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Community Planning

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Our File: **A17-19**

APPLICATION FOR PERMISSION

TO: Town of Tillsonburg Committee of Adjustment
MEETING: December 9, 2019
REPORT NUMBER: 2019-376

OWNERS: Johannes and Ann-Marie Veldmen
68 Concession Street, West, Tillsonburg ON, N4G 1RS

REQUESTED PERMISSION:

Pursuant to Section 45(2) of the Planning Act, the applicants have applied for permission to extend an existing legal non-conforming use to permit the construction of an addition to an existing dwelling and a new detached accessory building. It is proposed that the said addition will consist of an attached garage and additional living space, approximately 171.8 m² (1,850 ft²) in size.

LOCATION:

The subject property is described as Part Lot 716, Plan 500 and Part 1 Plan 41R-2656, in the Town of Tillsonburg. The subject lands are located on the north side of Concession Street West, lying between Victoria Street and Charlotte Avenue and are municipally known as 68 Concession Street, West, Tillsonburg.

BACKGROUND INFORMATION:

COUNTY OF OXFORD OFFICIAL PLAN:

Schedule 'T-1'	Town of Tillsonburg Land Use Plan	Residential, Open Space and Environmental Protection
Schedule 'T-2'	Town of Tillsonburg Residential Density Plan	Low Density Residential, Open Space and Environmental Protection

TOWN OF TILLSONBURG ZONING BY-LAW:

Passive Open Space (OS1) with 100 year Flood Line Regulated Limit

SURROUNDING USES:

Surrounding land uses are predominately comprised of wooded flood plain land associated with Stoney Creek, with recreational trails to the south. Low density residential development, consisting mainly of single detached dwellings are located to the east and southwest and institutional lands are located to the north (Glendale Secondary School).

(a) Purpose of the Application:

The applicants have applied for permission under Section 45(2) of the Planning Act to allow for the extension of an existing legal non-conforming residential dwelling, which will be comprised of an addition to the existing garage and will include an accessory residential dwelling unit. The applicants have also requested permission to build a detached residential accessory building. The applicants have indicated that the existing dwelling that is located on the subject property, which is located entirely within the regulated flood plain area, was built in 1966.

It is proposed that the garage addition will be located on the north side of the existing dwelling, while the proposed detached shed will be located to the east, outside of the area designated as Environmental Protection. It is also proposed that the accessory dwelling unit will be occupied by family members of the applicants.

The applicants have also submitted a peer-reviewed Environmental Impact Study prepared by Dance Environmental to support the proposed development and demonstrate there will be no adverse impact to the Environmental Protection areas or adjacent natural heritage features if all of the recommendations of the EIS are implemented.

Plate 1, Location Map with Existing Zoning, shows the location of the subject property and the zoning in the immediate vicinity.

Plate 2, 2015 Aerial Photo, provides an aerial view of the subject lands.

Plate 3, Applicant's Site Sketch, shows the location of the existing and proposed development, including the approximate location of the proposed detached accessory building.

(b) Agency Comments:

The application was circulated to a number of public agencies. The following comments were received:

Long Point Region Conservation Authority provided the following comment:

Staff has reviewed the above noted application and LPRCA has no objections to its approval.

It should be noted that portions of the subject property are located within the Flood and Erosion Hazards associated with Big Otter Creek, however; from the site layout details provided in the application, the proposed development is located above /outside of the Regulated Flood and Erosion Hazard. The subject lands are also located completely within the Regulation Limit of

Ontario Regulation 178/06 and a permit is required from this office for site development as proposed within this application.

Town Building and By-Law Services Department indicated that the project will require LPRCA approval.

Town Engineering Services Department indicated that an easement is required over the trunk sanitary sewer to the west of the dwelling. The easement may also be in the form of a blanket easement.

(c) Public Consultation:

Public Notice was mailed to surrounding property owners on November 7, 2019. To date no comments of concern have been received from the public.

(d) Planning Review:

Section 45(2) of the Planning Act provides that the Committee of Adjustment may, where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed.

Section 10.3.5 (Zoning By-law and Non-Conforming Uses) of the Official Plan states that the Committee of Adjustment may permit the extension, enlargement or change of use of a legally established land use that does not conform to the Official Plan and the local area municipal Zoning By-law. In evaluating such applications, the Committee shall consider the following criteria:

- the use has been continuous from the day the Zoning By-law came into effect;
- there will be no extension of the site or building beyond the limits of land owned and used from the effective date of the By-law;
- permission for the extension, enlargement or change in the non-conforming use is in keeping with the general intent of the Official Plan and will not aggravate those aspects of the use that do not conform to the Official Plan or Zoning By-law;
- that existing municipal services such as water, sewers, stormwater management facilities and roads will be adequate;
- that there are adequate parking and loading facilities to accommodate the proposed use;
- that the proposed extension, enlargement or change in use would include measures to reduce nuisances, protect adjacent properties and improve the compatibility of the use with surrounding areas; and,
- that the extension, enlargement or change in use is necessary to avoid undue hardship on the applicant, provided that all other criteria have been met, there are no negative effects on environmental resources and the proposed use is more compatible than the existing use relative to the relevant Official Plan policies.

In considering such applications for permission, the policies also state that the Committee of Adjustment may attach such conditions as it deems appropriate to the approval of an application within its jurisdiction to extend, enlarge or change a legal non-conforming use.

The majority of the subject lands are designated as Environmental Protection and Open Space, while the area containing the existing and proposed development is designated as Low Density Residential.

It is the intent of the Environmental Protection designation to ensure the long-term protection, conservation and enhancement of designated Environmental Protection Areas and to prohibit uses incompatible with this objective and to ensure that development permitted within or adjacent to Environmental Protection Areas adheres to environmental planning principles. It is also the intent of the Official Plan to require Environmental Impact Studies within or adjacent to Environmental Protection Areas as part of the development review process to assess the sensitivity of the area and its function and to ensure that possible development or site alteration will not detrimentally impact the area. Permitted uses within the Environmental Protection designation include minor additions to existing buildings developed and located on existing cleared land in accordance with the Zoning By-law

The subject lands are also designated as Open Space, which applies to regulated flood plain areas, floodways where two zone flood plain policies apply, Conservation Authority lands and other public lands, as well as Earth Science Areas of Natural and Scientific Interest and parks, pathways, recreation areas and stormwater management facilities. Permitted uses in the Open Space designation are generally limited to active and passive recreational uses, and structures necessary to the Open Space use, such as golf course "pro shops", clubhouses, refreshment stands, bleachers and change houses. The Official Plan provides that existing uses are permitted within the designation and such uses may expand or undergo a change in use, subject to the provisions of the existing zoning.

The applicant is proposing an addition to an existing single detached dwelling that is located on a portion of the subject lands that is designated as Low Density Residential, which is intended for the development of a variety of low-rise, low density housing forms, including single detached dwellings, semi-detached dwellings, duplexes, converted dwellings, quadraplexes, townhouses and low density cluster development. This land use designation is intended for a mixing and integration of different forms of housing to achieve a low overall density of use.

It is the opinion of the Planning office that this application complies with the criteria outlined in Section 10.3.5 of the Official Plan. Property information on file and information provided by the applicant indicate the existing dwelling has been located on the subject lands since 1966, and have continued to be used for residential purposes since that time which is in keeping with the above-noted criteria outlined in the Official Plan. Further, it is noted that the proposed development will be wholly located within the confines of the subject lands and will be adequately serviced by existing municipal water and wastewater.

Further, staff are satisfied that approval of the applicant's request will have minimal impact on the quality of the surrounding Environmental Protection features as the proposed development will be located outside of this area, in the area designated as Low Density Residential, which permits infill development. To further demonstrate there will be no adverse effect on the integrity of the surrounding environmental features, the applicant has submitted a peer-reviewed Environmental Impact Study and the recommended implementation measures from the study are included as proposed conditions of approval. A permit from the Long Point Conservation Authority will be required prior to the issuance of a building permit. It is also recommended that

a condition be included requiring the applicant to provide the Town & County with an easement over the existing trunk sanitary sewer, located to the west of the dwelling.

(f) Summary:

In light of the foregoing, it is the opinion of this Office that the applicant's proposal can be given favourable consideration. Staff are satisfied that the application complies with the criteria outlined in Section 45(2) of the Planning Act and complies with the policy direction contained in Section 10.3.5 of the Official Plan respecting non-conforming uses.

RECOMMENDATION:

That the Town of Tillsonburg Committee of Adjustment **approve** Application File A17-19, submitted by Johannes and Ann-Marie Veldmen, for lands described as Part Lot 716, Plan 500, Part 1 Plan 41R-2656, municipally known as 68 Concession Street West, Town of Tillsonburg, as it relates to:

1. Permission to construct an addition to the existing single detached dwelling on the subject lands for the purpose of an attached garage and secondary residential dwelling unit, and;
2. Permission to construct a detached residential accessory building, to a maximum size of 165 m² (1,776 ft²) on the subject lands,

Subject to the following conditions:

- i. A building permit for the proposed accessory structure shall be issued within one year of the date of the Committee's decision;
- ii. An LPRCA permit shall be issued and a silt-control fence shall be installed as per Figure 1 & 2 of the Environmental Impact Study prepared by Dance Environmental prior to any earthworks being undertaken on the subject lands;
- iii. A tree-saving plan be prepared prior to removing any trees on the property;
- iv. Planting of replacement native deciduous trees (one for each tree removed) be done on the property;
- v. That the applicant provide an easement to the County of Oxford over the existing trunk sanitary sewer.
- vi. That the proposed addition and accessory building be located in a manner in-keeping with that illustrated on Plate 3 of Report 2019-376.

Authored by:
Planner

Heather St. Clair, MCIP, RPP, Development

Approved for submission by:

Eric Gilbert, MCIP, RPP, Senior Planner

Report Approval Details

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Final Approval Date:	Nov 27, 2019

This report and all of its attachments were approved and signed as outlined below:

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Ron Shaw - Nov 27, 2019 - 9:12 PM