a residential dwelling unit containing an accessory dwelling unit shall be landscaped open space.

Additionally, the applicant requests relief from Section 4, "Residential Type 1 (R1) Zone", of Comprehensive Zoning By-law 2003-60, as amended, specifically:

- Section 4.3.6 – to recognize the location of the existing single-detached dwelling (proposed detached accessory dwelling unit) with a rear yard setback of 5.42 metres (17.78 feet) at the southeast corner of the dwelling and 2.36 metres (7.74 feet) at the southwest corner of the dwelling, whereas a minimum rear yard setback of 7.6 metres (24.93 feet) is required.

The variance(s) requested would recognize the location of the existing detached accessory building (shed) and the existing single-detached dwelling (proposed detached accessory dwelling unit). Further, the variance(s) would permit the construction of a new single-detached dwelling, and the conversion of the existing single-detached dwelling to a detached accessory dwelling unit with a reduction to the required front yard landscaped open space area.

Figure 2: Applicant's Site Plan Sketch



RECOMMENDATION:

In consideration of the foregoing, the Planning Department supports application A00824, subject to the following conditions being applied:

1. THAT the development will be substantially consistent with the site plan and drawings provided with the application, contained within “Appendix 1” of this report.

COMMENTS:

Submitted From	Comments
Town of Wasaga Beach Public Works Department	The Public Works Department does not oppose the application. Please see ‘Appendix 2’ for a copy of the formal comments
Nottawasaga Valley Conservation Authority (NVCA)	The application (781 River Road East) is not regulated by the NVCA. Based upon our mandate and policies under the Conservation Authorities Act, we have no objection to the approval of the application.
Wasaga Distribution Inc. (WDI)	WDI have reviewed the proposal and have no objections to its approval, subject to further comments. Please see ‘Appendix 3’ for a copy of the formal comments.

SUBJECT SITE:

The subject land is located along the south side of River Road East, and is situated west of Mary Street, east of Edward Street and north of Deerbrook Drive. The subject lands have a frontage of approximately 6.35 metres (20.83 feet), a depth of approximately 39.67 metres (130.15 feet) and an area of approximately 634.3 square metres (6,827.55 square feet).

The surrounding lands are predominantly zoned “Residential Type 1” (R1) and contain single detached dwellings, as well as some vacant parcels. The lands directly across the street on River Road East are zoned “Residential Type 3 Exception 15” (R3-15) and contain a condominium building. Further to the east and west are lands zoned “Accommodation Commercial” (CA), and south of Earl Street are lands zoned “Environmental Protection” (EP).

The subject property is zoned “Residential Type 1” (R1) within the Town’s Comprehensive Zoning By-law 2003-60, as amended. Further to the above, the subject lands are designated Residential within the Town of Wasaga Beach Official Plan.

APPLICATION:

The applicant is requesting relief from Sections 3.1.5.5, 3.28.2.6 and 4.3.6 of the Zoning By-law, as summarized in the tables below:

Section 3.1.5.5 - Yards

Permitted:	Proposed:	Difference:
Detached buildings accessory to a residential use equal to or less than 3.7 metres in height may be located in an interior side or rear yard but shall be no closer than 0.9 metres to the lot line. Height shall be measured as per Subsection 3.1.4.	To recognize the location of an existing one-storey 2.4 metre (7.87 foot) tall detached accessory building (shed) with an interior side yard setback of 0.3 metres (0.98 feet) from the eastern property boundary.	Interior Side Yard – 0.6 metres (1.97 feet)

3.28.2.6 – Front Yard Landscaped Open Space (Accessory Dwelling Units)

Permitted:	Proposed:	Difference:
For a residential dwelling containing an attached accessory dwelling unit, a minimum of 45% of the front yard of the residential dwelling unit shall be landscaped open space.	To permit a reduced landscaped open space area of 33% within the front yard between the front lot line and the proposed single-detached dwelling.	Front Yard Landscaped Open Space - 12%

4.3.6 – Rear Yard Depth (minimum)

Permitted:	Proposed:	Difference:
7.6 metres	To recognize the location of the existing single-detached dwelling (converted detached accessory dwelling unit) with a rear yard setback of 5.42 metres (17.78 feet) at the southeast corner of the dwelling and 2.36 metres (7.74 feet) at the southwest corner of the dwelling	2.18 metres (7.15 feet) and 5.24 metres (17.19 feet)

ANALYSIS:**Planning Act, R.S.O. 1990, c. P.13**

The Ontario *Planning Act* requires that in making planning decisions, the Committee must have regard for matters of Provincial Interest, as outlined by Section 2 of the Act, and the Provincial Policy

Statement, as outlined by Section 3 of the Act. Based on review of the pertinent policies, Staff have no concerns with respect to the provisions of Section 2 of the Ontario *Planning Act*.

On November 28, 2022, Bill 23, “*More Homes Built Faster Act, 2022*” received Royal Assent, which amended various statutes including the *Planning Act*. As a result, Section 35.1 (1) and (2) of the Act were repealed, and substituted with the following policy(s) among others:

“35.1 (1) The authority to pass a by-law under section 34 does not include the authority to pass a by-law that prohibits the use of,

(c) one residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse on a parcel of urban residential land, if the detached house, semi-detached house or rowhouse contains no more than two residential units and no other building or structure ancillary to the detached house, semi-detached house or rowhouse contains any residential units. 2022, c. 21, Sched. 9, s. 9.”

Further, a “parcel of urban residential land” is defined within Section 1 of the *Planning Act* as:

“... parcel of land that is within an area of settlement on which residential use, other than ancillary residential use, is permitted by by-law...”

To be considered a “parcel of urban residential land”, the parcel of land must be served by sewage works that are owned by a municipality, and a municipal drinking water system.

Planning staff note that based on the information contained above, the subject lands would be considered a “parcel of urban residential land”, as per the *Planning Act*. Planning Staff have no concerns with respect to the provisions of Section 35.1 (1) of the *Ontario Planning Act*.

Provincial Policy Statement (2020)

Section 3(5) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, provides that the Council of a municipality, or a Committee of Adjustment, in exercising any authority that affects a planning matter, shall be consistent with the policy statements issued by the Province. Upon review of the policies outlined in the Provincial Policy Statement (2020), it is the opinion of Planning staff that the Minor Variance, if granted, will be consistent with this subsection of the *Planning Act*.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

Section 14(1) of the *Places to Grow Act*, S.O. 2005, c.13, as amended, provides that a decision under the *Planning Act* that relates to a growth plan area shall conform with a growth plan that applies to that growth area. Planning Services staff are of the opinion that the Minor Variance, if granted, will conform to *A Place to Grow: Growth Plan for the Greater Golden Horseshoe (August 2020)*.

County of Simcoe Official Plan

The subject property is designated “Settlement” in the Official Plan for the County of Simcoe. The County of Simcoe Official Plan contains policies relating to the orderly development of those areas that are designated as Settlement. The County of Simcoe has provided no comments with respect to this application. However, it is the opinion of Planning Services staff that the Minor Variance, if granted, will conform to the County of Simcoe Official Plan.

Maintains the General Intent of the Official Plan

The subject lands are designated Residential within the Town of Wasaga Beach Official Plan. The proposed new single-detached dwelling, as well as the existing shed, subject to the minor variance are permitted within the Residential designation. Notwithstanding, any Official Plan policies to the contrary, *Planning Act* Section 35.1 (1) supersedes Official Plan policies regarding detached accessory dwelling units on parcels of urban residential land. As the subject lands are designated Residential and are fully serviced with municipal water and sewer, a detached accessory dwelling unit would be a permitted use, subject to compliance with other applicable provisions.

Further Section 5.1.7 of the Town's Official Plan notes that an objective of the Residential designation is:

"To support housing affordability and create rental housing opportunities by permitting accessory dwelling units within residential dwellings, where appropriate"

Further to the above, Section 5.2.1.3 of the Town's Official Plan states:

"In order to support housing affordability and provide for a wider range of housing options for residents of Wasaga Beach, an accessory dwelling unit is permitted in residential areas within a single-detached, a link, a semidetached, and a townhouse dwelling unit..."

As per the Section 35.1 (1) c) of the *Planning Act*, one detached accessory dwelling unit to a single-detached dwelling is permitted on a parcel of urban residential land, if the single-detached dwelling does not contain more than two residential units, and no other building/structure accessory to the single-detached dwelling contains any residential units, and subject to compliance with other applicable provisions.

Based on the above, it is the opinion of Planning staff that the minor variance(s), if granted, will maintain the general intent of the Official Plan.

Maintains the General Intent of the Zoning By-law

The subject lands are zoned "Residential Type 1" (R1), within the Town's Zoning By-law 2003-60, as amended. The existing shed, as well as the proposed new single-detached dwelling are permitted uses within the R1 Zone, subject to compliance with applicable provisions of the Zoning By-law. Notwithstanding any Zoning By-law provisions to the contrary, *Planning Act* Section 35.1 (1) supersedes Zoning By-law provisions regarding detached accessory dwelling units on parcels of urban residential land. As the subject lands are zoned R1 and are fully serviced with municipal water and sewer, a detached accessory dwelling unit would be a permitted use, subject to compliance with other applicable zoning provisions (e.g. parking, setbacks, etc.)

The applicant has requested relief from Section 3.1.5.5 of the Zoning By-law to recognize the location of the existing detached accessory building (shed) with a height of 2.4 metres (7.87 feet) and an interior side yard setback of 0.3 metres (0.98 feet) from the eastern property boundary. The intent of interior

side yard setbacks is to ensure adequate separation between properties, and to allow sufficient space for drainage, maintenance and access.

Based on the site plan drawing provided by the applicant, the proposed 0.6 metre (1.97 foot) reduction to the interior side yard setback for the shed is specifically required for the south-eastern corner of the building. Based on the above, it is not anticipated that maintenance of the shed should be negatively impacted. Planning Staff are of the opinion that sufficient access to the rear yard can be maintained between the shed and the existing single-detached dwelling (proposed detached accessory dwelling unit) as there is a separation distance of 1.4 metres between the two buildings. The abutting lands to the east which would be most affected by the reduced interior side yard setback are currently buffered by a fence. The Town's Public Works Department has advised that the subject lot must manage all storm water within the property and not impact adjacent lands.

Further to the above, the applicant requests relief from Section 3.28.2.6 of the Zoning By-law, to permit a reduced landscaped open space of 33% within the front yard between the front lot line and the proposed single-detached dwelling. The intent of the minimum front yard landscaped space for properties containing accessory dwelling units is to ensure front yards are not dominated by parking and to ensure that a portion of the property remains open and unobstructed for landscaping purposes.

As indicated on the applicant's site plan provided, a landscape buffer is proposed along each of the interior lot lines, and additional landscaped area is proposed near the front of the proposed new single-detached dwelling. Overall, approximately 41.6 square metres (447.8 square feet) of landscaped area is proposed within the front yard. Further to the above, the site plan indicates that the three required parking spaces to serve the proposed primary dwelling, as well as the proposed detached accessory dwelling unit can be accommodated on the site. Based on the above, Planning staff are of the opinion that the proposed design is unlikely to result in the front yard being dominated by parking, and provides adequate space for landscaping-related functions.

In addition to the above, the applicant is seeking relief from Section 4.3.6 of the Zoning By-law to recognize the location of the existing single-detached dwelling (proposed detached accessory dwelling unit) with rear yard setbacks of 5.42 metres (17.78 feet) at the southeast corner of the dwelling, and 2.36 metres (7.74 feet) at the southwest corner of the dwelling. The intent of the rear yard setback requirement is to provide privacy and a separation distance from neighbouring properties, to set a standard of development in an area, and to provide an amenity area for the occupants of the dwelling.

It is recognized that the single-detached dwelling (proposed detached accessory dwelling unit) is an existing building on the subject lands. The proposed variance(s) would not result in a further rear yard reduction to the existing single-detached dwelling (proposed detached accessory dwelling unit), but would recognize the current location of the building. Based on the above, it is Planning staff's opinion that the existing rear yard setback should not negatively impact privacy/separation distance to neighbouring properties or the standard of development within the area. The recognition of the existing rear yard setback would continue to allow for sufficient amenity space within the rear yard and western

interior side yard for the occupants of the new primary dwelling and the converted detached accessory dwelling.

Planning Staff recommend that the proposed variance(s) maintain the general intent of the Zoning By-law.

Desirable for the Appropriate Development of the Land

Planning staff recommend that the proposed variance(s) to recognize the location of the existing shed and existing single-detached dwelling (proposed accessory dwelling unit), and to permit a reduced front yard landscaped open space in order to facilitate the construction of a new single-detached dwelling, and a conversion of the existing single-detached dwelling to a detached accessory dwelling unit, should not impact the proper use of the land, the neighbourhood, nor the municipality. Planning staff suggest that the variance(s) are considered desirable and appropriate for the development of the land.

Considered Minor in Nature

Planning staff recommend that the variance(s) applied for are considered minor in nature, and would result in minimal impact relative to a form of development that would comply with existing provisions of the Zoning By-law.

CONCLUSION:

In consideration of the above, the Planning Department supports application **A00824** for the lands municipally addressed as 781 River Road East. Should the Committee choose to approve application **A00824**, Planning staff recommend this approval also be subject to the above noted conditions.

Respectfully Submitted,



Samantha Hannah
Planner I

Appendix 1 – Site Plan Sketch and Elevations

Appendix 2 – Town of Wasaga Beach Public Works Comments

Appendix 3 – Wasaga Distribution Inc. Comments