



**Meeting Date: March 15, 2023**

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

**Report No: PLA-20-2023**

**Subject: Application for Minor Variance (File No. A-3/2023)**

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**Recommendation:**

THAT THAT Minor Variance Application A-3/2023, filed by John Szabo on behalf of Linrui Geo and Fuyan Li in order to expand a legal non-conforming use to permit a 37.16 square metre addition to an existing single detached dwelling on the property; for a property legally known as Part of Lot 18, London Concession 7 N, in the Municipality of Middlesex Centre, County of Middlesex, and municipally known as 14081 Eight Mile Road, be GRANTED;

AND THAT the reasons for granting Minor Variance Application A-3/2023 include:

- 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 Eight Mile Road, west of the intersection at Highway 4 (Richmond Street) and Eight Mile Road. A location map is included as Attachment 1.

## **Background:**

The purpose and effect of the Application for Minor Variance is to expand a legal non-conforming use on the subject lands. The subject property historically has contained an existing single-detached dwelling. The current zoning of the property is an Agricultural No Residence (A3) Zone, as a result of a dwelling surplus to a farm operation severance, which does not permit residential dwelling units. As an existing non-conforming use, Section 4.20 of the Zoning By-law allows existing uses to continue to be used until such time as the use ceases. Additionally, it only permits the existing dwelling and does not contemplate any expansions. The owner(s) have applied to expand the non-conforming use in the format of an addition to the existing home. As proposed, the addition would contemplate adding 37.16 square metres (400 square feet) in the format of a sunroom. Therefore, an application has been submitted to expand the legal non-conforming single detached dwelling to include a larger building footprint.

## **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.

The subject property is designated Agricultural by Middlesex Centre's Official Plan. While the primary purpose of the Agricultural designation is to support agricultural uses and activities, it does permit associated accessory residential uses on the lands. Given that Official Plan does permit residential uses associated with agricultural activities, the proposed expansion of the non-complying residential use of the property would conform to the Official Plan.

Section 10.6 of the Municipal Official Plan addresses legal non-conforming uses and offers the following policy direction:

“Legal non-conforming uses within the Municipality are uses which were lawfully established and legally existing prior to the passing of the Municipality's Comprehensive Zoning By-laws, but are not permitted in the new Zoning By-law. All alterations, expansions or changes in use require approval by Municipal

Council or its Committee of Adjustment.

The Committee of Adjustment may grant permission for an addition, expansion or change in use where appropriate. Municipal Council or its Committee of Adjustment shall use the following criteria to assess such proposals:

- I. The proposed addition, expansions or change in use will not increase the non-conforming nature of the use or property.

- II. The proposed addition, expansion or change in use shall be in an appropriate proportion to the size of the existing use.
- III. The proposed addition, expansion or change in use shall have a minimal impact on surrounding built environment with respect to noise, vibration, fumes, smoke, dust, odours, lighting and traffic generation. No extension or enlargement of a non-conforming use shall be approved if one or more of the above nuisance factors are created or increased so as to add to the incompatibility of the non-conforming use.
- IV. The addition, expansion or change in use shall include the protection of surrounding uses through the provision of landscaping, buffering, or screening, appropriate setbacks for buildings and structures, or other measures which improve compatibility with surrounding land uses.
- V. Traffic and parking conditions shall not be adversely affected by the proposed addition, expansion or change in use. Appropriately designed ingress and egress points and improvements to site conditions shall be considered to promote maximum safety for pedestrian and vehicular traffic, particularly in proximity to intersections.
- VI. The site shall include adequate provisions for off street parking and loading facilities.
- VII. Services such as water, sewage disposal, storm drainage and roads that may be necessary to service the expanded or altered use must be adequate.

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.

The proposed expansion to the existing dwelling as an addition would be located generally in the same area of the existing residence, but with a larger footprint. The expansion of the dwelling would not alter the associated agricultural use of the property and consequently, the expansion would not increase the non-conforming nature of the dwelling.

The expansion of the dwelling would not alter the surrounding built environment with respect to noise, vibration, fumes, smoke, dust, odours, lighting and traffic generation. The impact on the surrounding built environment is minimal. The provision of additional landscaping, buffering or screening on the property is not required as the residential use on the property is not changing and vehicular traffic is not expected to increase. Additionally, the primary use of the property will remain agricultural in nature.

The subject property is surrounded by agricultural uses on all sides. There are several farm dwellings within the area and by expanding the legal non-conforming use on the subject property, the character of the surrounding neighbourhood will not be altered. As such, the proposal maintains the Municipality's goals to permit accessory residential uses on agricultural parcels. Consequently, the proposal is in keeping with the general intent and purpose of the Official Plan and is an appropriate and desirable land use.

The subject property is zoned an Agricultural No Residence (A3) Zone, as a result of a former surplus dwelling severance. As the zone does not permit a residential use, the pre-existing use is considered to be legally non-conforming. Any such alteration of the dwelling is subject to a planning approval. The addition to the footprint to an existing legal non-conforming single detached dwelling will not change the non conforming use of the property. As such, this proposal is in keeping with the general intent and purpose of the Comprehensive Zoning By-law.

The effect of the proposed variance can be considered minor because the number of legal non-conforming uses on the subject property will not change. The proposed addition would be added to a legal non-conforming dwelling on the subject property. The addition will merely enlarge a legal non-conforming use. This expansion can be considered minor when the overall size of the lot is taken into consideration.

In this case, a minor variance would bring the dwelling into compliance with Middlesex Centre's Comprehensive Zoning By-law.

Staff is satisfied that the above items have been met and that a minor variance for the expansion of a legal non-conforming use can be supported.

**Consultation:**

Notice of the application has 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;

The Municipality of Middlesex Centre's Director of Building and Planning, as well as the Director of Public Works and Engineering advised of no concerns or requirements for the subject application.

Given the above, planning staff recommend approval of the subject application.

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.

**Attachments:**

1. Location Map
2. Conceptual Site Plan