

February 12, 2025

sent via email

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RE: Application for Minor Variance
Michael Tkaczyk
7571 Cornell Trail
Port Franks, ON
Our File: LVL/LKS/22-01

Zelinka Priamo Ltd., on behalf of Michael Tkaczyk, is pleased to submit an application for Minor Variance for the above noted property (the “subject lands”) to permit a detached garage in the front yard as apart of the proposed redevelopment of the lands for a new single-detached dwelling.

The subject lands are located on the south side of Cornell Trail, southwest of the intersection of Riverside Drive and Superior Street. The subject lands are irregular in shape with a narrow driveway providing access to the rear, rectangular-shaped portion of the parcel currently occupied by a single-detached dwelling (Figure 1).

A technical variance is required due to the presence of an unopened road allowance between the subject lands and the open space lands containing a watercourse to the south.

Figure 1 – Aerial view of the subject lands



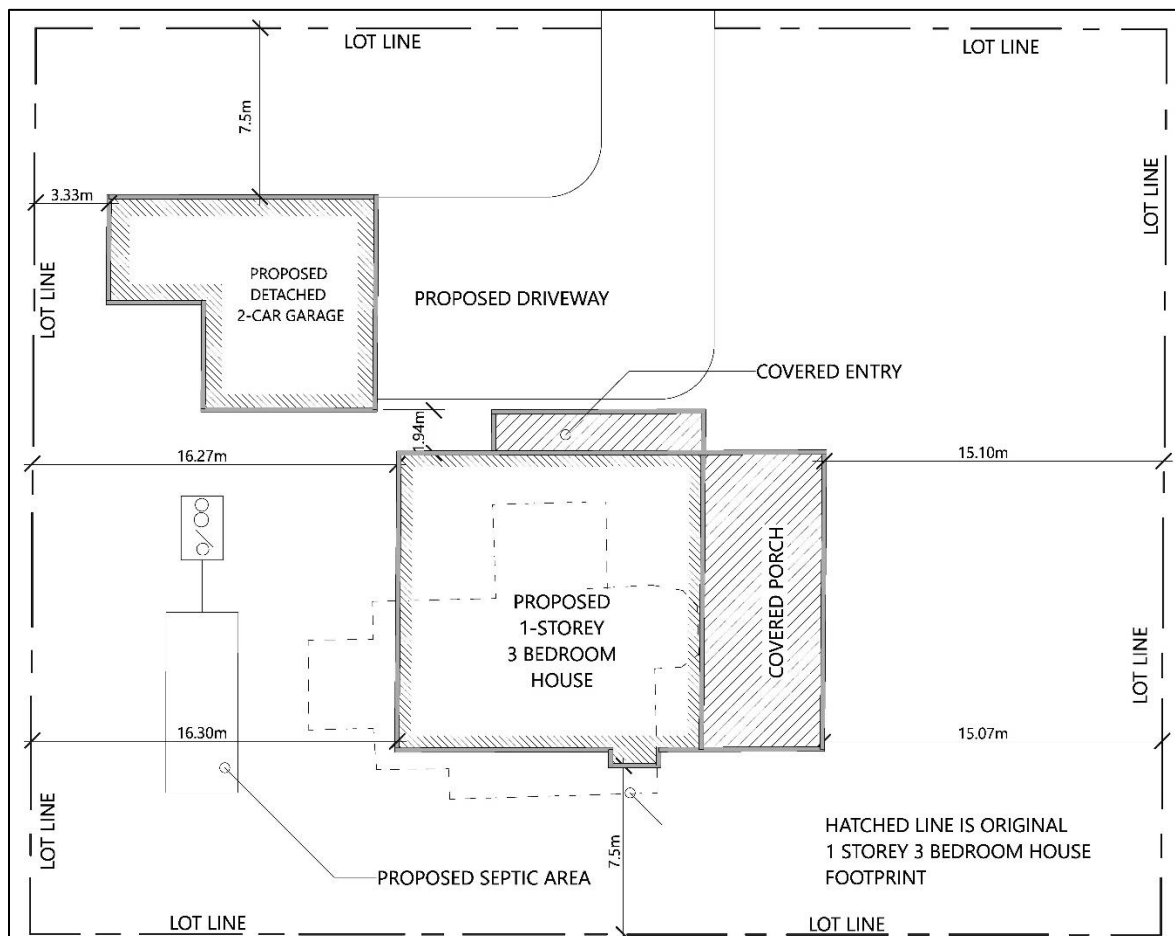
The existing dwelling is proposed to be removed and replaced by a single-storey, single-detached residential dwelling and detached garage.

The surrounding area consists primarily of residential uses, being single-detached dwellings and cottages, as well as open space. Notably, the subject lands abut open space to the east and an unopened road allowance to the south with a watercourse beyond.

The lands are designated as *"Urban Settlement"* in the Lambton County Official Plan; are designated as part of the *"Residential – Special Policy Area A"* land use designation in the Municipality of Lambton Shores Official Plan; and, are zoned *"Residential – 5 (R5) Zone"* as per Schedule A-3 to the Municipality of Lambton Shores Zoning By-law. The above noted policy and regulatory documents permit a single detached dwelling and non-habitable detached garages on the subject lands. Significant consultation with the Ausable Bayfield Conservation Authority (ABCA) has been undertaken over the past several years regarding the proposed new dwelling.

Based on the site plan provided by the owner (Figure 2), the proposed development of the subject lands shows a detached, 1-storey garage in the front yard of subject lands. The regulations of the General Provisions (Section 3.3.3) of the Municipality Of Lambton Shores By-Law for accessory buildings and structures require such accessory built-forms to be located in the interior side yard or rear yard within Residential Zones, unless the property backs on to a watercourse.

Figure 2 – Site Plan (excerpt)



Given the above, the following variance to the Zoning By-law is requested in order to permit the proposed redevelopment of the subject lands for a new single-detached dwelling and detached garage:

- Relief from Section 3.3.3 a) to permit a detached garage in the front yard of the subject lands whereas detached accessory structures are permitted in interior side yards and rear yards, except that a detached accessory building or structure may be permitted in the front yard of a lot that abuts a watercourse including Lake Huron, provided it is not located any closer to the front lot line, side lot line or exterior side lot line than is permitted for a dwelling in the residential zone in which it is located.

To assess the merit of an application for Minor Variance, the four tests under Section 45 of the *Planning Act* are applied. Analysis of the four tests is as follows:

Does the variance meet the general intent of the Official Plan?

The lands are designated “*Urban Settlement*” in the County of Lambton Official Plan, which is described in Section 3.2.3 as areas to “strengthen and/or develop land uses, services, and functions similar to urban centres although to a lesser scale and variety”. The designation permits single-detached dwellings and accessory structures.

Similarly, the lands are designated “*Residential – Special Policy Area A*” in the Lambton Shores Official Plan. Section 5.6 describes Residential Special Policy Areas as they apply to the subject lands in Port Franks, stating that such areas are “located in the flood fringe between the floodway and the regulatory flood level”. Permitted uses within this designation include additions, expansions, or extensions to existing residential uses, as well as residential infilling on existing lots provided that they are floodproofed. The redevelopment of the subject lands for a new single detached dwelling and detached garage is permitted in the Official Plan.

The proposed variance to permit a detached garage in the front yard of the subject lands would be generally consistent with the existing residential dwellings and accessory structures within the special policy area as outlined in both the County of Lambton and Lambton Shores Official Plans, and would not result in a significant difference to the intended use of the property’s front yard in comparison to existing neighbourhood characteristics.

Does the variance meet the general intent of the Zoning By-Law?

The subject lands are within the “*Residential – 5 (R5) Zone*”. Permitted uses for the R5 zone include single-detached dwellings and accessory structures.

Section 3.3.3 a) requires that an “*accessory buildings or structures which are not attached to the main building shall not be erected in any yard other than the interior side yard or rear yard except that a detached accessory building or structure may be permitted in the front yard of a lot that abuts a watercourse including Lake Huron, provided it is not located any closer to the front lot line, side lot line or exterior side lot line than is permitted for a dwelling in the residential zone in which it is located*”, whereas the proposed redevelopment locates the detached garage in the

front yard of the subject lands. The new dwelling is proposed to be located in the same general location as the existing dwelling to maintain views of the open space and watercourse to the south. The location of the detached garage was determined to be optimal in order to provide ease of access for maintenance of the new septic system. Locating new dwellings at the rear of lots that abut watercourses to maintain views is a generally expected practice and is accounted for in the Lambton Shores Zoning By-law, as detached garages are permitted in the front yards of lots with such configurations. However, with the abutting lands to the south being an unopened road allowance, the subject lands are not ‘technically’ considered to abut a watercourse, and therefore, would not meet the provisions of the Zoning By-law in this instance.

Given the location of the unopened road allowance within the flood fringe, development of the municipally owned lands is improbable and will likely remain in it’s current state for the foreseeable future. Considering the undevelopable nature of the municipal road allowance and the unique configuration of the lot, the proposed dwelling and detached garage are located such that optimal views are maintained and the septic system is easily accessible for maintenance.

Another objective of requiring accessory structures to be located in rear/side yards is to maintain streetscape compatibility with abutting residential uses and to ensure the accessory structure does not detract from the main building. Notably, a detached garage is located in the front yard of 7576 Cornell Trail located 20m northeast of the subject lands, and at 7690 Gillespie Street (Figure 3), demonstrating that detached accessory structures within front yard setbacks is common in the surrounding context of the subject lands.

Figure 3 – Nearby lot with detached garage in front yard setback (7690 Gillespie Street)



In the case of the subject lands’ lot configuration with a narrow access driveway and the existing dwelling positioned at the rear of the lot, the majority of the amenity space is located in the front and side yards of the dwelling, and, due to the abutting land uses, being an unopened road allowance to the south with a watercourse/swamp beyond, and residential uses to the west with ample building separation from the single detached dwelling located at 9972 Erie Street, no undue or adverse impacts are anticipated as a result of the proposed garages’ location on the subject lands.

Any practical development scenario on the subject lands would require a garage to be located within the front yard setback. The proposed detached garage will not obstruct views of the proposed single-detached dwelling and is clearly secondary to the proposed dwelling. Given the

unique lot configuration, the proposed variance to permit the detached garage in the front yard of the subject lands generally maintains the purpose and intent of the regulations applicable to accessory buildings and structures in Residential Zones.

Is the requested Variance(s) minor in nature?

The proposal to construct a detached garage in the front yard of the subject lands is contextually minor, and would not have any material impact to the function of the subject lands, nor any undue adverse impact on adjacent lands. The proposed single detached dwelling and detached garage comply with all other regulations of the Municipality of Lambton Shores Zoning By-law, including required lot coverage, height, setbacks, and minimum ground floor area.

Is the request desirable for the appropriate use of the land, building, or structure?

The proposed variance is intended to allow the redevelopment of the subject lands for a specific detached garage design and single-detached dwelling. The development of the subject lands for a new single-detached dwelling and accessory structure is desirable given the policy intent to revitalize and invest in residential areas. Therefore, the variance is desirable for appropriate for the use of the subject lands.

CONCLUSION

Given the above, it is our opinion that the proposed variance to permit a detached garage in the front yard of the subject lands satisfies the four tests for Minor Variance under the Planning Act.

Please find the following digital materials submitted to support the application for Minor Variance:

- The completed Minor Variance application form and declarations;
- Letter of authorization from the land owner; and,
- Building design plans.

The required application fees will be provided to the Municipal offices separately.

We trust that the enclosed information is complete and satisfactory and look forward to a timely approval process. Should you have any questions or require additional information, please feel free to contact our office.

Yours very truly,

ZELINKA PRIAMO LTD.



Aliyah Richards, BEDP
Planner

cc: Michael Tkaczyk