

# THE MUNICIPALITY OF LAMBTON SHORES

Report COA 04-2025

Committee Meeting Date: January 22, 2025

**TO:** Chair Robinson and Members of the Committee of Adjustment

**FROM:** Ken Bulgin, Planner

**RE:** Deferred Minor Variance Application A-16/2024 - Plan 402 Pt Lot 100 – 9680 Ipperwash Road, Lambton Shores – James & Karyn Thuss

## **RECOMMENDATION:**

**THAT** Minor Variance Application A-16/2024, affecting lands known as 9680 Ipperwash Road, to permit the construction of a two-storey detached garage be approved in part, with the (revised) requested variance to permit an accessory building height of 7.25 m (23.75 ft) being denied, and the variance which would permit a total maximum lot coverage of 96 m<sup>2</sup> (1033.34 ft<sup>2</sup>) for accessory buildings, be approved, subject to the following condition(s).

1. That the variance (for maximum lot coverage) only apply to permit construction as proposed in the applicant's submission.

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## **SUMMARY**

A revised application has been made for a minor variance seeking relief from Zoning By-law 1 of 2003:

1. Section 3.3.4 to increase the maximum lot coverage for an accessory building from 93 m<sup>2</sup> (1001 ft<sup>2</sup>) to 96 m<sup>2</sup> (1033.34 ft<sup>2</sup>); and
2. Section 3.3.4 to increase the maximum building height for an accessory building from 6.1 m (20 ft) to 7.25 m (23.75 ft).

It is the intent of the applicant to construct a two-storey garage\woodworking shop approximately 72.5 m<sup>2</sup> (780.38 ft<sup>2</sup>) in size. This is in addition to an existing 23.5 m<sup>2</sup> (252.95 ft<sup>2</sup>) detached garage on the property.

The application, as originally submitted, requested a lot coverage of 96 m<sup>2</sup> and a building height of 7.95 m.

## **BACKGROUND**

The formal public hearing for this application was held at Committee's December 18<sup>th</sup>, 2024 meeting. Staff report COA 22-2024 outlined the proposal and relevant policy considerations and is attached as additional background. In the report, Staff

recommended denial of the application in part. Committee deferred a decision to allow Staff time to review additional information brought forward by the applicant.

In response, Staff provided feedback with a recommendation to the applicant to revise the requested building height to 6.5 m (21.32 ft).

The applicant has instead submitted a new request for a building height of 7.25 m (23.75 ft) which is a reduction of approximately 0.7 m (2.3 ft) from the original request for a 7.95 m building height (Attached to Report).

The applicant has provided written statements from two neighbours (Attached to Report). The letters state that the neighbours understand that the required maximum building height of 6.1 m would be increased to the original request of 7.95 m for a proposed garage and that they have no objections.

### ***Summary of Variances Required***

Based upon the amended request, an analysis of the proposal with the requirements of Sections 3.3.3, 3.3.4 of the Zoning By-Law for Accessory Buildings and Section 12.2 of the Zoning By-Law for the Residential – 6 (R6) Zone determined the following variances are required. These requirements are specific to the construction of an accessory building:

<i>Provision</i>	Section	Section Requirement	Proposed	Compliant/Variance Required:
<i>Maximum Total Lot Coverage</i>	3.3.4	93 m <sup>2</sup>	<b>96 m<sup>2</sup></b>	<b>Variance Required</b>
<i>Maximum Building Height</i>	3.3.4 ii)	6.1 m	<b>7.25 m</b>	<b>Variance Required</b>

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

### **COMMENTS**

At the December 18<sup>th</sup>, 2024 Committee of Adjustment meeting the applicants provided Staff\Committee a list of four properties, in the near vicinity of the subject lands, that contained accessory buildings they believed were comparable to their initial request to permit a 7.95 m building height (whereas a maximum 6.1 m (20 ft) building height is permitted). As mentioned previously, Committee deferred a decision on the application to allow staff time to review the information.

Staff review of the four properties concluded that:

#### ***6625 East Parkway Drive***

- a building permit was issued in 2000 (prior to our current Zoning By-law of 2003) without the requirement of a minor variance

### **6627 East Parkway Drive**

- a building permit was issued in 2023, meeting all site requirements of the Zoning By-law and no requirement for a minor variance

### **9628 Richardson Drive**

- a minor variance was requested for location, building height (7.5 m or 24.6 ft), and lot coverage in 2019. The variances for lot coverage and building height were denied and the variance for location was approved by the Committee. A building permit was issued in 2020. The building height for this permit was issued for 5.7 m (18.73 ft) from ground to peak.

### **9675 Richardson Drive**

- a minor variance was requested for a 7.62 m building height to an addition to the back of an existing accessory building. The Committee approved a reduced maximum building height of 7.25 m in 2022. The Planners' justification in recommending the 7.25 m building height included that the addition sat two feet lower than the existing accessory building's main floor. From the front, the addition appears to be approximately 6.5 m in height or 0.4 m (1.39 ft) over the 6.1 m (20 ft) maximum building height. A building permit for the accessory building was issued in 2022.

A follow-up meeting was held with the applicants on Friday January 10<sup>th</sup>, 2025 to discuss the findings of the Review and the revised building height request of 7.25 m.

The applicants indicated the 7.25 m height would:

- allow for sufficient height on the ground floor to accommodate wood working materials
- allow for spacing of scissor roof trusses
- remove the requirement of a support post on the second floor
- maintain a comparable roof slope to the main dwelling
- be comparable with the approved variance for the property located at 9675 Richardson Drive
- be shielded by trees that surround the perimeter of the property
- not set precedent due to the uniqueness of the property in not being located along a road (landlocked)

Staff does not dispute that the applicants would construct a building with an appearance that complimented the existing dwelling. Staff also agree that the property is somewhat unique, as a landlocked parcel. However, there is no constraint on the property (e.g. Area of Regulation) that restricts the applicants from meeting the required building height of 6.1 m. The proposed accessory building would be a new construction and Staff feel the proposed uses (garage, woodworking shop, storage) for the building can be met with the current maximum building height of 6.1 m and certainly with the 6.5 m height that Staff has indicated they can be supportive of for this property (taking into

account the minor variance decision for 9675 Richardson Drive, the topography, and the location of the property).

The revised maximum building height request for the accessory building, though better, still fails to address Staff’s concerns regarding scale, in relation to the dwelling and surrounding buildings. In addition, allowing a newly constructed accessory building a height of 7.25 m, an increase of approximately 18.8% over the current maximum building height, could further undermine the maximum building height provision in the Zoning By-law. As such, the analysis and recommendation in the previous Report COA 22-2024 (attached) continue to apply.

In Staff’s opinion, that the proposal for maximum building height does not maintain the intent of the zoning by-law with respect to the scale of the development, that the proposed structure is therefore not appropriate for the development of the lands, that a variance in this case would negatively impact the integrity of this zoning provision, and that the tests of a variance are therefore not met.

**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>
<p><i>County of Lambton Building Services Department</i></p>	<p>A septic system evaluation was completed in 2017. The system components remain in general conformity with the 2012 Ontario Building Code. An updated site inspection was completed, and the system appears to be in good working order at this time. The proposed garage will not impact the septic system in a negative manner which would affect its performance, as it relates to location.</p> <p>The septic system must be clearly plotted on the lot diagram when the building permit is applied for. Please do not allow vehicular traffic in the septic area, nor allow it to be utilized as a construction laydown space. It is suggested the area be clearly staked and always protected.</p>
<p><i>Adjacent Property Owners</i></p>	<p>No other comments have been received as of January 15, 2025. All comments received prior to the January 22, 2025, Committee of Adjustment meeting date shall be presented at the meeting.</p>

On the basis of the policy context provided above and in the previous report, related to the Municipality of Lambton Shores Official Plan, and Zoning By-law, Planning staff are of the opinion that the variance to allow an increase in building height for an accessory building does not meet the tests of Section 19.8.2.1 of the OP in accordance with the *Planning Act* and cannot be supported. The variance to allow an increase in the maximum total lot coverage for an accessory building can meet the four tests and is recommended for approval subject to conditions.

**ATTACHMENT 1: LOCATION MAP**



**SUBJECT PROPERTY**