



Meeting Date: March 15, 2023

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-16-2023

Subject: Application for Zoning By-law Amendment (ZBA-02-2023) for 15548 Nine Mile Road; Filed by Karl Pfister

Recommendation:

THAT Zoning By-law Amendment application (ZBA-02-2023) for a temporary use zone, filed by Karl Pfister, to permit two single-detached dwellings on one property for up to three years to allow a new residence to be constructed on the land known as 15548 Nine Mile Road, be APPROVED;

AND THAT the owner be required to enter into a Temporary Use Agreement with the Municipality and submit a total deposit of \$15,000 to ensure the removal of the existing residence.

Purpose:

This report is to provide Council with a recommendation regarding a proposal to temporarily re-zone a property located north side of Nine Mile Road and west of Clark Road. The property is legally described as Concession 9, South Part Lot 6 (geographic Township of London), Municipality of Middlesex Centre.

A location map is included as Attachment 1.

Background:

The purpose and effect of the rezoning application is to temporarily permit two single-detached dwellings for a period not to exceed three years which will continue to allow the construction of a new residence on the subject land. The existing residence would be removed from the land upon expiration of the three-year period or the occupancy of the new single-detached dwelling; whichever occurs first.

The subject land is an agricultural parcel approximately 39.9 ha (98.65 ac). The land is surrounded by agricultural lands, and contains an existing single detached dwelling, agricultural buildings, and active agricultural land in crop production. The land has private services (septic system and well) available.

Previously, the landowner was granted a temporary use zone (File: ZBA-04-2020) to permit building a new single detached dwelling while living in the existing residence. The temporary use zone expired on February 19, 2023. However, due to the availability of construction materials and delays related to the Covid-19 pandemic, the landowner was unable to start construction on the dwelling. As such, the applicant applied for an extension to the temporary use zone.

Policy Regulation:

The property is designated 'Agricultural Area' within the County of Middlesex Official Plan, and 'Agriculture' within the Middlesex Centre Official Plan. The land is also zoned 'Agricultural (A1)' within Middlesex Centre's Zoning By-law. As such, the policies and provisions below are applicable to the land.

Provincial Policy Statement, 2020 (PPS):

Section 2.3 – Agriculture directs that prime agricultural areas shall be protected for long-term for agriculture. Permitted uses include agricultural uses, agriculture-related uses and on-farm diversified. These uses allow for farm buildings and structures including a farm residence.

County of Middlesex Official Plan:

Section 3.3 – Agricultural Areas-Permitted Uses of the County Plan recognizes that Agricultural Areas shall be preserved as the agricultural industry is vital to the Middlesex economy. Permitted uses include agricultural and related uses including up to two (2) farm residences provided the second farm residence is a temporary residential unit.

Middlesex County's adopted Official Plan Amendment (OPA No. 3) does not propose changes to Section 3.3 related to permitting up to two farm residences.

Middlesex Centre Official Plan:

Section 2.0 – Policies for Agricultural Areas recognizes that the agricultural land base is one of the most significant economic and community assets within the municipality. Agricultural Areas are intended to be used predominantly for agriculture and agriculture related uses including a principle farm dwelling and related buildings and structures.

Section 10.11 – Temporary Use By-laws allows Council to pass a temporary use by-law to allow a use otherwise prohibited by the Municipality's zoning by-law. The period of time which it is in effect is not to exceed three (3) years from the day of the passing of the by-law, and Council may extend this period by passing further by-laws each of which shall not exceed a period of more than three (3) years.

In enacting a temporary use by-law, Council shall have regard for the following as a minimum: (a) the compatibility of the proposed use with the surrounding land uses; (b) the adequacy of any services that may be required for the proposed use; (c) access and parking requirements; (d) traffic impacts; and (e) the conformity of the proposed use with the policies of this Plan. Temporary use by-laws shall not be passed for the purpose of permitting uses that are not in conformity with the Official Plan.

Middlesex Centre's adopted Official Plan Amendment (OPA No. 59) does not propose changes to Section 2.0 related to permitting a principle farm dwelling on an agricultural property.

Middlesex Centre Zoning By-law:

The subject land is zoned 'Agricultural (A1)' which permits a single detached dwelling among other agricultural uses. The requested amendment proposes a temporary use zone (t-1) to temporarily allow a two (2) single detached dwellings on the property for a period up to three (3) years and the 'Agricultural (A1)' zone would continue to apply to the property. The temporary zone (t-1) would continue to allow the new residence to be constructed on the land, and the existing home will be removed when the new home is occupied or at the end of the three (3) year period.

Consultation:

Notice of Complete Application and Public Meeting were circulated to agencies, as well as property owners in accordance with the *Planning Act* and Ontario Regulation 545/06.

Public Comments:

At the time of writing this report, no comments or concerns have been received from the public regarding this rezoning application.

Agency Comments:

At the time of writing the subject report the following comments had been received:

The Municipality's Chief Building Official and the Public Works and Engineering Department reviewed the application and has no objection to the requested temporary zone for an additional 3 years. The applicant is to submit a total deposit of up to \$15,000, and enter into a new Temporary Use Agreement with the Municipality to ensure the removal of the existing residence promptly once occupancy is provided to the new residence. It is acknowledged by staff that the Municipality has received an initial deposit of \$10,000 and will require an additional deposit of \$5,000 from the applicant.

Analysis:

The PPS, County Official Plan, Middlesex Centre Official Plan and Zoning By-law contain policies that permit agriculturally-related uses. This includes all forms of farming including related uses and buildings such as principal farm residences. Additionally, the Zoning By-law permit a single detached dwelling on lands zoned 'Agricultural (A1)'.

The *Planning Act* authorizes municipalities to allow temporary uses on land, buildings or structures for any purposes that is otherwise not permitted within the Zoning By-law for a period of up to three (3) years. This authorization is further communicated through policies of the Middlesex Centre Official Plan provided that the proposed use is compatible with the surrounding area; adequate services exist for the proposed use; access, traffic and parking are addressed; and that the use being proposed conforms to the Official Plan, among other items.

The effect of the zoning by-law amendment application is to replace an existing single-detached dwelling with a new single-detached dwelling. In general, the use of a dwelling as a primary residence is permitted on this property as established in the Middlesex Centre Official Plan and Zoning By-law. Additionally, the proposed new dwelling appears to meet the zoning standards of the 'Agricultural (A1)' zone and the approved minor variance, and will continue to use private services such as the existing water well and new septic tank and weeping bed. There is no anticipated increase in traffic or parking requirements for the residence as the new dwelling will be under construction, and the existing dwelling will be removed from the property.

Staff note that the landowner entered into an agreement with the Municipality in 2020 and submitted a deposit of \$10,000 at that time. Since the agreement has expired the deposit was returned to the landowner. As a result, Staff have advised the applicant that a new security deposit of \$5,000, for a total of \$15,000, is requested through a new temporary use agreement between the landowner and the Municipality to ensure the existing residence is removed upon completion of the new residence.

Given the above, planning staff determined that the requested zoning by-law amendment for a temporary use zone for a period of up to three (3) years is consistent with the Provincial Policy Statement, 2020, the County of Middlesex Official Plan, Middlesex Centre's Official Plan, and Middlesex Centre's Zoning By-law.

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, Council 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

Attachments:

Attachment 1 – Location Map