

THE MUNICIPALITY OF LAMBTON SHORES

Report COA 20-2024

Committee Meeting Date: November 27, 2024

TO: Chair Robinson and Members of the Committee of Adjustment

FROM: Ken Bulgin, Planner

RE: Minor Variance Application A-17/2024 – Plan 25M42 Pt Blk 26 & Pt Lt 6, Lambton Shores – McCann Developments

RECOMMENDATION:

THAT Minor Variance Application A-17/2024, affecting lands known as Plan 25M42 Pt Blk 26, which would permit the construction of a 70-unit apartment building with a 4-storey/15 m maximum height at a setback of 52.7 m from Tattersall Lane, be approved, subject to the following condition(s):

1. That the variance only apply to permit construction as proposed in the applicant's sketch.

SUMMARY

An application has been made for a minor variance seeking relief from Section 19.2 a) of the Zoning By-law 1 of 2003 which prohibits more than 50 units per hectare for a multiple dwelling if located less than 65 m from Tattersall Lane and from Section 19.2 g) which prohibits a building height of more than 10 m for a multiple dwelling if located less than 65 m from Tattersall Lane.

BACKGROUND

The property is situated on the west side of Tattersall Lane and south of Brooklawn Drive (Attachment 1). The property located at Plan 25M42 Pt Blk 26, known municipally as 9 Tattersall Lane, is irregular in shape, is approximately 102,366 m² (2.35 acres) in area, with approximately 8.99 m (29.48 ft) of frontage along Brooklawn Drive.

The lands are located along the southern edge of predominantly residential development and abut commercial lots to the south which front Main Street East in the community of Grand Bend.

The subject property is a vacant lot. The lands have access to municipal water, and sanitary sewers, through an easement on 73 Main Street East which extends east from Summer Grove Road along a portion of the southern property line of the subject lands.

The subject lands were purchased together with an abutting property with the legal address of Plan 25M42 Pt Lot 6. The additional property was created through Part Lot

Control which resized the original 6 lots in a Plan of Subdivision along the west side of Tattersall Lane to 7 lots. The purpose for the creation of the additional lot was to provide an access for the subject lands through to Tattersall Lane if and when the subject lands were developed.

Surrounding land uses include:

- **To the north:** lands zoned for residential uses primarily in the form of single detached dwellings;
- **To the east:** lands zoned for residential uses, which include the additional vacant lot property purchased along with the subject lands by the applicant and known legally as Plan 25M42 Pt Lot 6, a mix of single detached dwellings beyond which include vacant residential lots and the Municipality of South Huron boundary;
- **To the west:** lands zoned medium density residential use which include Grandview Apartments beyond which is commercial use that include Sobey's Grocery Store, Shoppers Drug Mart, LCBO etc.;
- **To the south:** lands zoned for commercial uses along Main Street East which include a McDonalds Restaurant and Ultramar Service Station.

Official Plans

The subject property is designated as "Urban Centre" in the County of Lambton Official Plan and "Residential" in the Lambton Shores Official Plan (OP).

Zoning By-Law

The subject lands at 9 Tattersall Lane are zoned as Residential – 13 (R13) in the Zoning By-law 1 of 2003

The Residential – 13 (R13) Zone lists Multiple Dwelling as a permitted use, subject to the requirements of Section 19.2 *Site Regulations* of the Zoning By-law. The proposed apartment building conforms with the Site Regulations of Sections 19.2 except for:

- a) the requirement that a multiple dwelling is permitted 70 units per hectare, provided the multiple dwelling is located within 40 m of the south boundary of Block 26, Registered Plan 25M-42 and a minimum of 65 m from Tattersall Lane; otherwise 50 units per hectare;
- b) the maximum permitted Building Height of a multiple dwelling, which is located within 40 m of the south boundary of Block 26, Registered Plan 25M-42 and a minimum of 65 m from Tattersall Lane, shall have a maximum height of 15 m and 4 stories, otherwise 10 m.

Note: The first criteria involving the wording "...located within 40 m of..." has been interpreted by Staff as meaning that only a portion of a building and not the entirety of a building must reside within the 40 m requirement. As such, the proposed development, which shows a portion of the building (amenity area) outside the 40 m requirement, can be considered to meet this requirement as the majority of the building does occur within 40 m of the south boundary of Block 26.

Regulated Area

The subject property is not located within a General Regulation Area regulated by the Ausable Bayfield Conservation Authority (ABCA) and does not contain significant natural heritage features.

Summary of Variances Required

Based upon the Site Plan details (Attached to Report), an analysis of the proposal with the requirements of Section 19.2 of the Zoning By-law for the Residential – 13 (R13) Zone determined the following variances are required. These requirements are specific to the construction of a multiple dwelling:

Section 19.2 Provision	Section 19.2 Requirement	Proposed	Compliant/Variance Required:
<i>Residential Unit Density for a Multiple Dwelling</i>	70 units\ha, provided the multiple dwelling is located within 40 m of the south boundary of Block 26, Registered Plan 25M-42 and a minimum of 65 m from Tattersall Lane; otherwise 50 units\ha	70 units/ha	Variance Required
<i>Building Height for a Multiple Dwelling</i>	10 m except a multiple dwelling which is located within 40 m of the south boundary of Block 26, Registered Plan 25M-42 and a minimum of 65 m from Tattersall Lane shall have a maximum height of 15 metres and 4 stories, otherwise 10 m	15 m	Variance Required

Note: All other regulations in the above noted sections have been found to be compliant.

COMMENTS

Proposed Development

The property owner is proposing the construction of a 4-storey, 70-unit apartment building along the southern boundary of the subject property to take advantage of specific Zoning to allow a greater density of residential units and increased building height. The building would contain a mix of 1- and 2-bedroom apartments with an indoor amenity area that extends north from the main building along the western edge of the property giving the complex a reverse “L” shape.

The main access to the apartment building would be from Tattersall Lane through the Plan 25M42 Pt Lot 6 property that was purchased together with the subject lands. The majority of parking, 77 spaces, are proposed to be located underground with an additional 32 spaces available as surface parking. By locating a portion of the parking underground, it will allow for a greater amount of green/landscaped area that could be used as amenity space for residents. A secondary access to the property, through the easement on 73 Main Street East, is proposed for a service entrance located at the southwest corner of the apartment building.

A sidewalk would connect the east and north entrances of the apartment building with Tattersall Lane and similarly a sidewalk running south from the western entrance along the western edge of the lot would provide access to commercial properties/development(s) to the south of the subject lands.

Due to the dimensions required for underground parking, which ultimately dictate a building footprint, the applicant is requesting that the building extend to within 52.7 m of Tattersall Lane and be permitted a height of 4-stories and 70 residential units.

Services

Municipal Water and Sanitary Sewer connections will be available through the service easement on 73 Main Street East that runs from Summer Grove Road to the southwest boundary of 9 Tattersall Road. The Public Works Department has indicated there is sufficient capacity for both municipal services for the proposed 70 residential units.

Stormwater Management will predominantly be handled on site. The site will be graded, directing water flow to catch basins in the parking lot, which will be piped to the northwest corner of the property and out to a storm water pond on the north side of Brooklawn Drive. In-line stormwater storage will be provided by underground infiltration chambers below the parking lot. For larger rain events that may exceed the system's capacity, the site will be graded to direct overland water flows to the northwest corner of the property and into the stormwater pond on the north side of Brooklawn Drive via swale(s).

Parking

The proposed development consists of 70 residential units. The parking requirements are 1.5 spaces/unit for an apartment building. The applicant has proposed 109 spaces (77 underground & 32 surface) whereas 105 spaces are required and therefore meets parking requirements.

Application Analysis

Consistent with Section 45 of the *Planning Act*, Section 19.8.2.1 of the Municipality's Official Plan states that in order for the Committee of Adjustment to grant a variance to a Zoning By-Law requirement, they must determine the following:

1. is the requested variance minor;

2. is the general intent and purpose of the Official Plan maintained;
3. is the general intent and purpose of the Zoning By-Law maintained; and
4. is the minor variance desirable for the appropriate development or use of the land, building or structure.

Is the requested variance minor?

There is no definition for when a variance is considered minor and so this must be determined based on the merits of the situation.

The requested variances are to allow a multiple dwelling within 52.7 m (whereas 65 m is required) of Tattersall Lane with a maximum 4 storey\15 m building height and a maximum density of 70 residential units/ha.

To meet parking requirements for a 70 unit/ha development the applicant has proposed an underground parking solution. The dimensions required to accommodate the underground parking solution would extend the building footprint into the required 65 m setback from Tattersall Lane.

The proposed reduction of the minimum setback from 65 m to 52.7 m from Tattersall Lane would see the proposed apartment building located at least 12.8 m from the closest abutting residential property line. If the applicant were to construct a building using the “as of right” permitted density of 50 units/ha instead of 70 units/ha permitted if located 65 m from Tattersall Lane, the building could be located as close as 3 m (Interior Side Yard Setback) to some Residential Property Lines.

The applicant has also proposed that the apartment building would be 3 storey’s in height in the area that encroaches into the minimum 65 m setback (up to 52.7 m) from Tattersall Lane and 4 storey’s only in the area that meets the 65 m setback requirement. Again, if the applicant were to construct a building using the 3 Storey/10 m “as of right” building height the apartment building could be located as close as 3 m (Interior Side Yard Setback) to some Residential Property Lines.

As such, planning staff are of the opinion that a proposed setback reduction from 65 m to 52.7 m from Tattersall Lane (12.8 m from the closest Residential property) to allow a 4 storey\15 m maximum building height and 70 unit/ha would have less impact on neighbouring properties than a building that could be built to 50 units/ha, with a 3 storey\10 m building height “as of right” and be located as close as 3 m from a residential property. Allowing this variance is considered minor in nature

Is the general intent and purpose of the Official Plan maintained?

The proposed development is in alignment with the Official Plan for lands designated “Residential”.

Is the general intent and purpose of the Zoning By-Law maintained?

The general intent and purpose of the Zoning By-law is maintained except for the residential unit density and building height. The Residential-13 (R13) Zone lists “Multiple Dwellings” as a Permitted Use.

Staff are of the opinion, due to the proposed apartment building being no less than 12.8 m from closest residential property containing a dwelling, along with a proposed 3 storey building height for the portion of the apartment building that would not meet the required 65 m minimum setback, the proposed reduction in Setback from Tattersall Lane, for a multiple dwelling, will not adversely affect neighbouring residential properties.

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

The proposed decrease in Setback from Tattersall Lane to allow a density of 70 units/ha and a 4 storey\15 m building height would facilitate the construction of an apartment building and help address the need for more housing in the community. The proposed development maintains and conforms with the character of the neighbourhood.

Staff is of the opinion the requested variances are appropriate for the development of the land and will not adversely affecting neighbouring properties.

Department and Agency Comments

The application has been circulated to the required agencies as per the *Planning Act*. The following comments were received:

<i>Agency</i>	<i>Comments</i>
<i>County of Lambton Building Services Department</i>	Comments will be provided as part of any future Planning process related to Site Plan Control for the proposed development.
<i>Canada Post</i>	Canada Post has determined the proposed development is to be serviced by developer/owner installed Lock Box Assembly. A centralized lock box assembly is to be provided by, installed by, and maintained by the developer/owner at the owner’s expense.
<i>Adjacent Property Owners</i>	No comments have been received as of November 19, 2024. All comments received prior to the November 27, 2024, Committee of Adjustment meeting date shall be presented at the meeting.

As previously noted, the proposed development is in alignment with the Municipality of Lambton Shores Official Plan and is in general conformance with the requirements of the Zoning By-Law. The proposed variance is considered minor as it does not adversely impact adjacent properties.

On the basis of the policy context provided above related to the Municipality of Lambton Shores Official Plan, and Zoning By-Law, Planning staff are of the opinion that the variances can meet the tests of Section 19.8.2.1 of the OP in accordance with the *Planning Act*. Therefore, Planning staff have no objection to the proposed minor variance as presented.

ATTACHMENT 1: LOCATION MAP

04



SUBJECT AREA

Attachment