



**Meeting Date: November 24, 2021**

**Submitted by: Dan FitzGerald MPI MCIP RPP, Planner**

**Report No: PLA-98-2021**

**Subject: Application for Minor Variance (File No. A-37/2021)**

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**Recommendation:**

THAT Minor Variance Application A-37/2021, filed by Paul and Pam Casaceli, for relief from the Comprehensive Zoning By-law in order to establish a maximum size for all accessory buildings on the land of 208 square metres (2238.9 square feet) or 4.9 percent lot coverage, whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum size of the lesser of 110.0 square metres (1,184 square feet) of gross floor area or 3 percent lot coverage, for a property legally described as Part of Lot 8, Concession 7, in the Municipality of Middlesex Centre, County of Middlesex, and Municipally known as 10306 Sinclair Drive, be GRANTED; subject to the following conditions:

AND THAT the addition to the existing accessory structure shall be built substantially in accordance with the appearance of the existing building and as shown in the attached plans;

AND THAT the height of the proposed addition to the accessory building shall not in any way exceed the height of the existing structure, and will continue to be subject to the height limitations of section 4.1 c);

AND THAT the Owner warrants that the accessory building shall only be used for the explicit purpose of storage related to the residence on the lands and shall not contain a dwelling unit or home occupation / commercial or industrial use;

AND THAT the accessory building shall not exceed the size of the single detached dwelling.

AND FURTHER THAT the reasons for approving Minor Variance Application A-37/2021 include:

- The request is considered to comply with the general intent and purpose of Middlesex Centre's Comprehensive Zoning By-law and Official Plan;
- The request is considered to be minor in nature, subject to the conditions listed in this report; and

The request represents appropriate development on the subject property, subject to the conditions listed in this report.

**Purpose:**

The purpose of this report is to provide the Committee of Adjustment with a recommendation regarding a minor variance for a property located on the north west side of Sinclair Drive, south west of the intersection at Sinclair Drive and Egremont Drive.

A location map is included as Attachment 1.

**Background:**

The purpose and effect of the Application for Minor Variance is to seek relief from the Middlesex Centre Comprehensive Zoning By-law 2005-005 as it relates to the maximum permissible gross floor area for an accessory building in the Agricultural (A1) Zone. The applicant is requesting a maximum size for an accessory building of 208 square metres (2238.9 square feet) or 4.9 percent lot coverage, whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum size of the lesser of 110.0 square metres (1,184 square feet) of gross floor area or 3 percent lot coverage, for lots less than 5,000 square metres (1.25 acres) but greater than 2,000 m<sup>2</sup> (0.50 ac). The effect of the proposal is to facilitate the construction of an addition to an existing accessory building for the stated purpose of additional storage. A site plan and building plans are included as attachment 2.

The subject lands are located on a formerly severed parcel along Sinclair Drive in Middlesex Centre. It is bordered by large lot residential lands to the north and south, an industrial use to the west (rear of the property) and agricultural lands to the east. It is designated 'agricultural area' in the Middlesex County Official Plan, 'Agricultural' in the Middlesex Centre Official Plan, and zoned Agricultural (A1) Zone in the Middlesex Centre Comprehensive Zoning By-law. The land in question has a frontage of approximately 58 metres (190 feet) on Sinclair Drive and an area of approximately 1.05 acres (0.42 hectares), which would be considered a legally non-complying lot in the Agricultural (A1) Zone due to size and frontage requirements.

The applicant has provided a conceptual site plan showing the proposed location of the addition to an existing accessory building, located along the north east interior side yard at the rear of the property. The applicant is proposing to add a 44.8 square metre addition to an existing 163.5 square metre accessory building, for a total of approximately 208 square metres. Based on the request, they are proposing to increase the maximum permissible size by 98 square metres (1,054.8 square feet), or 1.9 percent additional lot coverage. The proposed variance is summarized below:

Requirements	Relief Requested
As per section 4.1 (b) (iv) no buildings or structures accessory to a dwelling shall exceed the lesser of three percent (3%) lot coverage in any Agricultural or Restricted Agricultural Zone or the following: 110.0 m <sup>2</sup> (1,184 ft <sup>2</sup> ) of gross floor area for accessory buildings located on a lot with an area less than 5,000 m <sup>2</sup> (1.25 ac) but greater than 2,000 m <sup>2</sup> (0.50 ac).	98 square metres (1,054.8 square feet), or 1.9 percent additional lot coverage.

**Consultation:**

Notice of the applications have been circulated to agencies, as well as property owners in accordance to the requirements of the Planning Act.

Public Comments:

At the time of writing the subject report, no comments or concerns had been received from the public regarding this proposal.

Agency Comments:

The following comments were received at the time of writing this report;

Enbridge Pipelines does not have any assets in the area.

The Municipality’s Chief Building Official has reviewed the application and has indicated no objection to the proposal.

Development Review Coordinator has reviewed the application and has indicated no objection to the proposal.

**Analysis:**

Section 45(1) of the Planning Act authorizes the Committee of Adjustment to grant relief from the Comprehensive Zoning By-law requirements if a request is deemed to be desirable for the appropriate development or use of the land, building, or structure; the requested relief is minor; and the general intent and purpose of both the Official Plan and Comprehensive Zoning By-law are maintained.

In addition to the above, Section 10.9 of Middlesex Centre’s Official Plan must also be satisfied in order for a minor variance to be granted. Section 10.9 provides the following policies with respect to minor variance applications:

- I. The proposal is compatible with the surrounding neighbourhood;

- II. The proposal is in keeping with the general intent and purpose of the Comprehensive Zoning By-law;
- III. The proposal is in keeping with the general intent and purpose of the Official Plan;
- IV. The proposal is appropriate and desirable use of land; and
- V. The variance is generally minor in nature. The interpretation of what is minor is not necessarily based on the extent by which the by-law is varied. Rather, it is based on whether the effect of the variance could be considered minor.
- VI. There are valid reasons as to why the by-law cannot or should not be complied with, and that reasonable alternatives that comply with the by-law have been considered.

As previously noted, the subject land is designated 'Agricultural Area' according to the County of Middlesex and 'Agricultural' in the Middlesex Centre Official Plan. The lot is zoned 'Agricultural (A1) Zone' by Middlesex Centre's Comprehensive Zoning By-law. The applicant noted that the proposed increase in size it to keep assets secure.

Planning has reviewed the proposed minor variances in relation to the four Planning Act tests as listed above. The analysis has been broken up below which takes into consideration each variance against the four tests.

Is the variance considered minor in nature? YES

The interpretation of what is minor is not necessarily based on the extent to which the zoning by-law is varied. Rather it is based on whether the impact of the variance can be considered minor. In review of the proposed minor variances, staff have reviewed whether to consider the variance minor based on the location, the context of development on the lands, and the existing characteristics of the neighbourhood. The proposed increase in size, which is solely located behind the existing accessory building at a reduced height, would not be visible from the road when viewing the property. Additionally, the increase in size is not anticipated to have any negative impacts on surrounding land. As such, the impact of the proposal can be considered to be minor in that it would be in keeping with the larger rural lot residential character of the area.

Is the variance an appropriate use of the land? YES

The development of an accessory building would be consistent with the character of the area which includes residential uses and uses accessory thereto. Therefore the proposed variance would represents an appropriate use of the land.

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

The intent of the Official Plan through the Residential designation is to provide for a variety of dwellings and accessory buildings in the area. The proposed accessory building would be directly associated with the residential use of the property, therefore planning staff find that the subject proposal would maintain the general intent and purpose of the Municipal Official Plan.

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

The general intent and purpose of the Comprehensive Zoning By-law as it relates to the limitations to size for accessory buildings is to ensure the principle dwelling remains the dominant structure on the lands and to ensure the structure is limited to residentially related accessory uses such as storage. Staff have reviewed the proposal against the existing development within the neighbourhood and are satisfied that the proposed accessory building location would not cause negative impacts to abutting lands. The increase in the maximum permissible size would not detract from the residence being the main structure on the lands. Additionally, the house and accessory building combined would only cover approximately 11.6 percent of the lot, where the zoning permits up to 20 percent lot coverage. As such, planning staff are satisfied that the general intent and purpose of the Zoning By-law would be maintained as staff do not anticipate a negative impact to abutting property owners.

Given the above, planning staff recommend that the subject application be approved subject to the conditions listed in this planner's report, as the proposal meets the four test of a minor variance of the Planning Act.

This opinion is provided prior to the public meeting and without the benefit of potentially receiving all comments from agencies or members of the public. Should new information arise regarding this proposal prior to or at the public meeting, the committee is advised to take such information into account when considering the application.

**Attachments:**

1. Location Map
2. Proposed Site Plan

**Financial Implications:**

None.

**Strategic Plan:**

This matter aligns with following strategic priorities:

- Balanced Growth

This Planning Report relates to Objective 2.3 – Promote designs and concepts that reflect a “small-community feel” in new development by matching existing development patterns within the pre-existing residential character.

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2. Proposed Site Plan