



Meeting Date: January 25, 2023

Submitted by: Dan FitzGerald MPI MCIP RPP, Planner II

Report No: PLA-1-2023

Subject: Application for Minor Variance (File No. A-25/2022)

Recommendation:

THAT Minor Variance Application A-18/2022, filed by Lindsay Bruce on behalf of Michael and Marilea Johnston, relief from the Comprehensive Zoning By-law in order to establish a minimum front yard setback of 31.6 metres from the centreline of County Road 22, for a property legally described as Part of Lot 14, Concession 3 North, in the Municipality of Middlesex Centre, County of Middlesex, be GRANTED, subject to the following conditions:

THAT the Owner be required and successfully obtain a section 28 permit for the Conservation Authority;

AND THAT the Owner successfully apply for an entrance permit from the County of Middlesex for access to County Road 22,

AND FURTHER THAT the reasons for granting Minor Variance Application A-25/2022:

- 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 south side of Country Road 22 (Egremont Drive), east of the intersection at Melrose Drive and County Road 22 (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 minimum front yard setback for a single detached residence in the Hamlet Residential First Density – Exception (HR1-1) Zone. The applicant is requesting a minimum front yard setback of 31.6 metres from the centre line of County Road 22 (Egremont Drive), whereas the Zoning By-law requires a minimum setback of 38 metres from centre line of the road. The effect of the proposal is to facilitate the construction of one single detached dwelling. A site plan is included as Attachment 2.

The subject lands are located within the Hamlet of Melrose. It is bounded by residential development to the east and west, and agricultural lands to the north and south. It maintains a frontage of approximately 36.6 metres (120 feet) along Egremont Drive, and an area of approximately 0.47 acres (0.19 hectares). It is designated ‘settlement area’ in the Middlesex County Official Plan, ‘Hamlet’ in the Middlesex Centre Official Plan, and zoned Hamlet Residential First Density – Exception (HR1-1) Zone in the Middlesex Centre Comprehensive Zoning By-law. The property is regulated by the Upper Thames River Conservation Authority and would require a Section 28 permit prior to building permit issuance.

The applicant has provided a conceptual site plan showing the proposed location of the dwelling, located in the North West portion of the site. The proposed variance is summarized below:

Requirements	Relief Requested
As per section 4.16, the minimum front yard setback is 38 metres from the centre line of the road.	6.4 metres (31.6 metres from centre line)

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 formal comments were received from the public.

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 no concerns.

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 'Hamlet' in the Middlesex Centre Official Plan. The lot is zoned 'Hamlet Residential First Density – Exception (HR1-1) Zone' by Middlesex Centre's Comprehensive Zoning By-law. The applicant noted that the proposed location and reduction to the front yard setback is based on locating the developer outside of the flood hazard area on the lands.

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. Properties located along this stretch of County Road 22 vary greatly in terms of their location, from homes sited well back from the road, to houses sitting immediately adjacent the right of way. The proposed

setback is not anticipated to have any negative impacts on surrounding land. Therefore, the impact of the proposal can be considered minor in that it would be in keeping with the existing character of the area.

Is the variance an appropriate use of the land? YES

The development of a single detached dwelling 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 dwelling would be a 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 front yard setbacks is to provide an appropriate buffer from the roadway while also reinforcing a consistent street wall for homes to interact with the street. County Road 22 is primarily used for transportation purposes and would need to be protected as a right of way. The reduction to the front yard setback in this case is necessitated due to the proximity of the regulated areas to the rear and west of the proposed location of the home. A reduction is not anticipated to impact the right of way. Similarly, the street wall along County Road 22 in Melrose varies drastically from property to property. A reduction to the minimum front yard setback would not detract from the overall character and the property will still function appropriately. 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. Architectural Plans