



## MUNICIPALITY OF THAMES CENTRE

**REPORT NO.** PDS-036-24

**FILE NO.** A6-24

**TO:** Mayor and Members of Council

**FROM:** A. Kertesz, Planner

**MEETING DATE:** June 24, 2024

**SUBJECT:** **Application for Minor Variance; John Michael Ferguson and Dawn Patricia Ferguson (Applicants); John Michael Ferguson (Agent); 17598 Gregory Drive**

### RECOMMENDATION:

**THAT** Application for Minor Variance A6-2024 filed by John and Dawn Ferguson to permit the expansion of a legal non-confirming use in the form of a dwelling addition and to permit the dwelling addition to have an interior side yard setback of 2.4 metres and a front yard setback of 8 metres for a property municipally known as 17598 Gregory Drive in the Municipality of Thames Centre, be **APPROVED**.

### REASONS

- The general intent and purpose of the Official Plan would be maintained;
- The general intent and purpose of the Zoning By-law would be maintained;
- The effects of the variance are considered minor in nature; and
- The variance is desirable for the appropriate use and development of the land.

### PURPOSE:

The purpose and effect of this Application is a request to allow the expansion of a legal non-confirming use, being a residential use, to facilitate the construction of an addition onto an existing single detached dwelling within the Open Space (OS) zone which is otherwise not permitted under the current zone. In addition to this request, the applicants are requesting a reduced front yard setback and side yard setback.

### BACKGROUND:

The subject property is a 2347 square metre (0.58 ac) lot situated on the north side of Gregory Drive, on the west side of Wellburn Road in the hamlet of Wellburn. The lands

contain a single detached dwelling with a floor area of 132 square metres (1420.8 ft<sup>2</sup>) serviced by privately owned well and septic system. A number of primarily coniferous trees are located along the side lot lines, rear lot line and within the front yard. The lands are used for residential purposes.

The applicants are proposing to construct a 189.7 square metre (2041.91 ft<sup>2</sup>) addition onto the existing dwelling which would consist of a garage addition onto the front of the existing garage (62.8 square metres/ 675.97 ft<sup>2</sup> in size), a covered deck area (86 square metres/ 925.69 ft<sup>2</sup> in size), and an attached shed (40.9 square metres/ 440.24 ft<sup>2</sup> in size) which is otherwise not permitted in the Open Space (OS) Zone. The addition would have a front yard setback of 8 metres (26.25 ft) and a setback of 2.4 metres (7.87 ft) from the westerly property line, whereas the Open Space (OS) Zone requires a front yard depth of and an interior side yard depth of 15 metres (49.21 ft). A typical residential zone in a hamlet, being the Hamlet Residential (HR) Zone, requires a front yard setback of 7.5 metres (24.6 ft) and a side yard setback of 3 metres (9.84 ft). The applicant has advised the property has been used for residential purposes since 1983, when the dwelling was constructed.

The lands are designated 'Hamlet' according to the Thames Centre Official Plan are zoned Open Space (OS) zone according to the Thames Centre Comprehensive Zoning By-law. Surrounding land uses are predominantly residential in nature with the exception of Wellburn Park located to the east of the subject lands.

## ANALYSIS:

Under the Thames Centre Official Plan, the Committee of Adjustment should be satisfied that the following requirements have been met in regards to the expansion of a legal non-conforming use:

- ***That the proposed extension or enlargement of the established use shall not unduly aggravate the situation created by the existence of the use in regards to the policies of the Official Plan and the requirements of the Zoning By-law.***

The Hamlet designation is intended to permit a variety of land uses including low density residential uses. The proposed dwelling addition is not anticipated to unduly aggravate the legal non-conforming use.

- ***That the proposed extension or enlargement shall be minor in nature.***

Considering the proposed addition would be located at least 2.4 metres (7.87 ft) from the westerly lot line, 8 metres (26.25 ft) from the front lot line and is not anticipated to cause unacceptable adverse impacts on neighbouring lands, the proposed enlargement can be considered minor in nature.

- ***The characteristics of the existing use and the proposed extension or enlargement shall be examined with regard to noise, vibration, fumes, smoke, dust, odours,***

***lighting, and traffic-generating capacity.***

Given the nature of the proposed development, such impacts are not anticipated.

- ***That the neighbouring uses will be protected, where necessary, by the provision of areas for landscaping, buffering or screening, appropriate setbacks for buildings and structures, devices and measures to reduce nuisances, and where necessary, by regulations for alleviating adverse effects caused by outside storage, lighting, advertising signs, etc.***

As mentioned, adverse impacts with neighbouring uses are not anticipated considering the addition would be at least 2.4 metres (7.87 ft) from the westerly lot line, 8 metres (26.25 ft) from the front lot line and would generally be screened by existing trees.

- ***That traffic and parking conditions of the vicinity will not be adversely affected by the application, and traffic hazards will be kept to a minimum by appropriate design of ingress and egress points to and from the site and improvement of sight conditions, especially in proximity to intersections.***

Traffic impacts would be negligible considering the proposed development includes an addition onto an existing dwelling.

- ***That adequate provisions have been, or will be, made for off-street parking and loading facilities.***

This test is not applicable as there will not be a need for off-street parking or loading facilities.

- ***That applicable municipal services such as water supply and roads, etc. are adequate or can be made adequate.***

No issues in this regard are anticipated should the proposed addition be permitted to proceed.

The Thames Centre Official Plan also states that a request to expand or enlarge a legal non-conforming use also needs to meet the four tests under the *Planning Act* used to evaluate minor variances, namely:

- ***Is the variance considered minor in nature? YES***

Unacceptable adverse impacts on neighbouring lands are not anticipated given that the proposed addition would be located at least 2.4 metres from the westerly lot line and 8 metres from the front lot line. Additionally, the proposed addition would generally be screened from neighbouring land uses to the west by the existing trees, mitigating visual impacts. The effects of this variance could be considered minor in nature.

- ***Is the variance appropriate use of the land? YES***

Residential uses are characteristic of lots in the area. The proposed dwelling addition is an appropriate use of the land and is in keeping with the character of the area.

- ***Does the variance maintain the intent of the Official Plan? YES***

Under the Hamlet designation, permitted uses include residential uses. With the proposed addition being an addition onto the existing dwelling, the intent of the Plan would be maintained.

- ***Does the variance maintain the intent of the Zoning By-law? YES***

The intent of a legal non-conforming use is to ensure that property owners can continue to use buildings or carry out uses that were lawfully occupied and/or existed at the date of the passing of the By-law. The subject property has contained a dwelling since 1983 and is considered a legal non-conforming use since the current Open Space (OS) Zone does not permit residential uses. The addition onto the dwelling would allow the property owners to carry out a use and occupy the dwelling that legally existed at the date of the passing of the By-law. The intent of the minimum side yard setback is to ensure sufficient access to the rear yard and to allow the dwelling to be maintained with no encroachment on neighbouring lands. The intent of a front yard depth is to promote public safety by ensuring that dwellings are an adequate distance from the road and promote orderly built form encouraging a consistent building line. The reduced side yard setback of 2.4 metres would not compromise access to the rear yard or the ability to maintain the dwelling. The reduced front yard depth of 8 metres would not compromise public safety. The intent of the Zoning By-law would be maintained.

## **CIRCULATION CONSULTATION:**

In the circulation of the notice of public hearing to prescribed agencies, the following comments were received:

County Engineer:

No comment.

Drainage Superintendent:

No comment.

Upper Thames River Conservation Authority:

No objections.

Chief Building Official

The proponent shall provide a site plan drawing which shows all buildings and building sizes (existing and proposed) located on the property as well as the existing septic tank(s) and

leaching bed with measurements which show clearances between the proposed additions and the existing septic tank(s) and leaching bed.

In the circulation of the notice of public hearing to surrounding property owners, no responses have been received from the public as of the date of this report.

## **FINANCIAL IMPLICATIONS:**

**None.**

## **STRATEGIC PLAN LINK**

**Pillar:** *Smart Planning*

**Goal:** *Make smart planning decisions to grow the community , while maintaining a "hometown feel"*

## **ATTACHMENTS:**

Location Map

Prepared by: A. Kertesz, Planner, in consultation with A. Storrey, Interim Director of Planning and Development Services

Reviewed by: D. Barrick, Chief Administrative Officer