

THE MUNICIPALITY OF LAMBTON SHORES

Report COA 22-2024

Committee Meeting Date: December 18, 2024

TO: Chair Robinson and Members of the Committee of Adjustment

FROM: Ken Bulgin, Planner

RE: 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 requested variance to permit an accessory building height of 7.95 m (26.08 ft) being denied, and the variance which would permit a total maximum lot coverage of 96 m² (1033.34 ft²) for accessory buildings, be approved, subject to the following condition(s).

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

SUMMARY

An 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 m² (1001 ft²) to 96 m² (1033.34 ft²); and
2. Section 3.3.4 to increase the maximum building height for an accessory building from 6.1 m (20 ft) to 7.95 m (26.08 ft).

It is the intent of the applicant to construct a two-storey garage\woodworking shop approximately 72.5 m² (780.38 ft²) in size. This is in addition to an existing 23.5 m² (252.95 ft²) detached garage on the property.

BACKGROUND

The property is situated east of Ipperwash Road, and south of East Parkway Drive in Ipperwash (Attachment 1). The subject lands are rectangular in shape, are approximately 1416.4 m² (0.35 acres) in area, with no frontage on a municipal road. It is a landlocked parcel of land.

Access to the property is from Ipperwash road through an easement over properties at 9676 (which fronts Ipperwash Road) and 9678 Ipperwash Road.

The lands are located in a low-density residential area made up of a mix of year round housing and seasonal cottages.

The subject lot is occupied by two structures; a single-storey cottage and a detached garage. The remainder of the property contains a mix of cleared and grassed areas interspersed with trees, the majority of which are located along the perimeter of the property.

Surrounding land uses include:

- **To the north:** lands zoned for commercial and residential use with a mix of single detached dwellings and cottages beyond which is Lake Huron
- **To the east:** lands zoned for residential use with a mix of single detached dwellings and cottages beyond which are lands zoned for Open Space use and owned by the Government of Ontario;
- **To the south:** lands zoned for commercial and residential use with a mix of single detached dwellings and cottages beyond which are lands owned by the Nature Conservancy of Canada (NCC); and
- **To the west:** lands zoned for commercial and residential use with a mix of single detached dwellings and cottages beyond which are lands owned by the Government of Ontario.

Official Plans

The subject property is designated as “Urban Settlement” in the County of Lambton Official Plan and “Residential - Ipperwash” in the Lambton Shores Official Plan (OP).

The Ipperwash Residential Designation is a special designation recognizing a internationally significant dune succession/oak savannah ecosystem that provides habitat for provincially and nationally significant flora and fauna which can include Species at Risk (SAR).

Zoning By-Law

The subject property is Zoned as “Residential – 6 (R6)” in the Zoning By-law 1 of 2003.

The R6 Zone permits residential uses including a single detached dwelling subject to the requirements of Section 12.2 *Site Regulations* of the Zoning By-Law and allows buildings, structures and uses accessory to a permitted use subject to the requirements of Section 3.3 of the Zoning By-Law. The proposed detached garage conforms with the Provisions except for:

- a) the total lot coverage of all accessory buildings in Section 3.3.4; and
- b) the height of an accessory building in Section 3.3.4 (ii)

Section 3.3.4 of the Zoning By-law states:

“...The total Lot Coverage of all Accessory Buildings and Structures on a Lot in a Residential Zone shall not exceed 93 square metres or 10% of the Lot Area, whichever is less....”

Section 3.3.4 ii) of the Zoning By-law states:

“For buildings and structures with lot coverage between 68 square metres to 93 square metres a maximum height of 6.1 metres shall be permitted.”

Regulated Area

The subject lot is not located within a General Regulation Area regulated by the St. Clair Region Conservation Authority and does not contain significant natural heritage features.

Summary of Variances Required

Based upon the Site Plan details (Attachments 2 and 3), 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>	<i>Section</i>	<i>Section Requirement</i>	<i>Proposed</i>	<i>Compliant/Variance Required:</i>
<i>Maximum Total Lot Coverage</i>	3.3.4	93 m ²	96 m²	Variance Required
<i>Maximum Building Height</i>	3.3.4 ii)	6.1 m	7.95 m	Variance Required

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

COMMENTS

Proposed Development

The application proposes construction of a two-storey detached garage with the first-floor housing vehicles and the second floor being a woodworking shop with additional storage area. The accessory building would be approximately 9.14 m (30 ft) wide, 7.93 m (26 ft) deep, 72.5 m² (780.38 ft²) in area with a building height of 7.95 m (26.08 ft)(Attachment 4).

The applicants sketch indicates the accessory building would be located towards the northwest corner of the property, north of the existing house, south of the property access, and would maintain a minimum setback of 4.77m (15.67 ft) from all property lines.

The owner has indicated the extra building height is required for the second floor to allow for proper use of the woodworking shop.

The existing detached garage measures 3.76 m (12.33 ft) wide, 6.25 m (20.5 ft) deep, 23.5 m² (252.95 ft²) in size with an approximate building height of 3 m (9.84 ft).

Accessory Building Location (Landlocked Parcel)

The subject lands do not have frontage along a street. The applicants are able to gain access to the lot from Ipperwash Road through an easement over properties at 9676 (which fronts Ipperwash Road) and 9678 Ipperwash Road.

The Zoning By-law definitions for lot lines are as follows:

- Front Lot Line
“...the line dividing the Lot from the Street...”
- Rear Lot Line
“...the Lot Line farthest from and opposite to the Front Lot Line...”
- Side Lot Line
“...a Lot Line other than a Front or Rear Lot Line, and shall include Interior Side Lot Line...”

In the absence of a street abutting the subject property (frontage), the property is not considered to have a Front Lot Line or a Rear Lot Line according to the Zoning By-law and therefore all four sides are treated as Interior Side Lot Lines. As a result, all yards can be considered Interior Side Yard and the location of the proposed Accessory Building would be permitted in any yard on the property.

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 general intent and purpose of the Official Plan maintained?

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

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

The intent of restricting accessory building size (Lot Coverage and Building Height) is to limit the potential for the creation of accessory buildings that are out of scale or character with a residential area and also to limit potential for the establishment of uses that are inappropriate or overly intensive for a residential area.

At approximately 72.5 m² in size the proposed detached garage when combined with the existing 23.5 m² detached garage totals 96 m² for total lot coverage for all accessory buildings. This is 3.22% larger than the 93 m² maximum total lot size allowable for accessory buildings in the R6 Zone but can be considered secondary in size to the existing residence on the property which is approximately 148 m².

While the subject lands do not front Ipperwash Road, development along this street, in the near vicinity of the subject lands can be used as comparison.

On July 24, 2024 a minor variance was granted for a property at 9649 Ipperwash Road, located to the south of the subject lands and on the west side of Ipperwash Road, that permitted a total lot coverage of 101.38 m² for accessory buildings on the property. This property had a lot size of 1497.34 m² (0.37 acres) whereas the subject lands are approximately 1416.4 m² (0.35 acres) in area offering a good comparable.

It is staff's opinion the proposed increase in total accessory building lot coverage will remain secondary to the existing dwelling, is consistent with accessory structure lot coverages in the neighbourhood, and meets the intent of the Zoning By-Law.

Conversely, the proposed building height of 7.95 m is approximately 30.33% larger than the 6.1 m maximum building height for accessory buildings in the R6 Zone. The detached garage would also be approximately 59% taller than existing cottage (approximately 5 m in height).

Staff are of the opinion, the request for an increase in the maximum building height for an accessory building, would result in a development that is not secondary to the existing dwelling and does not meet the intent of the Zoning By-law.

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

The applicant has indicated that the current one-storey cottage is approximately 148 m² (1600 ft²) and does not have a basement. The proposed detached garage would increase storage capacity space available to the applicant and provide a second floor workshop.

Regarding the request for an increase in total Lot Coverage, the accessory building would be located to the front of the existing cottage but considered to be in the Interior Side Yard (as discussed previously) and would maintain all required setbacks in the Interior Side Yard. The proposed garage would be separated from the neighbouring property by a line of trees along the property line beyond which is an existing detached garage on the

abutting lot. A modest increase in lot coverage will have no impact upon neighbouring properties.

Staff are of the opinion that the requested variance for an increase total lot coverage for all accessory buildings is appropriate for the development of the land.

With regard for the request to increase the maximum building height, the proposed detached garage is situated well back from the front Ipperwash Road, however, despite having a number of mature trees along the perimeter of the property, a building with a 7.95 m height in this location would still be visible to neighbouring properties, be significantly taller than existing cottage (approximately 5 m in height). In addition, there is no development comparable in height in the neighbourhood.

Staff is of the opinion that allowing an increased building height for this accessory building is not appropriate for the development of the land.

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 first variance request is to allow an increase in total lot coverage for accessory buildings. The proposed accessory building would be located to the front of the existing detached garage, in an already cleared area, and have minimal visibility from neighbouring properties and visibility from Ipperwash Road. With a total lot coverage (existing detached garage and proposed detached garage) of 96 m², a modest 3.22% increase in the permitted lot coverage of 93 m², it would not be out of character, for total lot coverage of accessory buildings, with other properties in the area.

It is staff's opinion that the variance request for an increase in total lot coverage is minor in nature.

The size of the proposed accessory building is significantly taller than what is permitted in the Zoning By-law and the existing cottage (approximately 5 m in height). Without comparable in the neighbourhood, despite the property being surrounded by mature trees and away from Ipperwash Road, allowing this variance would set precedence for development in this area and the municipality.

It is therefore staff's opinion that this variance request for increased building height for an accessory building is not minor in nature.

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>
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<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 December 10, 2024. All comments received prior to the December 18, 2024, Committee of Adjustment meeting date shall be presented at the meeting.</p>

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 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.

PREVIOUS DRAFT

ATTACHMENT 1: LOCATION MAP

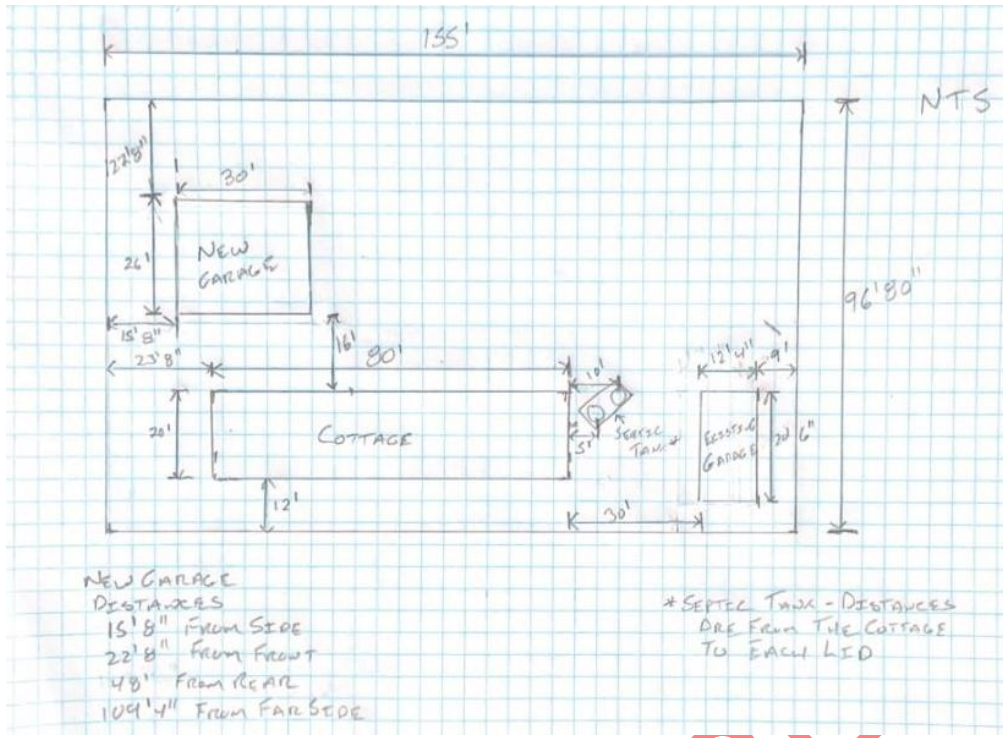
RT



SUBJECT PROPERTY

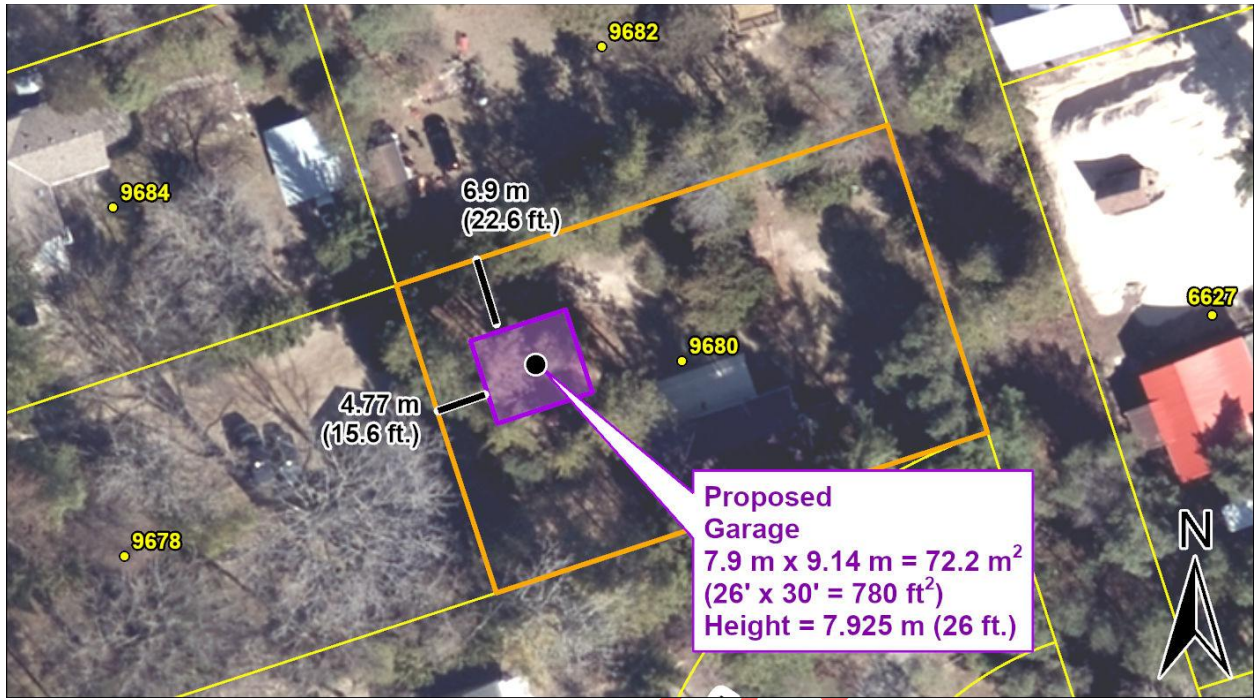
ATTACHMENT 2: SITE PLAN (APPLICANT)

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PREVIOUS REPORT

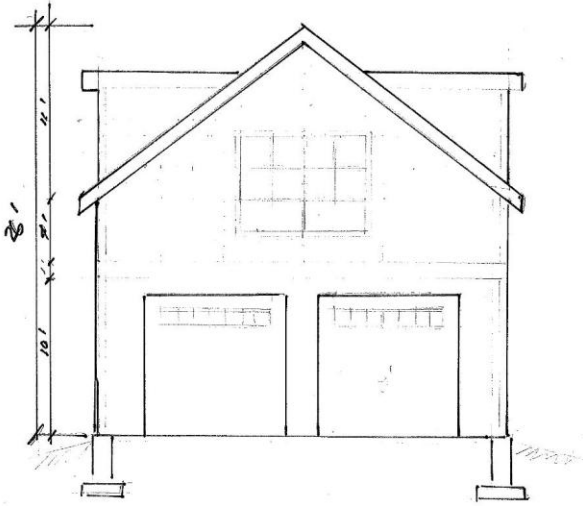
ATTACHMENT 3: SITE PLAN (GIS)



ATTACHMENT 4: ACCESSORY BUILDING HEIGHT (ELEVATION)

PREVIOUS

PROPOSED TRUSS GARAGE
PRELIMINARY FRONT ELEVATION



PREVIOUS REPORT