

COMMITTEE OF ADJUSTMENT

Planning Staff Report

Meeting date: March 6, 2025

Department: Building, By-law and Planning

Report No.: BBP-2025-15

Submitted by: Alyssa Soldo, Planner

Reviewed by: Tim Williams, Manager of Planning, County of Middlesex
Erin Besch, Planner

Approved by: Jake DeRidder, Senior Development Coordinator

SUBJECT: **Application for Minor Variance (A1-2025) – 711 Wood’s Edge Road, Mount Brydges**
Owners: Christina Wilson & Jorden Pinch

RECOMMENDATION: THAT: Application for Minor Variance A2-2025 be denied.

PURPOSE:

The purpose of the minor variance application is to seek relief from Section 4.2(3)(a) of the Strathroy-Caradoc Zoning By-law to permit an accessory building with a minimum interior lot line setback of 0.1 metres (0.3 feet), whereas a minimum interior side lot line setback of 0.6 metres (2 feet) is required in the ‘Low Density Residential (R1)’ Zone. The application also requests relief from Section 5.3(4) of the Strathroy-Caradoc Zoning By-law to permit no side yard setback, whereas a minimum of 1.2 metres (4 feet) is required for uncovered decks. The minor variance requests will recognize the existing buildings and structures on the property which were put in place by a previous owner.

BACKGROUND:

The subject property is located on the south side of Wood’s Edge Road, east of Adelaide Road (County Road 81) in Mount Brydges (see Location Map).

The property is rectangular in shape and is approximately 1210 m² (13030.57 ft²) in size with 20.64 m (67.7 ft) of frontage along Wood’s Edge Road. Wood’s Edge Road is classified as a ‘local road’ under the jurisdiction of the Municipality of Strathroy-Caradoc. The subject lands contain a single detached

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dwelling, below grade pool, shed, deck, and a poolside open-air bar structure. The lands are municipally serviced with water and sanitary.

As background for the Committee, the poolside bar and deck were constructed approximately five years ago by the previous owner. The bar structure was below the minimum size that required a building permit, which is why this deficiency was not identified during the construction stage. The Municipality became aware of the setback deficiencies during an investigation resulting from a by-law occurrence that was filed in 2024. The previous owner was made aware of these deficiencies, but did not address them prior to selling the property to the current owner. However, the previous owner had advised that they constructed the poolside bar as close as possible to the side lot line to make the most use of the backyard, and the deck was extended to the lot line for the same purpose.

The interior lot line has a required setback of 0.6 metres (2 ft) for accessory buildings and structures. However, the pool-side bar structure has an interior lot line setback of 0.1 metres (0.3 ft) to its wall and slanted roof. Additionally, the deck is built completely to the lot line, whereas uncovered decks are required to meet the side yard setback of 1.2 metres (3.9 ft) in the R1 Zone.

Surrounding land uses are predominantly low density residential on all sides.

POLICY AND REGULATION BACKGROUND:

The subject lands are located within the 'Residential' designation of the Strathroy-Caradoc Official Plan and within a 'Low Density Residential (R1) Zone' of the Strathroy-Caradoc Zoning By-law.

County of Middlesex Official Plan

The subject lands are located within the Mount Brydges 'Settlement Area' according to the Middlesex County Official Plan.

Section 2.3 of the County Official Plan contains the County's growth management framework which directs that the majority of growth is to occur in designated settlement areas. The intent of the growth management framework is to make efficient use of existing infrastructure and to establish future development within settlement areas on full municipal services. The County Official Plan also encourages a wide variety of housing by type, size, and tenure achieved in part by way of intensification and redevelopment of vacant or otherwise underutilized lands.

Strathroy-Caradoc Official Plan

The subject lands are located within the Mount Brydges 'Settlement Area' according to *Schedule A: Structure Plan* and designated 'Residential' on *Schedule F: Land Use & Transportation Plan for the Settlement Area of Mount Brydges*, as contained within the Strathroy-Caradoc Official Plan.

The 'Residential' designation is intended for continued and future residential purposes, as well as lands to accommodate future expansions (s.4.3.1). Within the 'Residential' designation, the primary use of land shall be for single unit detached dwellings, although a range of dwelling types is encouraged from semi-detached dwellings to small scale apartment buildings (s. 4.3.1.1).

The Strathroy Caradoc Official Plan has been updated through OPA 14 in 2022. The purpose of this Amendment is to update the Official Plan to ensure that the land use planning policies are current,

reflect Provincial legislation and policy, have regard for matters of Provincial interest and any guideline documents, are consistent with the Provincial Planning Statement (PPS), and reflect changing community needs for the next 25 years. The most significant relevant update to the Plan was the change in designation title from 'Residential' to 'Neighbourhoods'. This designation maintains the intent of the 'Residential' designation in that it continues to support and encourage a range of housing types and densities. OPA 14 is currently under appeal and, the updated policies are not determinative for this application.

Strathroy-Caradoc Zoning By-law

The subject property is currently zoned as a 'Low Density Residential (R1) Zone' according to the Strathroy-Caradoc Zoning By-law.

The 'R1' zone permits single detached dwellings, secondary suites, and type I group homes. Lot provisions include a minimum lot area of 460 m², minimum lot frontage of 15 metres, minimum front yard depth/exterior side yard width of 5 metres, side yard width of 1.2 metres, rear yard depth of 8 metres, maximum lot coverage of 40%, and minimum landscaped open space of 40%.

Section 4.2 of the Zoning By-law states that a non-habitable accessory building has a minimum interior lot line setback of 0.6 metres in the R1 Zone.

Section 4.34(1)(e) states that uncovered decks are permitted to encroach into the front, rear, and exterior side yards by 2.5 metres provided that it does not extend closer than 1.5 metres to any lot line, but uncovered decks are required to meet interior side yard setback requirements for the parent zone.

CONSULTATION:

The application has been circulated to agencies and the public in accordance with the provisions of the *Planning Act*.

The Senior Development Coordinator advised of concerns with the following:

- Having the structure so close to the property line will cause water and snow run off from the roof to be directed to the neighboring property. Run-off from structures should be contained and control within the property.
- Attaching eave troughs to the roof will likely cause an encroachment onto the neighboring property which would not be permitted

The Upper Thames River Conservation Authority noted that the subject lands associated with application A1-2025 are not affected by any regulations made pursuant to Section 28 of the *Conservation Authorities Act*. The UTRCA has **no objections** to the applications and we have **no** Section 28 approval requirements.

Comments were received from one member of the public on the application at the time of preparing this report. Comments discussed concerns regarding many by-law issues such as the size and use of a firepit, the concrete around the pool being constructed to the fence line, and the deck being attached

to the fence. Concerns about privacy and items falling into their yard from the fence were shared. The location of pool equipment is discussed as creating by-law and noise concerns. Environmental concerns were also discussed regarding a flush toilet in the backyard. The grading on the subject property is also said to impede stormwater runoff which has caused flooding on the neighbouring property. Greater details of the public comments provided can be found in an attachment with photos to support the discussion.

It's worth noting that the toilet in the backyard was installed without a permit and has since been removed and concrete poured into the plumbing.

ANALYSIS:

Section 45 of the *Planning Act* allows a municipality to grant a minor variance to a Zoning By-law based on four tests, as follows:

1. Are the variances considered minor in nature? NO

In regard to the reduction in the interior side lot line setback for an accessory building from 0.6 metres to 0.1 metres, staff are of the opinion that the variance cannot be considered minor in nature, as the location of the accessory building provides insufficient spacing between itself and the fence to the neighbouring property. The roof of the accessory structure is 0.1 metres from the fence and is sloped toward the lot line which creates concerns for snow and stormwater runoff onto the neighbouring property. The structure does not have an eave and trough to direct water away from the lot line. Therefore, planning staff do not consider this request minor in nature.

In regard to the reduction in the minimum side yard setback from 1.2 metres to 0 metres for the uncovered deck, staff are of the opinion that the variance cannot be considered minor in nature as no setback is provided to the lot line. The uncovered deck has been built right up to the fence line and is approximately 0.71 metres above the ground. This has created safety concerns as the height of the fence was originally constructed based on the starting point from the ground itself, not where the deck begins. As a result, the 2.11 metre fence is technically shorter when adjacent to this deck with a height of 1.4 metres from the deck to the header board, causing privacy concerns about the potential to overlook into the neighbouring yard from standing on the deck. Therefore, planning staff do not consider this request minor in nature due to the privacy concerns for the neighbouring property.

2. Is the variance an appropriate use of the land? NO

The Strathroy-Caradoc Official Plan and Zoning By-law permit residential uses such as single detached dwellings and accessory structures. The accessory building is not considered appropriate development as it does not meet the required setbacks or provide any adequate amount of setback from the property line. The location of the accessory building does not provide room for maintenance around the structure or adequate drainage from stormwater runoff from the roof. The structure also causes fire safety concerns due to a lack of separation between itself and the fence. Generated noise and privacy concerns may also impact the neighbouring property due to its location to the lot line. As such, staff are of the opinion that the accessory structure is not an appropriate use of the land and is not aligned with the character of this neighbourhood.

Uncovered decks are permitted uses in the residential area, although in this case its location being constructed right up to the side yard property line is unusual and not consistent with other decks in the area. No setback has been provided between the uncovered deck and the side yard property line in this case. This may cause impacts on the fence separating the subject property from the neighbouring property. It has also caused safety concerns with lessening the height required to contain people and animals on their respective properties, alongside privacy concerns for people standing on the deck being able to see over into the neighbouring yard. As such, staff are of the opinion that the accessory structure is not an appropriate use of the land.

3. Does the variance maintain the intent of the Official Plan? NO

The property is within the 'Residential' designation of the Official Plan, which permits a range of housing types and densities, including low-density single detached dwellings and accessory structures. Low-density development within this neighbourhood compliments and re-enforces the neighbourhood identity and 'small' village character of Mount Brydges. While accessory buildings and uncovered decks are permitted, their close proximity to the side yard lot line is out of character with the surrounding area. A 0.1 metre setback for the accessory building, and no setback (0 metres) for the uncovered deck is not within the intent of the Official Plan and is expected to negatively impact the adjacent property. Therefore, staff are of the opinion that the requested variances will not maintain the intent of the Official Plan.

4. Does the variance maintain the intent of the Zoning By-law? NO

The intent of these side yard and interior lot line setbacks is to ensure the separation of structures for fire safety reasons and to limit potential negative impacts on neighbouring uses. It is the opinion of staff that the existing accessory building setback of 0.1 metres and the existing uncovered deck setback of 0 metres cannot provide sufficient separation to mitigate fire safety hazards and negative impacts between the subject property and the adjacent directly-affected residential property. Therefore, it is the opinion of staff that the intent of the Zoning By-law is not maintained.

In summary, it is staff's opinion that the application does not meet the four tests of the *Planning Act* required in order to grant the minor variances.

CONCLUSION:

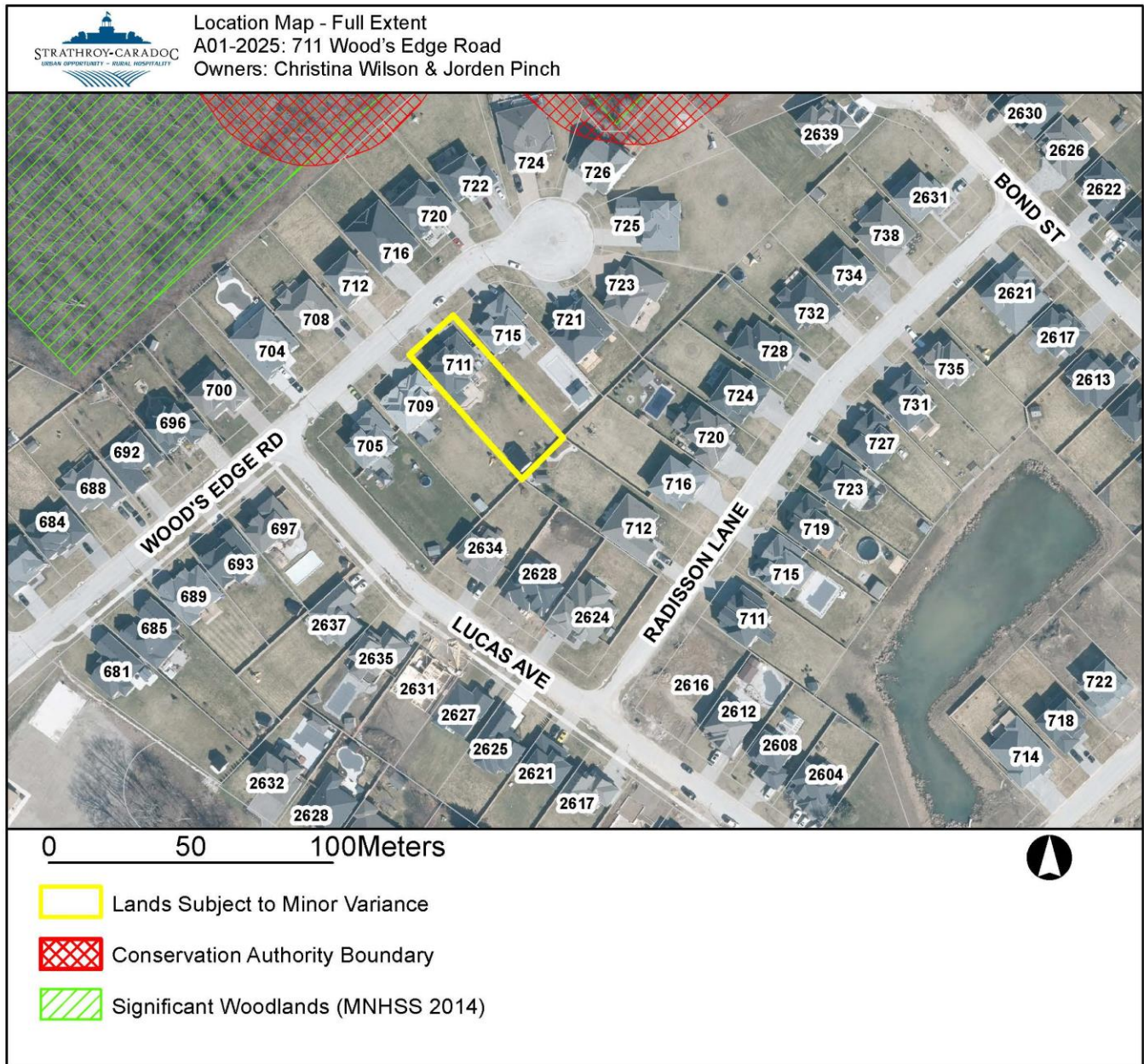
Based on the above analysis, it is recommended that the application to permit an accessory building with a minimum interior lot line setback of 0.1 metres and to permit a deck with a minimum side yard width of 0 metres be **denied**.

ATTACHMENTS

Location Map – Full Extent

Backyard Site Plan

Location Map – Full Extent



Backyard Site Plan

