

THE MUNICIPALITY OF LAMBTON SHORES

Report COA 07-2025

Committee Meeting Date: March 26, 2025

TO: Chair Robinson and Members of the Committee of Adjustment

FROM: Ken Bulgin, Planner

RE: Minor Variance Application A-06/2025 – Con B Plan 7 Part Lot 24 RP
25R225 Part 34 – 8434 Defore Drive – Mark and Lise Crenna

RECOMMENDATION:

THAT Minor Variance Application A-06/2025, affecting lands known as 8434 Defore Drive, Lambton Shores, which would permit a 2 m solid type construction fence in a front yard, be approved, subject to the following condition(s):

1. That the applicant pay any outstanding fees and obtain any permits required by the Ausable Bayfield Conservation Authority (ABCA); and
2. That the variance only apply to permit construction as shown in the applicant's sketch.

SUMMARY

An application has been made for a minor variance seeking relief from Section 2 c) of the Fence By-law 80 of 2008 which prohibits a fence of solid type construction over 0.91 m (3 ft) in height from being located in a front or exterior yard – i.e., extending closer to the front lot line than the dwelling. The applicants have constructed a fence, 2 m (6.56 ft) in height of solid type construction, extending 4.88 m (16.01 ft) forward of the existing house.

BACKGROUND

The property is situated on the north side of Defore Drive approximately 270 m east of Haig Line (see Attachment 1). The subject lands are irregular in shape and approximately 1618.74 m² (0.4 acres) in area, with approximately 24.42 m (80.11 ft) of frontage along Defore Drive.

The lands are located in a residential development on the north side of the Ausable River (Cut) and made up of predominantly single detached dwellings.

The property contains two structures, a single detached dwelling and detached garage. The remainder of the property is maintained as grassed areas with a few trees and shrubs along the perimeter.

Surrounding land uses include:

- **To the north:** lands zoned for Agricultural use;
- **To the east:** lands zoned for Residential use, occupied by single detached dwellings;
- **To the south:** lands zoned for Residential use, occupied by single detached dwellings beyond which is the Ausable River (Cut); and
- **To the west:** lands zoned for Residential use, occupied by single detached dwellings.

Official Plans

The subject property is designated as “Agricultural Area” in the County of Lambton Official Plan and “Residential – Special Policy Area” in the Lambton Shores Official Plan (OP).

Zoning By-Law

The subject property is Zoned as “Residential 6” in the Zoning By-Law 1 of 2003. The R6 Zone lists Single Detached Dwelling as a permitted use, with site regulations listed at Section 12.2 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.

Section 3.3.2 of the Zoning By-law lists a fence as a structure permitted in all yards

Fence By-law

The constructed fence conforms with the General Provisions of Section 2 of the Fence By-law 80 of 2008 except for the requirement that a fence does not exceed 0.91 (3 ft) in height for solid type construction, measured from ground level, in a front yard or exterior yard.

Regulated Area

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

Summary of Variances Required

Based upon the Site Plan details, an analysis of the proposal with the requirements of Section 2 of the Fence By-law determined the following variances are required. These requirements are specific to the construction of a fence:

<i>Provision</i>	<i>Section</i>	<i>Section Requirement</i>	<i>Proposed</i>	<i>Compliant/Variance Required:</i>
<i>Maximum Front Yard Fence Height</i>	2 c)	0.91 m Closed Type Construction	2 m Closed Type Construction	Variance Required

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

COMMENTS

Development

The application indicates that a fence has recently been constructed approximately 0.8 m inside the western property line (Interior Side Lot Line) extending the existing fence alongside a portion of an asphalt walkway that abuts the dwelling from a gate to approximately 5 m from the southern property line (Front Lot Line). The portion of the fence that abuts the asphalt walkway (located in the interior side yard) and extends to approximately 4.88 m beyond the front of the dwelling is approximately 2 m in height of solid type construction. The remainder of the fence (located in the front yard) that extends to within approximately 5 m of the front lot line is to be approximately 0.91 m (3 ft) in height of solid type construction (see Attachment 2). (Note that the height of the posts that have been set does not reflect what will be the finished height of the front portion of the fence to the street.)

The applicant has indicated that the extension of the 2 m high fence, of solid type construction, approximately 4.88 m into a front yard, is to provide privacy between the subject property and the neighbouring property at 8430 Defore Drive due to the close proximity of the two driveways and the forward location of the neighbouring house.

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, 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.

Discussion

Section 2 c) of the Fence By-law states that the maximum height for a fence located in a front or exterior yard cannot be more than 0.91 m (3 ft) in height, for solid type construction, measured from ground level.

Section 2 d) of the Fence By-law states that the maximum height for a fence located in an Interior Side or Rear Yard cannot be more than 2 m (6.56 ft) in height, measured from ground level.

Solid Type Construction is defined in the Fence By-law as:

“...a fence constructed so that its vertical surface is obstructed, preventing motorists and pedestrians from having a clear view through such fence”

A higher permissible fence height for interior side yards and rear yards (between houses) is to provide privacy and security between abutting properties and/or uses. A lower permissible fence height in a front yard aims to balance aesthetics, maintain community visibility, and ensure traffic safety by ensuring visibility for drivers and pedestrians.

The house on the subject lands is located 18.65 m (applicant survey) from the front property line while the house on the neighbouring property at 8430 Defore Drive is approximately 8.5 m (LambtonGIS) from the front property line. This results in the house at 8430 Defore Drive being over 10 m (LambtonGIS) closer to the front lot line than, and forward of, the dwelling on the subject property. The requested 4.88 m extension of the 2 m high fence to the front of the house on the subject lands would provide screening from windows and a doorway off the east side of the neighbouring house which faces the subject lands. As a comparison, the abutting property at 8430 would be permitted to construct a fence, to a 2 m height, to the front edge of the house (carport), along the same interior lot line, which is over 5 m closer to the front property line than what is being requested by the applicant.

In addition, typically, in a subdivision, a driveway is located in the same general area on a lot to provide separation. In this particular case the two driveways occur within close proximity of one another with little separation between property owners.

Planning Opinion

Planning Staff are of the opinion the variance request is minor in nature, as the abutting property would be able to construct a 2 m high fence along the same lot line well forward of the applicants request, as of right, that the request meets the general intent of the Official Plan and Fence By-law and is desirable and an appropriate use of land in providing added privacy for landowners of both the subject lands and 8430 Defore Drive with no impact upon driver and pedestrian sight lines and/or safety.

Department and Agency Comments

The application has been circulated to the required agencies as per the *Planning Act*. No comments have been received as of March 18, 2025. All comments received prior to the March 26, 2025, Committee of Adjustment meeting date shall be presented at the meeting

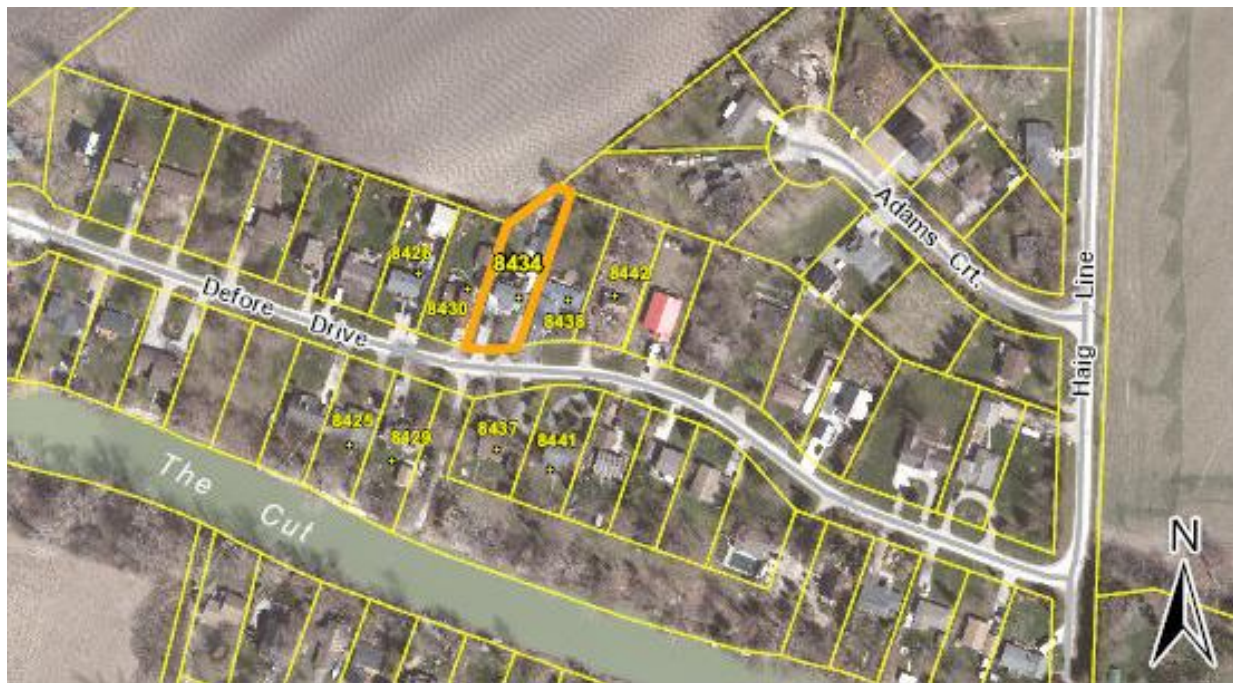
Summary

The abutting property could construct the same fence on their side of the property without variance because their house sits closer to the front lot line.

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 Fence By-law 80 of 2008. 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, Zoning By-law, and Fence 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



SUBJECT PROPERTY

ATTACHMENT 2: SITE PLAN (GIS)

