

# THE MUNICIPALITY OF LAMBTON SHORES

**Report COA 01-2025**

**Committee Meeting Date: January 22, 2025**

**TO:** Chair Robinson and Members of the Committee of Adjustment  
**FROM:** Will Nywening, Senior Planner  
**RE:** Minor Variance Application A-01/2025 – Plan 24, Part Lots 204, 205, 306, RP 25R10848 Part 1 (GB) – 32 Hill St, Grand Bend – James and Shannon Sharp

## **RECOMMENDATION:**

**THAT** Minor Variance Application A-01/2025, affecting lands known as 32 Hill St, Grand Bend, which would recognize a flat-roofed, single detached dwelling with a 9m building height and 1.54m and 2.65m interior side yards, be approved, subject to the following conditions:

1. That the existing single detached dwelling be deemed legal non-complying with respect to height and interior side yards for the purposes of any future renovations, alterations, additions, or replacements.

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## **Application**

The Applicant requests relief from Zoning By-law 1 of 2003, Section 10.2 e) *Interior Side Yard Setback*, which requires minimum interior side yard setbacks of 1.2m and 3m if there is no attached garage, and also from Section 10.2 h) *Building Height*, which limits the permitted building height to 7.4m for any portion of a dwelling with a roof pitch of less than 4 to 12 (rise to run). In this respect, the applicant seeks recognition of a flat-roofed, single detached dwelling with 1.54m and 2.65m interior side yard setbacks and a building height of 9m.

## **Background**

**Planning Designations:** Grand Bend is designated “Urban Centre” in the Lambton County Official Plan, which permits a variety of land uses, including residential. The subject lands and surrounding properties are designated “Residential” in the Lambton Shores Official Plan. In Zoning By-law 1 of 2003, the lands and surrounding properties are zoned the “Residential-4 (R4) Zone”, which permits single detached dwellings. The existing use of a single detached dwelling conforms to the permitted uses of the Official Plans and the Zoning By-law.

There are no natural heritage or natural hazard designations and no Conservation Authority regulated areas on the subject lands.

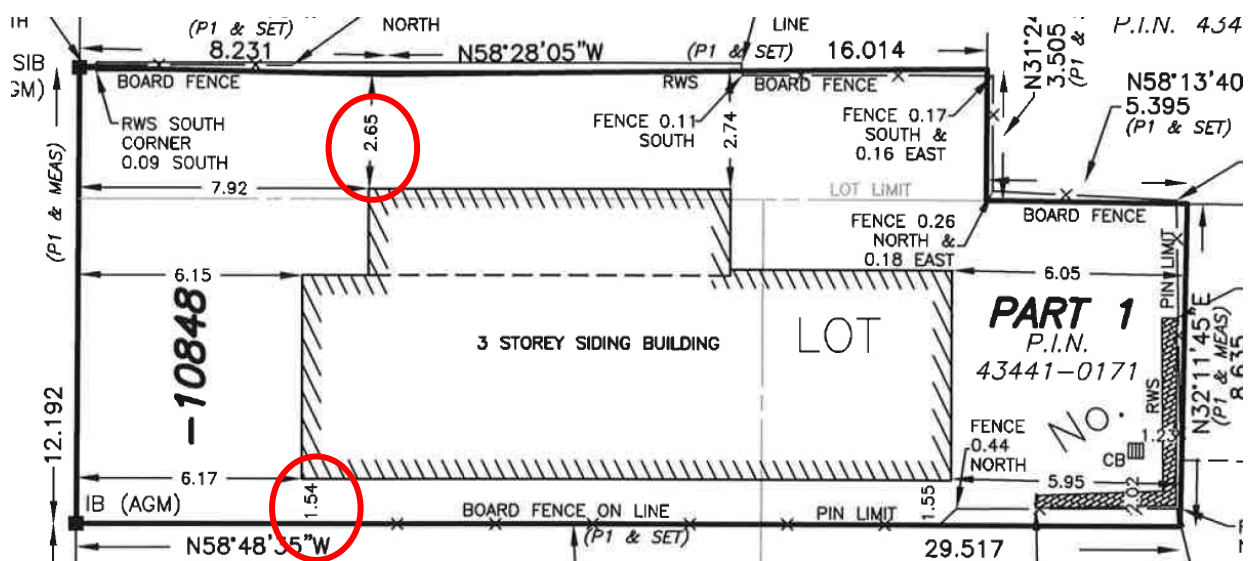
In the Zoning By-law, the R4 Zone requires 1.2m minimum interior side yards but requires that one side yard be increased to 3m if there is no attached garage. This permits a parking space beside the house or passage to a rear yard garage or parking space.

The height restrictions of the R4 Zone provisions were amended on August 10, 2021 by By-law 56 of 2021. Previously the maximum permitted height was 9m or 29.52 feet (measured from the finished surface of the ground floor to the highest point of the building). Since the amendment, any portion of a dwelling that is flat or has a roof pitch of less than a 4:12 pitch is restricted to a maximum permitted height of 7.4m or 24.27 feet.

Building Permit History: There is an existing house on the property. It was constructed under permit #2020-0103, issued in 2020. The dwelling was substantially completed and issued an occupancy permit on July 29, 2021. However several items required for final occupancy, to close out the permit, were not submitted to the Building Department, and the permit was revoked June 15, 2023.

In order to obtain final occupancy, the applicants submitted a new building permit application on June 12, 2024, and have now submitted all the information outstanding from the previous permit process.

The Problem: One of the outstanding items required to close out the building permit was a foundation survey, which showed that the house was not constructed in accordance with the foundation plan. Instead of 1.2m and 3m interior side yards, it was constructed with 1.54m and 2.65m side yards.



Secondly, when the original permit was issued in 2020, the permitted building height was 9m, and the house was constructed to exactly 9m with a flat roof. Occupancy was granted July 29, 2021. On August 10, 2021, the zone provisions were amended to impose a 7.4m height limit on flat-roofed buildings in the R4 Zone. Per Section 34(9)(a) of the *Planning Act*, if the building permit had not lapsed, this non-compliance with the new height restriction would not have prevented the applicants from closing out the building permit. For the new permit to be issued however, compliance with the new zoning provision, a variance, or rezoning is required.

## **Discussion**

The house is complete and its misplacement by 35cm (the long dimension of a 'legal' sheet of paper) was presumably accidental. In Staff's opinion, relative to the benefits that would be achieved, it is impractical and unrealistic at this point to expect that the house be relocated or modified to meet either the side yard or the new height restriction.

In the absence of an attached garage, the 3m side yard is intended to allow passage to a rear yard parking area or parking beside the house, but the minimum required parking space width under 3.29.1 of the Zoning By-law is actually only 2.7m. The actual side yard on the north side of the dwelling is 2.65m at its narrowest and 2.74m at its widest and basically provides the required width for a parking space.

The community design policies for Grand Bend at Section 15.4.2 of the Official Plan promote the preservation of Grand Bend's "seaside village resort 'feel' ". In 2021, being of the opinion that some of the new dwellings being constructed in Grand Bend were inconsistent with this community design goal, Council directed that the height provisions be amended to prevent third floor roof-top patios and to reduce the massing of new dwellings. The 7.4m height restriction on flat and lo-pitch roofs was intended to accomplish this. When construction of this house was commenced in 2020 and occupancy granted on July 29, 2021 however, the dwelling was in compliance with the height restrictions that then implemented the Official Plan design policies. The Zoning By-law amendment was intended to apply to new development and alterations going forward.

There are other dwellings constructed in the R4 Zone in the few years before the 2021 Zoning amendment that are now legal non-complying with respect to height. Maintenance of the existing dwellings, repair and potentially replacement (in the case of fire) are permitted, but additions and voluntary replacements must comply with zoning provisions going forward (see Section 3.6 of the Zoning By-law). A condition of the variance should be that these conditions apply to this property also, in future.

## **Recommendation**

Based on the circumstances and the discussion above, it is Staff's opinion the impact to the integrity of the zoning provisions would be minor and the recognition of this existing structure in its current location is appropriate for the development of the lands and

maintains the intent of the Official Plan and Zoning By-law respecting dwellings commenced prior to the change in height restrictions.

It is therefore Staff's opinion that the requested minor variance meets the tests of a variance under the *Planning Act* and has no objection to approval of the variance as requested, subject to the condition that, going forward, the dwelling be treated as legal non-complying with respect to height and side yard and future additions, renovations, and replacements.

**Subject Lands (2020 Air Photos)**

