



Meeting Date: September 7, 2022

Submitted by: Dan FitzGerald MPI RPP MCIP, Planner II

Report No: PLA-57-2022

Subject: Application for Minor Variance (File No. A-16/2022)

Recommendation:

THAT Minor Variance Application A-16/2022, filed by Scott Puillandre on behalf of Shaun Herbert and Ines Decampos for relief from the Comprehensive Zoning By-law in order to permit an increase to the maximum permissible gross floor area, and reduction to the minimum interior side yard setback for the building and soffit, for a property legally described as Lot 48, Plan 33M656, in the Municipality of Middlesex Centre, County of Middlesex, County of Middlesex, and Municipally known as 67 Earls court Terrace, be GRANTED, subject to the following conditions:

THAT the accessory building be constructed in the same general location as shown in the applicants site plan, attached to this report;

AND THAT eave troughs and downspouts be required and that all water be directed away from the neighbouring property, fully to be contained on the owners lands;

AND FURTHER THAT the reasons for granting Minor Variance Application A-16/2022:

- The request complies with the general intent and purpose of Middlesex Centre's Official Plan;
- The request complies with the general intent and purpose of Middlesex Centre's Comprehensive Zoning By-law;
- The request is minor in nature; and
- The request represents appropriate development on the subject property.

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 on the west side of Earls court Terrace, at the intersection of Earls court Terrace and Woodland Drive in Kilworth.

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, and the minimum interior side yard setback as well as soffit encroachment, for an accessory building in the Urban Residential First Density – Exception (UR1-22) Zone. The applicant is requesting a maximum size of all accessory buildings of 61.1 square metres (657.7 square feet) or 4.0 percent lot coverage, whereas the Zoning By-law permits a maximum size of the lesser of fifty square metres (50.0 m²) (538.0 square feet) of gross floor area or three percent (3%) lot coverage, which in this case would be a maximum permissible size of 46.4 square metres. The applicant is also requesting to reduce the interior side yard setback to 0.76 metres (2.5 feet), whereas the Zoning By-law requires a minimum interior side yard setback of 1.5 meters (4.9 feet) for accessory buildings. Additionally, the applicant is requesting a reduction to the permitted encroachment for an eave within the interior side yard to 0.46 metres (1.5 feet), whereas the Zoning By-law permits an encroach into the side yard of 0.6 meters (2 feet) to an interior side yard. The effect of the proposal is to facilitate the construction of one accessory building to act as a pool house and storage building, with a covered outdoor area. A site plan is included as Attachment 2.

The subject lands are surrounded by residential lands on all side in the format of single detached dwellings. It is designated 'settlement area' in the Middlesex County Official Plan, 'Residential' in the Middlesex Centre Official Plan, and zoned an Urban Residential First Density – Exception (UR1-22) Zone in the Middlesex Centre Comprehensive Zoning By-law. The land in question has a frontage of approximately 18 metres (60 feet) and an area of approximately 1,547 square metres (0.38 acres), which is in compliance with the requirements of the UR1-22 zone.

The applicant has provided a conceptual site plan showing the proposed location of the accessory building, which is proposed to be located along the north interior side yard in the rear yard, fully behind the existing single detached dwelling. The proposed reductions based on the applicant's submission are summarized below:

Requirements	Relief Requested
As per section 4.1 (b) (i) no buildings or structures accessory to a dwelling shall exceed the lesser of 50.0 m ² (538 ft ²) of gross floor area or three percent (3%) lot coverage in any <u>Urban Residential or Community Residential Zone</u> .	61.1 m ² , which is an increase in lot coverage of 14.7 m ² , that being 4 percent lot coverage

As per section 4.1 (a) (iv), accessory buildings shall be erected no closer than 1.5 metres (4.9 feet) to an interior lot line in any Residential Zone.	0.76 metres, which is a reduction of 0.74 metres
As per section 4.30 (a)(ii), no part of any required yard shall be obstructed by any building or structure or portion thereof except the encroachment of eaves, provided that they are not located closer than 0.6 metres (2.0 feet) to any lot line in a Residential Zone.	0.46 metres, which is a reduction of 0.14 metres

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.

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

Chief Building Official noted that due to reduced setback of eaves, a condition is recommended requiring eaves trough and downspouts to ensure water is not directed at neighboring property. Windows may be limited on side of shed adjacent to property line but this will be reviewed with building permit.

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 'Settlement Area' according to the County of Middlesex and 'Residential' in the Middlesex Centre's Official Plan. The lot is zoned 'Urban Residential First Density - Exception (UR1-22) Zone' by Middlesex Centre's Comprehensive Zoning By-law. Staff note that the applicants request for a minor variance to the maximum size and interior side yard setback reductions is generally due to the preferred nature of development on the lands. The applicant has also indicated that the location of the new accessory building on the lands would be necessary to the intended purpose of a pool house, placing the pool equipment next to the proposed location of the pool in the rear yard.

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 variance, 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 increase in size is not anticipated to have any negative impacts on surrounding land and its location is shielded from the road. The principle dwelling would visually remain the dominant structure on the lands and the proposed style of design does not exceed the existing height limitations. The reduced interior side yard setback is also considered minor in nature given the limited development in proximity to the rear yard. The applicant would maintain the ability to perform necessary maintenance to the structure. As such, the impact of the proposal can be considered to be minor in that it would be in keeping with the 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 variances would represent 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 increase in the maximum permissible size would not detract from the residence being the main structure on the lands. Also, the limitation on size limit the abilities of land owners to utilize accessory structures for commercial related business operations. Respecting the request for reductions to the interior side yard, the intent of the by-law is to ensure proper separation to the neighbouring property while also maintaining access for maintenance. With respect to the soffit and eave encroachment, the intent of separation is to ensure adequate distance to the property line to ensure roof drainage does not impact the neighbouring lands. As a condition of development, the applicant will be required to redirect roof leader drainage away from the interior side yard of the abutting neighbour. Considering the above, 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, 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.

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.

Attachments:

1. Location Map
2. Proposed Site Plan
3. Planning Justification Report