

**Committee of Adjustment  
PLANNING REPORT**

**Application:** A2/23  
**Related Application(s):** N/A  
**Owner(s):** Leigh Recker  
**Meeting Date:** Friday, March 24th, 2023  
**Prepared by:** Owen Curnew, Planning Technician

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**PROPERTY INFORMATION:**

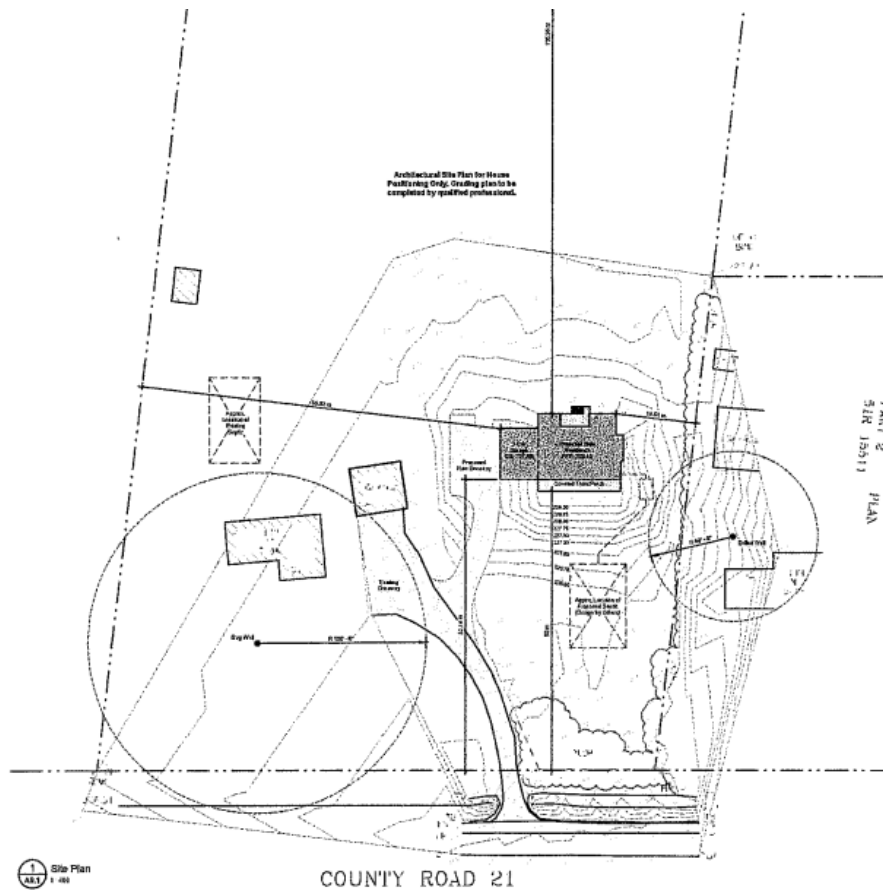
<b>Municipal Address</b>	5444 County Road 21
<b>Legal Description</b>	PT E 1/2 LT 22 CON 7 ESSA TWP PT 1, 51R19257; ESSA
<b>Roll No.</b>	432101000303102
<b>Official Plan</b>	Rural
<b>Zoning By-law</b>	Rural

**RECOMMENDATION:**

Staff recommends **APPROVAL** of Application A2/23 based on Planning Policy and all considerations, with the following conditions:

1. That all municipal taxes be paid up-to-date.
2. That the proper Building Permit(s) be obtained.
3. That the applicant be required to apply for Changes of Use once occupancy is granted for the accessory building. The existing and proposed buildings will each require a Change of Use. The proposed Accessory Building is to be converted to a Single-Detached Dwelling, and the existing Single-Detached Dwelling is to be converted to an Additional Residential Unit.

**PROPOSAL:**



**DATE OF SITE INSPECTION**

March 9<sup>th</sup>, 2023.

**REASON FOR THE APPLICATION:**

Application A2/23 is seeking relief from the maximum floor area of 139m<sup>2</sup> for an accessory building as outlined in Section 5.3 (a) of the Essa Township’s Zoning By-law 2003-50. The applicant is proposing a building of approximately 220m<sup>2</sup> and over 6 meters in height. The applicant wishes to convert the accessory building after construction to a Single-Detached Dwelling (primary dwelling) and to convert their existing Single-Detached Dwelling (primary dwelling) to an Additional Residential Unit (ARU).

**SURROUNDING LANDS:**

<b>North</b>	6862 County Road 21 (Active Farming Operation with minimal buildings)
<b>East</b>	6862 County Road 21 (Active Farming Operation with minimal buildings) 5426 County Road 21 (Dwelling unit with various accessory buildings)
<b>South</b>	County Road 21 is directly South of the property
<b>West</b>	5460 County Road 21 (Dwelling unit with various accessory buildings)

**BACKGROUND:**

The subject property is zoned Rural (RL) and has an area of 2 hectares (~5 acres). The Property is legally described as PT E 1/2 LT 22 CON 7 ESSA TWP PT 1, 51R19257; ESSA and is municipally known as 5444 County Road 21.

The subject property is zoned Rural (RL), Section 7.2 permits the construction of an accessory building and the construction of Additional Residential Unit(s) in Rural (RL) zones.

The surrounding lands contain single family dwellings, on large parcels of land and active farming operations.

The subject property is within the Nottawasaga Valley Conservation Authority (NVCA) regulated area.

**COMMENTS:**

In consideration of any minor variance application, the Committee must examine the four tests under Section 45 (1) of the *Planning Act* for granting a minor variance. Additionally, Subsection 45(3) of the *Planning Act* provides the Committee of Adjustment power to grant minor variances from the provisions of any by-law that implements an Official Plan using the four tests of minor variance provided in Subsection 45(1). The four tests for determining the appropriateness of a minor variance will be applied to the subject application and analysis and comments provided on each.

Test 1.

**Does the minor variance maintain the general intent and purpose of the Township Official Plan (OP)? Yes**

**Essa Townships Official Plan:**

*Section 7.1 Introduction*

*“The basic objective of areas designated Agricultural on the attached schedules is for the promotion and protection of the agricultural resource base of the Township. This designation coincides with those lands which exhibit good agricultural capability which includes Class 1 to 4 lands as established by the Canada Land Inventory’s Soil Capability for Agriculture. The intent of this Plan is to preserve the agricultural community and to exclude non-agricultural or incompatible uses from areas designated Agricultural.”*

The proposed minor variance proposes to build an accessory building on a Rural lot that is not being used for Agricultural purposes and already has an existing residence. The

construction of an oversized accessory building would not prevent the preservation of the agricultural community nor be an incompatible use.

### *Section 7.2 Permitted Uses*

*“The permitted uses within the Rural designation shall include those uses permitted in the Agricultural designation. In addition, uses such as forestry, resource management, small-scale industrial, commercial uses which are agriculturally-related, home occupation and home industry, farm produce stands, bed and breakfast establishments, and single detached dwellings on existing vacant lots. Non-agricultural uses such as highway and service commercial, tourist commercial, public use, institutional, kennels, private club and open space may also be permitted. In filling in accordance with the policies of Section 26.3.1.k is also permitted. A garden suite is also a permitted use and is subject to the policies of Section 6.3.14.”*

The proposed accessory building is a permitted use within both the Agricultural and Rural designations. The accessory building will also be converted into a Single Detached Dwelling after construction, which is also a permitted use in Rural Designations.

**The proposed minor variance generally maintains the intent of Essa’s Official Plan, as both the current building and its proposed use are permitted in the Rural designation.**

### Test 2.

**Does the minor variance maintain the general intent and purpose of the By-law? Yes**

**Essa Township Zoning By-law 2003-50:**

### *Section 5.3 Accessory Buildings*

*Section 5.3 a) states, “No accessory building or structure shall occupy more than 8% or 139.0 m<sup>2</sup> of floor area, whichever is the lesser, of the area of a lot, nor exceed 6.0 m in height on any lot, which is from 1.0 ha to 4.0 ha in size.”*

The proposed accessory building will be approximately 220.0 m<sup>2</sup> and will be over 6.0 meters in height. The applicant is seeking relief from Section 5.3a) to permit the construction of an oversized accessory building. Given that the minor variance is to permit the construction of an oversized accessory building, once the proposed building is converted to a Single-Detached Dwelling, it will neither exceed the Gross Floor Area nor the height limits as per Zoning By-law 2003-50.

The existing building will be converted to an Additional Residential Unit (ARU). Section 7.2 permits the construction of an accessory building and the construction of Additional Residential Unit(s) in Rural (RL) zones.

Section 4.38.2 states the provisions for an Additional Residential Unit to exist in a Detached Accessory Building.

The proposed Additional Residential Unit with the change of use, would be in compliance with Zoning By-law 2003-50.

**Thus, staff recommends that the applicant be required to apply for Changes of Use once occupancy is granted for the accessory building. Both existing and proposed buildings will require a Change of Use. Ultimately, the proposed Accessory Building will be converted to a Single-Detached Dwelling, and the existing Single-Detached Dwelling will be converted to an Additional Residential Unit.**

**The proposed minor variance generally maintains the intent of Essa Township's Zoning By-law 2003-50, as both buildings and their proposed uses are permitted and would be in compliance with the Zoning By-law once converted (i.e., a 'change of use' permit is applied for and granted).**

Test 3.

**Is the minor variance desirable for the appropriate development or use of the land, building or structure? Yes**

The minor variance, in essence, is allowing the construction of a new home on the lot, and would allow the applicants to convert their original home to an Additional Residential Unit.

The need for affordable housing amidst the current Housing Crisis makes the imperative for flexibility in construction and development of affordable housing paramount. The proposal allows for to obtainment of affordable housing while preserving the rural landscape, community, and ability for future agricultural use to continue.

The impact on neighbors would be minimal as the proposal is isolated to the applicant's lot. However, as the proposed building shows a change in elevation, it may be appropriate to request a drainage plan be provided during the building permit stage of development. This plan must meet the Township's satisfaction.

**Thus, staff would recommend that the applicant be required to submit a drainage plan to the Township and that it be to the Township's satisfaction.**

**The minor variance, for these reasons, is generally desirable for the use of the land.**

Test 4.

**Is the requested variance minor in nature? Yes**

The proposed minor variance should be considered to be minor in nature as it is requesting temporary relief from provisions that are preventing the construction of an accessory building of a certain size. The variance would essentially allow for both buildings to be temporarily non-compliant with the Zoning By-law until a 'change of use' is undergone for each building.

In this sense, the minor variance is minor in nature because it allows for relief from the limitations on the construction of buildings, not the continued existence or use of the buildings.

***The minor variance is generally minor in nature for the reasons outlined above.***

**PUBLIC COMMENTS:**

**CONCLUSION:**

For the above reasons, Staff supports this application.

Staff advises that:

The applicant be granted the minor variance with conditions.

Respectfully submitted,

Owen Curnew  
Planning Technician  
Township of Essa