



Meeting Date: February 15, 2023

Submitted by: Dan FitzGerald MPI MCIP RPP, Planner II

Report No: PLA-15-2023

Subject: Application for Minor Variance (File No. A-1/2023)

Recommendation:

THAT Minor Variance Application A-3/2021, filed by Danielle and Sean Kennelly for relief from the Comprehensive Zoning By-law in order to establish an interior side yard setback of 1.2 metres (4 feet) on one side, whereas the By-law requires a minimum interior side yard setback of 2.0 metres (7 feet) on one side and 3.0 metres (10 feet) on the other side; for a property legally described as Lot 47 to 48, Part of Lot 64 and 64, Plan 55, in the Municipality of Middlesex Centre, County of Middlesex and is municipally known as 130 Arthur Street, be GRANTED;

AND THAT the reasons for granting Minor Variance Application A-1/2023:

- 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 south west side of Arthur Street, north of the intersection at Duke and Arthur Street. The subject property is municipally known as 130 Arthur Street.

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 interior side yard setback required in the Urban Residential First Density – Exception (UR1-4) Zone. The applicant is requesting a minimum interior side yard setback of 1.2 metres (4 feet) on one side, whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum interior side yard setback of 2.0 metres (7 feet) on one side and 3.0 metres (10 feet) on the other side. The effect of the proposal is to facilitate the construction of an addition to a single detached dwelling on the lot. A site plan is included as Attachment 2.

The subject lands have a frontage of 40.38 metres (132.5 feet) along Arthur Street and an area of approximately 0.55 acres (0.22 hectares), which is in compliance with the requirements of the Urban Residential First Density – Exception (UR1-4) Zone. The lot contains an existing single detached dwelling and detached accessory structure in the format of a garage. The applicant is proposing to construct an addition to the south interior side yard.

The applicant has provided a conceptual building elevation and site plan for the lot. As shown on their conceptual building lot envelope plan, the south interior side yard is proposed to have a uniform 1.5 m distance to the property line. The conceptual renders show limited windows on the main level, with no windows projecting into the side yard from the second storey of the dwelling. A sketch of the conceptual elevation and floor plans is included as attachment 3. The proposed reductions are summarized below:

Requirements	Relief Requested
As per section 8.3.4 (c), the minimum interior side yard setback for an interior lot line is 3.0 m (10 ft) on one side and 2.0 m (7 ft) on the other side.	0.8 metres (1.2 metre setback)

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;

Enbridge Pipelines does not have any assets in the area.

The Municipality's Chief Building Official has reviewed the application and has indicated no objection to the proposal.

Development Review Coordinator has reviewed the application and has indicated no objection to the proposal.

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 Komoka-Kilworth Secondary Plan, within the Middlesex Centre Official Plan. The lot is zoned 'Urban Residential First Density – Exception (UR1-4) Zone' by Middlesex Centre's Comprehensive Zoning By-law. Staff note that the applicants request for a minor variance to the interior side yard setback requirement allowance is generally due to the preferred nature of development 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 variances, 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 reduction to the interior side yard setback would be considered minor as the proposed form of development is not anticipated to have any negative impacts on surrounding land. As such, the impact of the proposal can be considered to be minor in that it would be in keeping with the residential character of the area.

Is the variance an appropriate use of the land? YES

This development of a single detached dwelling and associated future accessory structure(s) 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 dwelling and associated future accessory building(s) proposed would be for residential use, 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 interior side yard setbacks is to provide for an adequate separation distance between abutting residential uses and allow access to the rear of properties. Staff have reviewed existing development within the neighbourhood and note a variety of interior side yard setbacks based on site-specific zoning exceptions and previous variance application approvals. Properties abutting the proposed development support a reduced interior side yard setback of 1.2 metres. The south yard conceptual elevations contain limited windows on the first and no windows on the second floor, limiting concerns regarding overlook and privacy. As such, planning staff are satisfied that the general intent and purpose of the Zoning By-law would be maintained if the proposal is granted as 1.2 metres (4 feet) interior side yard setbacks are considered to be an appropriate distance for light, privacy, overlook, and access purposes between abutting residential properties.

Given the above, Planning Staff is satisfied that the proposed minor variance for a reduction to the interior side yard setbacks can be supported. Given the above, 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.

Attachments:

1. Location Map
2. Proposed Site Plan
3. Conceptual Elevations