



**Meeting Date:** September 7, 2022

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

**Report No:** PLA-61-2022

**Subject:** Minor Variance Application A-20-2022

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**Recommendation:**

THAT Minor Variance Application A-20/2022, filed by Zelinka Priamo Ltd, on behalf of Angie Fievoli, for relief from the Comprehensive Zoning By-law in order to establish a minimum interior side yard setback of 1.8 metres (5.9 feet) on both sides, for a property legally described as Lot 4 to 5 and Part of lot 3, Block R, Plan 109, in the County of Middlesex, Municipality of Middlesex Centre, be GRANTED,

AND THAT the reasons for granting Minor Variance Application A-20/2022:

- 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 proposed minor variance application to reduce the minimum interior side yard setback requirements to construct a new single detached dwelling closer to the interior lot lines, for a property located on the north east corner of the intersection at Komoka Road and Simcoe Ave.

A location map is included as Attachment 1.

**Background:**

The subject lands are located in Komoka. It is on the east side of Komoka Road, on the north east corner of the intersection at Komoka Road and Simcoe Ave. The subject land were formerly created through consent application B-12-2021 and current represent a vacant, undeveloped parcel. As per the former consent application, the lot created

through a consent to serve application has a frontage of approximately 16.74 metres (55 feet) on Komoka Road, with an area of approximately 1,003.9 square metres (0.248 acres). It maintains a 3 metre wide by 6 metre in depth shared access easement with the abutting parcel to the south.

The lands are surrounded by residential development in the form of single detached dwellings to the north and east, an industrial zoned parcel to the west, and an active Canadian National Railway right of way to the south. A location map is included as Attachment 1. It is on full municipal services and has an access is provide via the shared access easement with the neighbouring property to the south onto Komoka Road.

The land 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 (UR1-3) Zone in the Middlesex Centre Comprehensive Zoning By-law. The lands comply with the overall area and frontage requirements through a previous minor variance (A-12-2021), which recognized a reduction to the minimum frontage requirement.

The applicant has applied for a Minor Variance application to permit a reduced minimum interior side yard setback. As applied, the application would permit a minimum interior side yard setback of a new dwelling to be 1.8 metres (5.9 feet) on both sides, whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum interior side yard setback of 3.0 metres (9.8 feet) on either side of a dwelling. The application for minor variance is summarized as follows:

Requirements	Relief Requested
As per section 8.3.3 (e) (i), the minimum interior side yard setback for a dwelling is 3.0 metres (10 feet).	1.8 metres, which is a decrease of 1.2 metres.

**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 Official Plan. The lot is zoned 'Urban Residential First Density – Exception (UR1-3) Zone' by Middlesex Centre's Comprehensive Zoning By-law. The applicant noted that the proposed decrease in the minimum interior side yard setbacks is based on the proposed design of the dwelling to fit within the dimensions of the property.

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 proposed decrease to the interior side yard setback to 1.8 metres from 3.0 metres generally is not anticipated to have any negative impacts on surrounding land, given the proposed reduction to the interior side yard and setback of house are located well outside of a shared access easement. Additionally, the reduction to the interior side yard would not make the house non compliant with lot coverage standards. The impact of the proposed reduction can be considered minor in that it would be in keeping with the existing character established by new development in the area.

Is the variance an appropriate use of the land? YES

The proposed variance is to facilitate the development of a single detached dwelling. This would be consistent with the character of the area which includes residential uses and uses accessory thereto. Therefore, the proposed variance 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 single detached dwelling is a permitted 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 minimum interior side yard setbacks generally is to ensure adequate separation between abutting parcels, providing access to the rear of the parcel, and maintaining the existing built form character while achieving appropriate development. As the applicant is proposing a front attached garage, it is not necessary to maintain a 3 metre wide access adjacent to the development for rear yard access. A distance of 1.8 metres (5.9 feet) is adequate to provide access to the rear of the property for maintenance. Additionally, a reduction to the interior side yard setbacks would maintain an appropriate separation from neighbouring parcels based on today's development standards. It would not in any way impede access to the abutting lands to the south as the setback for the dwelling is well outside of the shared access easement between the two parcels. As such Planning Staff are satisfied that the general intent and purpose of the Zoning By-law would be maintained.

Given the above, Planning Staff is satisfied that the proposed minor variance can be supported. 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. Proposed Elevations
4. Planners Cover Letter