

THE MUNICIPALITY OF LAMBTON SHORES

Report COA 09-2025

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-08/2025 – Plan 6 Lot 121C LOT 122 W Pt;
Lot 117 – 7571 Cornell Trail, Port Franks – Michael Tkaczyk (Agent:
Zelinka Priamo Ltd. (c/o Aliyah Richards))

RECOMMENDATION:

THAT Minor Variance Application A-08/2025, affecting lands known as 7571 Cornell Trail, Port Franks, which would permit an accessory structure 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; and
2. 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 3.3.3 a) of the Zoning By-law 1 of 2003 which prohibits detached accessory structures from being located in a front yard – i.e., being placed closer to the front lot line than the dwelling. The applicants propose to construct a 92.99 m² (1000.94 ft²) detached garage forward of the existing house.

BACKGROUND

The property is located on the south side of Cornell Trail and east of Erie Street (see Attachment 1). The subject lands are irregular in shape and approximately 1471 m² (0.36 acres) in area, with approximately 5 m (16.4 ft) of frontage along Cornell Trail.

The lot is situated to the rear of 7569 and 7581 Cornell Trail and 9972 Erie Street, and is accessed by a narrow neck of land 40.2m long and 5.0m wide (the width of the front lot line) that extends to Cornell Trail. The property backs onto an unopened municipal road allowance beyond which is the Mud Creek watercourse.

The subject lot is occupied by a single detached dwelling.

In 2022 the applicant submitted Minor Variance application A20/2022 proposing to replace a single detached dwelling with a two-storey single detached dwelling. The

applicant was seeking to locate the dwelling 5.5 m (18 ft) from the rear lot line whereas the 7.5 m (24.6 ft) was required.

ABCA provided comments that it could not support the variance due to the proposed location of the new dwelling being located with the “floodway”, a highly hazardous portion of the floodplain.

On September 28th, 2022 the Committee of Adjustment deferred the application. The application was later withdrawn by the applicant.

Surrounding land uses include:

- **To the north:** lands zoned for residential and commercial use with a mix of single detached dwellings and cottages, beyond which is Lake Huron;
- **To the east:** lands zoned for residential and commercial which include abutting properties designated as Natural Environment in the Official Plan beyond which are a mix of single detached dwellings and cottages;
- **To the south:** lands zoned Open Space which include the Lower Mud Creek Drain and Provincially Significant Wetlands which are part of an Environmentally Sensitive Area (ESA) and Area of Natural and Scientific Interest (ANSI); and
- **To the west:** lands zoned Open Space which include the Lower Mud Creek Drain and Provincially Significant Wetlands which are part of an Environmentally Sensitive Area (ESA) and Area of Natural and Scientific Interest (ANSI)

Provincial Policy Statement 2024

Although the PPS encourages development patterns that avoid significant or sensitive resources and areas which may pose a risk to public health and safety Section 5.2.5 states that:

“...development and site alteration may be permitted in certain areas associated with the flooding hazard along river, stream, and small inland lake systems:

a. in those exceptional situations where a Special Policy Area has been approved...”

Official Plans

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

Consistent with the Provincial Policy Statement 2024, the Residential Special Policy Area policies of the Official Plan (2015) permit development, subject to conditions. Section 5.6 Residential Special Policy area of the Official Plan notes:

“This designation applies to existing residential areas... that are located in the flood fringe... these are areas that historically existed in a floodplain, but site-specific policies approved by the province allow existing uses to continue. The

continuation of existing uses avoids the significant social and economic hardships to the community which would result through a strict interpretation of the PPS and Conservation Authorities' flood and fill regulations."

Permitted uses within these areas include:

"Existing residential uses... All additions, expansions or extensions shall be floodproofed to the satisfaction of the Conservation Authority."

Zoning By-Law

The subject property is Zoned as "Residential – 5 (R5)" in the Zoning By-Law 1 of 2003.

The R5 Zone permits residential uses including a single detached dwelling subject to the requirements of Section 11.2 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 house and garage conform with the Provisions except for the location of an accessory building in Section 3.3.3 (a).

Section 3.3.3 (a) of the Zoning By-law states:

"...Except as otherwise provided for in any Residential Zone, an Accessory Building or Structure which is not attached to the Main Building shall not be erected in any Yard other than the Interior Side Yard or Rear 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.

Under Ontario Regulation 147/06, the ABCA regulates development, including construction on lands located within a regulated area. The property is regulated due to a flooding hazard and proximity to a Provincially Significant Wetland.

Summary of Variances Required

Based upon the Site Plan details, 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 11.2 of the Zoning By-Law for the Residential – 5 (R5) Zone determined the following variances are required. These requirements are specific to the construction of a single detached dwelling and an accessory building (see Attachments 2 & 3):

<i>Section 3.3.3 Provision</i>	<i>Section 3.3.3 Requirement</i>	<i>Proposed</i>	<i>Compliant/Variance Required:</i>
<i>Location of Accessory Bldg(s)</i>	Interior Side Yard or Rear Yard	Front Yard	Variance Required

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

COMMENTS

Development

The application proposes construction of a single detached dwelling with a height of 7 m (22.97 ft) and a lot coverage of 148.64 m² (1599.95 ft²). The house would be located towards the southern edge (rear) of the property.

The application also proposes construction of a detached single storey garage that would be 6.1 m (20 ft) in height, and 92.99 m² (1000.93 ft²) in area. The applicant's sketch indicates the accessory building would be placed northwest of the proposed dwelling, 3.3 m (10.82 ft) from the interior side lot line to the west and 7.5 m (24.61 ft) from the lot line to the north. The building would be brick sided with steel paneled roofing and have two roll up doors facing the driveway to the east.

The applicant has indicated that the proposed front yard location of the detached garage is due to the placement of the house towards the rear of the property in a similar location as the existing dwelling that is to be removed, and to avoid the portion of the property identified as floodway by the ABCA.

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 variance is to allow an accessory building in the front yard. Due to the unique design of the property that situates it in behind properties along Cornell Trail and Erie Street, the proposed accessory building is located a significant distance from the front lot line, making the proposed building placement, adjacent to the rear lot of the neighbouring properties, similar to what would be expected where rear yards abut with minimal to no visibility from the road.

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 – Special Policy Area A”.

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 location of the Accessory Building. The Residential-5 (R5) Zone lists “Single Detached Dwellings” as a Permitted Use, along with “Buildings, Structures and Uses Accessory to a Permitted Use”.

Staff are of the opinion that due to the unique design of the property and the accessory building’s placement in a yard abutting the rear yards of neighbouring properties, and minimal to no visibility from either Cornell Trail or Erie Street, the proposed location of this building in the front yard will not adversely affect the streetscape or neighbourhood character.

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

From a property perspective, the shed is located away from the floodway portion of the property and would offer the applicant a space to park vehicles away from outdoor elements and provide a storage area to locate property maintenance equipment.

From a neighbourhood perspective, the proposed location of the accessory building is well back from both Cornell Trail and Erie Street with minimal to no visibility of the proposed building from the road. With the location of the unique property to the rear of abutting neighbouring lots Staff is of the opinion this development would not detract from the continuity in street design and building lines and adheres to the basic design principles important in maintaining an aesthetically pleasing community.

From a Hazard perspective, the ABCA has issued a permit for the proposed structures, indicating their support for the variance.

Planning Opinion

The Special Policy Area provisions of the Official Plan and the R5 Zoning enable the Municipality to permit development in this designation. As per policies in Sections 5.4 and 5.6 of the Lambton Shores Official Plan, however, this is conditional upon the Conservation Authority permitting development under its regulations.

The ABCA has confirmed support for the application of the proposed garage in this location from a natural hazards perspective through its permitting process.

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 Developmental Services Dept.</i>	A septic permit has been issued (SP-25-001). The design and approval incorporates the proposed plumbing in the detached garage, but no habitable space or sleeping rooms are permitted.
<i>Ausable Bayfield Conservation Authority (ABCA)</i>	No comments were provided other than the issuance of their permit.
<i>Adjacent Property Owners</i>	No comments 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.

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.

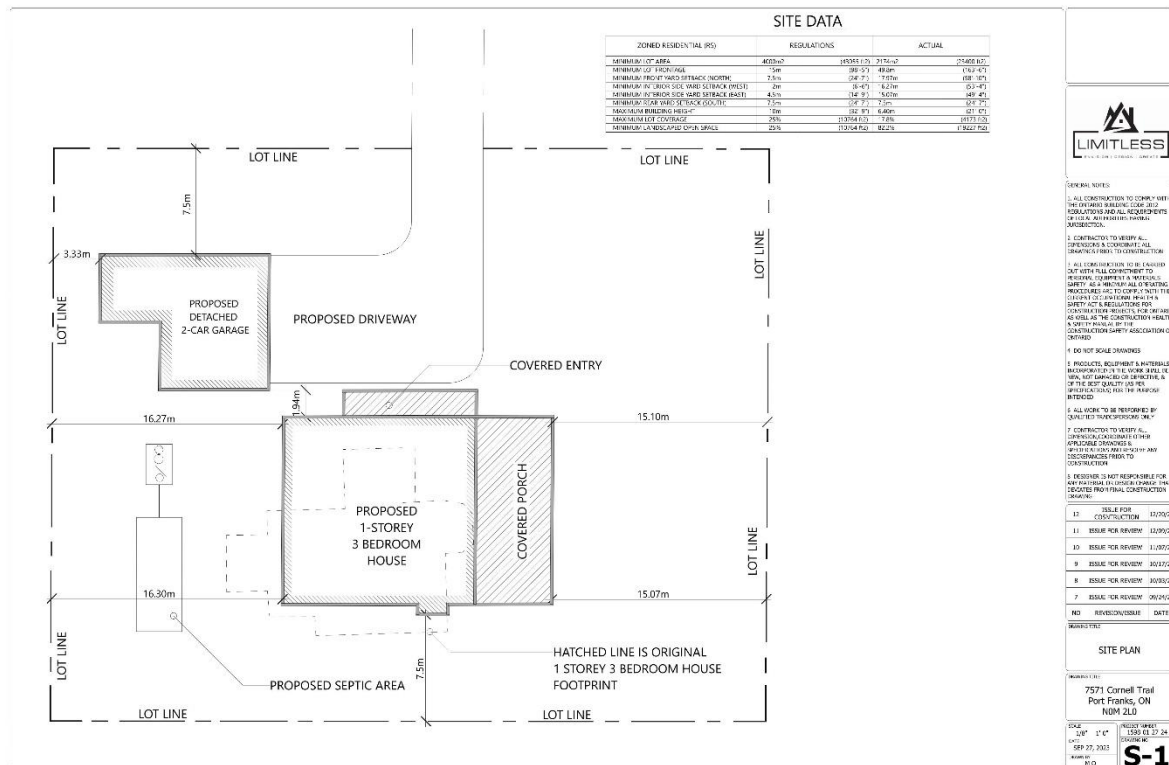
On the basis of the policy context provided above related to the Municipality of Lambton Shores Official Plan, and Zoning By-law, Planning staff are of the opinion that the variances can meet the tests of Section 19.8.2.1 of the OP in accordance with the *Planning Act*. Therefore, Planning staff have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

ATTACHMENT 1: LOCATION MAP



SUBJECT PROPERTY

ATTACHMENT 2: SITE PLAN (APPLICANT)



ATTACHMENT 3: SITE PLAN (GIS)

