



Meeting Date: March 15, 2023

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-22-2023

Subject: Application for Minor Variance (File No. A- 5/2023)

Recommendation:

THAT Minor Variance Application A-5/2023, filed by Andrew Douglas on behalf of 1917155 Ontario Inc. for relief from the Comprehensive Zoning By-law in order to establish a reduced minimum outdoor amenity area of 30 m² per dwelling unit and a reduced width for a planting strip between a property line and driveway of 0.0 m for a property legally described as Concession 11 Pt Lot 26, in the Municipality of Middlesex Centre, County of Middlesex and is municipally known as 13178 Ilderton Road, be GRANTED;

AND THAT the reasons for granting Minor Variance Application A-5/2023:

- 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 north side of Ilderton Road, east of Timberwalk Trail.

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 amenity area per dwelling unit and minimum width for a planting strip between a property line and driveway.

As a result of the development of a multiple unit building with 5 units, the owner is seeking to reduce the required amenity area to 30 m², whereas the by-law requires a minimum amenity area of 45 m², and to reduce the width of the planting strip between a property line and a driveway to 0.0 m, whereas the by-law require a minimum 1.0 m wide planting strip.

The variance is the result of staff's request to maintain the required parking spaces on-site and to maintain a minimum driveway width for two-way traffic from the street to the parking area. A site plan is included as Attachment 2. Council has reviewed a previous conceptual plan at the time of the zoning by-law amendment (File: ZBA-04-2022). Since then the site plan has been refined and updated through site plan review.

The subject lands are located in a transition area between residential and commercial uses along the main street in Ilderton. While the site abuts Village Centre designated lands to the east the lots have been traditionally used for residential purposes. In addition, the lands abut institutional and residential uses to the west.

Currently, the land is approximately maintains a frontage of approximately 20.1 m (66 feet) on Ilderton Road, and 1, 011.7 m² (10, 890 ft²) in area. It is designated 'Settlement Area' in the Middlesex County Official Plan, 'Village Centre' in the Middlesex Centre Official Plan, and zoned 'Urban Residential Third Density exception 19 (UR3-19)' in the Middlesex Centre Comprehensive Zoning By-law.

The proposed variance is summarized below:

Requirements	Relief Requested
As per section 10.1.11, the minimum outdoor amenity area is 45 m ² per dwelling unit	30 m ² per dwelling unit
As per 4.24 (g), parking areas and driveways shall be permitted in any part of any yard provided that the parking areas and driveway shall be separated from any lot lines by a planting strip not less than 1.0 m in width	0.0 m wide planting strip

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.

Middlesex Centre's Public Works and Engineering Department reviewed the proposal and did not identify any 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 'Village Centre' in the Middlesex Centre Official Plan. The lot is zoned 'Urban Residential Third Density exception 19 (UR3-19)' by Middlesex Centre's Comprehensive Zoning By-law. The applicant noted that the requested minor variance for the amenity area and planting strip with is a result of the proposed development on-site and to maintain parking spaces and driveway width requirements.

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 decrease amenity area and planting strip width is a result of the redevelopment of the property for 5 units and conformity to other requirements within the Zoning By-law. For example, Staff have maintained support of providing the required parking spaces on-site to avoid parking on Ilderton Road, and have requested that the driveway maintain its width for 2-way vehicle traffic. As assessed below, the variances are considered to be minor in nature as the development plan still contemplates amenity area on-site, and the site-characteristics and design of the site mitigate the impacts of the reduced planting strip width. The impact of the reduced amenity area and planting strip width are not anticipated to have a negative impact on surrounding lands.

Is the variance an appropriate use of the land? YES

The subject property is a residential lot for multi-unit dwellings along a major arterial road and is surrounded by similar sized residential lots and uses. The use of the property will remain the same as a result of the variance. As such, the proposed variance to reduce the required amenity area and planting strip width would be considered 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 Village Centre designation is to primarily encourage a range of commercial activity to support the main street of the Ilderton settlement area. In addition to commercial uses, higher density residential development is also supported where it doesn't limit or conflict with neighbouring commercial uses from establishing or expanding. The requested reduction in the minimum amenity area and planting strip width does not change the intended use of the lands nor conflict with the surrounding land uses. 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 required amenity area is to provide private amenity space on-site for the passive enjoyment and active recreational needs of the occupants. The applicant has provide some outdoor recreational space for residents including rear yards for ground floor units and private balcony space for upper units. Further, staff are satisfied that the reduction in the amenity area can be appropriate for this property and proposed development due to proximity to the community center that abuts the property and also provides spatial separation between the property and

abutting residential uses to the west. This provides opportunity for occupants to use both the private amenity area and public lands for recreation.

The general intent and purpose of the Comprehensive Zoning By-law as it relates to the minimum planting strip width between a property line and driveway is ensure a physical separation between properties, and increase the permeable surface for water runoff from the driveway and to mitigate its impacts on neighbouring properties. Public Works and Engineering Staff have been working with the applicant on the site plan to ensure that the impact from runoff on neighbouring properties is mitigated through the driveway design. Staff also note that the abutting property, a grassed parcel of land containing the Cenotaph, contains trees and grassed area and a retaining wall that prevents runoff from each property onto the other. While the planting strip width requirement is reduced to 0.0 m, staff are satisfied that the intent of the Zoning By-law is maintained as the design of the driveway and existing retaining wall will mitigate the effects of runoff and the retaining wall will continue to be a physical separation or barrier between the two properties.

Given the analysis above, Planning Staff recommends the application be granted.

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:

Attachment 1 – Location Map

Attachment 2 – Proposed Site Plan