

# THE MUNICIPALITY OF LAMBTON SHORES

**Report PL 30-2023**

**Council Meeting Date: December 19, 2023**

**TO:** Mayor Cook and Members of Council

**FROM:** Will Nywening, Senior Planner

**RE:** ZBA Application ZO-12/2023 – 125 King St, Thedford – Adam Brebner

## **RECOMMENDATION:**

**THAT** Report PL 30-2023, relating to a Zoning By-Law Amendment Application submitted by Adam Brebner, be received;

**THAT** ZBA Application ZO-12/2023, submitted by Adam Brebner, requesting an amendment to Zoning By-Law 1 of 2003 to rezone 125 King St, Thedford, to permit a day nursery, be approved; and

**THAT** By-Law 88 of 2023 be approved.

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## **SUMMARY**

This report relates to the Zoning Amendment application submitted by the Adam Brebner, affecting lands known as 125 King St, Thedford. The applicant proposes to rezone the properties to a new site-specific Residential-1 Zone permitting a day nursery. In this respect, the applicant proposes to convert the existing single detached dwelling, recently used as a clinic, to a day nursery.

## **BACKGROUND**

**Official Plan:** The subject parcel and surrounding neighbourhood is designated “Urban Settlement” in the Lambton County Official Plan and “Residential” in the Lambton Shores Official Plan. The Residential Area policies of the Lambton Shores Official Plan permit public and institutional use, including day-care centres, within the Residential designation but states such uses should be located on collector or arterial roads. This Official Plan also permits home occupations in the Residential designation.

**Zoning By-law:** In Zoning By-law 1 of 2003, the subject lands and surrounding neighbourhood are zoned “Residential-1 (R1) Zone”. The R1 Zone permits low density residential uses: single detached, semi-detached, and duplex dwellings and type 1 group homes. It also permits home occupations.

Per Section 3.10.1 b) of the Zoning By-law, a doctor’s office (“clinic”) is permitted as a home occupation. Per Section 3.29, the zone provisions require 5 parking spaces per

practitioner for a Clinic and 1 space per staff member for a day nursery. Minimum parking space dimensions are 2.7m by 5.5m (8.8 feet by 18 feet).

Previous Use: the subject lands were used as a clinic from 1991 until 2022. The Council of the (former) Village of Thedford passed By-law 9 of 1991, a site-specific amendment to add a “clinic” as a permitted use on this property. Later in 1991, the Lambton County Land Division Committee granted a minor variance to permit the required parking spaces to encroach partially onto the Sherrard St boulevard. The former Village also entered into a site plan agreement with the property owner that addressed the parking encroachment.

Proposed Use: the applicants have submitted a written summary (included in Council’s agenda) of their proposed use of the existing dwelling as a day nursery. No portion would be used a dwelling or apartment. They propose a day nursery with 5 staff and 26 children. No changes are proposed to the building footprint. They propose to continue to use the parking along Sherrard St as the clinic had done, which encroaches partially on the boulevard. They have removed the existing detached garage and propose to erect a fence around the rear yard with the fence at the edge of the existing parking area on the south side.

## **DISCUSSION**

Change of Use: The Residential policies of the local Official Plan (Section 5.3) permit day nurseries and similar uses within the Residential designation, describing them as “compatible land uses serving the needs of local residents”. This is qualified in the local Official Plan by the statement that such uses should be located on collector and arterial roads. This qualification is met as King St, like all County Roads, is designated in the local Official Plan as an arterial road.

In staff’s opinion, the former clinic use supports the appropriateness of a conversion to a day nursery. Although the land use characteristics are not identical, the clinic use means the property has, historically, already been subject to a greater level of activity than is normal for most residential uses. The property has been a clinic since a zoning amendment in 1991 by the former Village of Thedford. This site-specific zone did not carry forward to the new (current) 2003 zoning by-law of the amalgamated Municipality of Lambton Shores. This is presumably because a “clinic” is now permitted as of right as a type of home occupation in the standard R1 Zone.

Visually, the proposed day care will be in character and scale with the neighbourhood. The existing building was constructed as a dwelling and still has the physical form of a dwelling even after its use as a clinic. The applicants indicate the building can be converted to a day nursery with no exterior alterations to the building and minimal interior alterations. Staff anticipates that conversion back to a residence would also be relatively simple. The only exterior alterations are some landscaping and a fence.

The R1 Zone’s site regulations vary depending on for which of the permitted residential uses the lot is used. As no alteration to the building are required there is no need for site-

specific zone setbacks. In case there is any construction proposed in the future however, the site-specific zone provisions should specify which regulations would apply to a day nursery. As the existing building was originally built as, and has the form of, a single detached dwelling, it makes sense to apply the same regulations as apply to that dwelling type.

Parking: the proposed change of use does not change the site's parking requirements under the zoning by-law. It requires 5 spaces per practitioner for a clinic. With a requirement of 1 space per staff member and 5 staff members proposed, it also requires 5 spaces for the proposed day nursery. There is no requirement to add parking spaces.

The zoning requirements for a day nursery are based on staff member numbers and do not address drop-offs. However the site has more than the minimum number of parking spaces. The application indicates the existing parking area width along Sherrard St is 96 feet. It may be difficult with unmarked spaces and a telephone pole within the boulevard, but there is potentially enough width for 10 parking spaces. There is also parallel parking on King St, with 3 spaces directly in front of the subject lands. Drop-offs are relatively brief and staggered by customers' varying schedules. The applicants have advised that it is their opinion that the number of surplus spaces available (beyond what their staff requires) exceeds the maximum number of drop-offs that would be occurring at any one time.

The site currently relies on continuous parking access along much of the side street and parking spaces that partially encroach onto the boulevard. This is not ideal, but was permitted by a 1991 minor variance. If the spaces are not maintained properly or begin to encroach closer to the intersection, for example, the Municipality has some controls through a site plan agreement that is registered on title to which the current owners are subject. In consultation with Public Works, they are content to allow the existing situation to continue for the proposed use as a day nursery. A change to any other use should require re-assessment.

Draft Amending By-law: Staff has drafted an amending by-law, included in the by-laws section of Council's agenda. As drafted, the amendment would:

- Change the zone designation of 125 King St, Thedford from the R1 to a new R1-17 Zone (Exception 17 to the R1 Zone).
- Add text to the R1 Zone's Special Provisions at Section 7.3 of the Zoning By-law establishing the new R1-17 Zone provisions, which would include:
  - Listing a day nursery as a permitted use in addition to the uses already permitted by the standard R1 Zone.
  - Clarifying that a day nursery is subject to the same zone regulations as a single detached dwelling (since the zone regulations vary depending for which of the permitted uses a lot in the R1 Zone is used).
  - Clarifying that parking may continue to encroach on the boulevard per the existing situation, but only for the proposed day nursery use and subject to maintaining the area in an appropriate standard.

Planning Opinion: The creation of a day nursery in a residential area is supported in principle and deemed compatible with residential uses by the local Official Plan. It's location on an arterial road and the previous use as a clinic add to the appropriateness of this particular location, in Staff's opinion. It meets what Staff perceives to be a need in the community. Based on the previous approvals granted, the controls in the site plan agreement registered to title, and the comments of the Public Works department, Staff can support the continuation of the existing parking encroachment so long as the use is a day nursery.

In Staff's opinion the proposed zoning amendment, as drafted, conforms to applicable Planning policies, is appropriate, and represents good planning. Staff can support the amendment as proposed.

### **ALTERNATIVES TO CONSIDER**

None at this time.

### **RECOMMENDED ACTIONS**

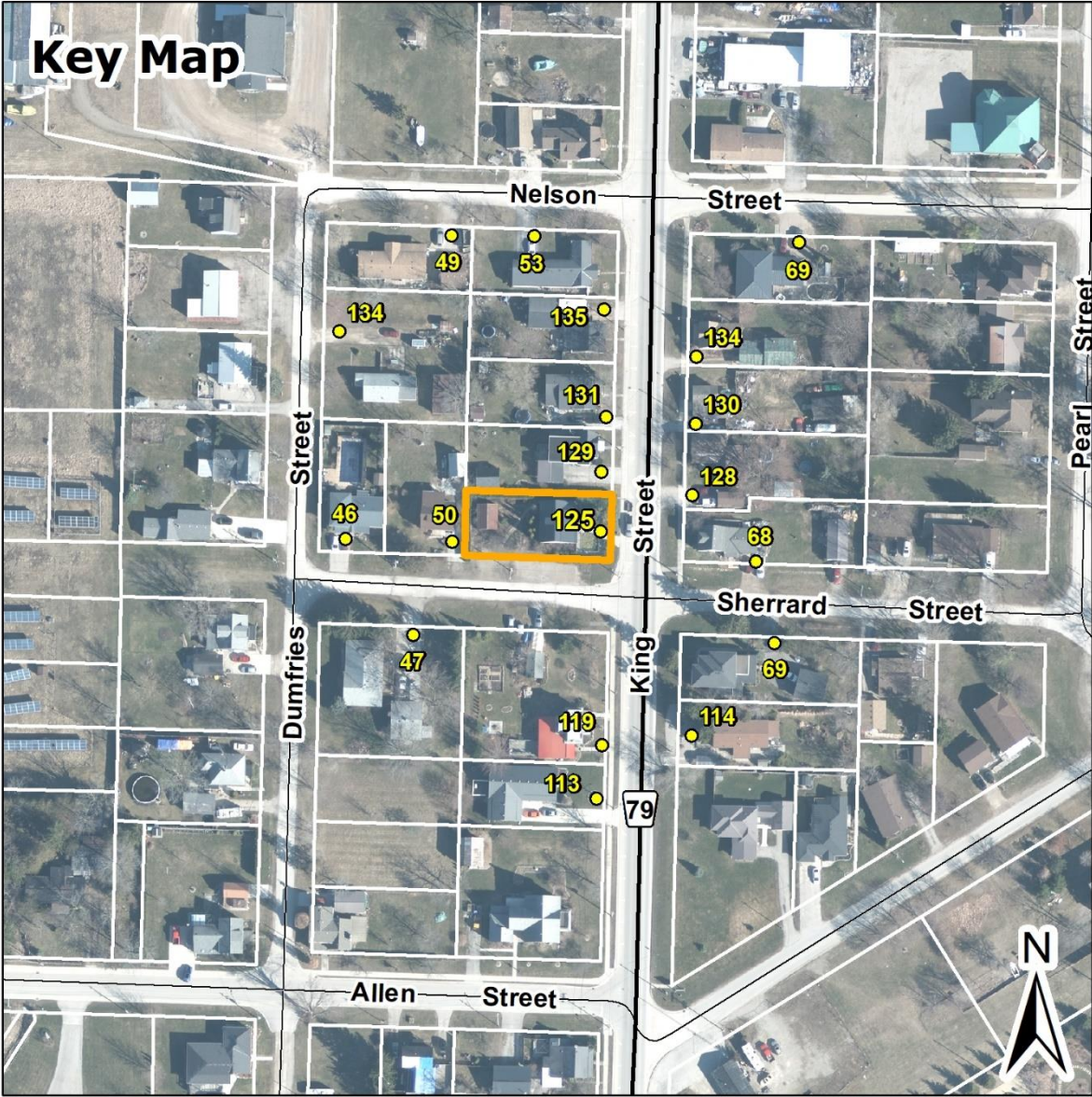
Staff recommend that the Zoning By-law Amendment Application ZO-12/2023 be approved.

### **FINANCIAL IMPACT**

The applicant has paid the Municipality a \$1300 application fee for rezoning.

### **CONSULTATION**

The applicants  
Nick Verhoeven, Director of Public Works Department, Municipality of Lambton Shores



**SUBJECT PROPERTY**

APPLICANT:	Adam George Brebner
LOCATION:	Plan 3 Lot 10 125 King Street, Thedford, Lambton Shores
FILE:	ZO-12/2023