



Meeting Date: April 19, 2023

Submitted by: Dan FitzGerald MPI MCIP RPP, Planner II

Report No: PLA-27-2023

Subject: Application for Minor Variance (File No. A-27/2022)

Recommendation:

THAT Minor Variance Application A-27/2022, filed by Carlo Iaruso on behalf of Patrick Cox and Jennifer Dickenson for relief from the Comprehensive Zoning By-law in order to establish a maximum size of 185.8 square metres and a maximum height of 7.77 metres for all accessory buildings, for a property legally described as Part of Lot 10, Concession 8 North, in the Municipality of Middlesex Centre, County of Middlesex and is municipally known as 10651 Ilderton Road, be GRANTED, subject to the following conditions;

THAT the accessory building be placed in the same general location as shown on the site plan attached to the application;

AND THAT the owner be required to remove the second access to the lands and restore the ditch to the satisfaction of the County Engineer, or seek approval for the second access from the County of Middlesex;

AND FURTHER THAT the reasons for granting Minor Variance Application A-27/2022:

- 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 east side of County Road 16 (Ilderton Road), west of the intersection at Nairn Road and Ilderton Road.

A location map is included as Attachment 1.

Background:

As a note, the application being considered previously came before the Committee of Adjustment on January 25, 2023. The application was referred back to staff in order to work with the applicant to reduce the overall size of the requested accessory structure. This report responds to the revised requested minor variance after discussions with staff and the designer.

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 maximum permissible gross floor area and height for an accessory building in the Agricultural (A1) Zone. The applicant is requesting a maximum size of all accessory buildings of 185.8 square metres (2000 square feet), whereas the Zoning By-law permits a maximum size of the lesser of one hundred sixty five square metres (165.0 m²) (1776 square feet) of gross floor area or three percent (3%) lot coverage, which in this case would be a maximum permissible size of 165 square metres. The applicant is also requesting a maximum height of 7.77 metres (25' 5 1/2"), whereas the maximum permitted height is 6.5 metres (21.3 feet). The effect of the proposal is to facilitate the construction of one accessory building in the side yard of the property.

A site plan is included as Attachment 2.

The subject lands are located in an agricultural area. They abut agricultural lands to the east, south and west, and a former gravel pit to the north. It maintains a frontage of approximately 150.8 metres (495 feet) along County Road 16 (Ilderton Road), and an area of approximately 2.0 acres (0.81 hectares). It is designated 'Agricultural' in the Middlesex County Official Plan, 'Agricultural' in the Middlesex Centre Official Plan, and zoned 'Agricultural (A1) Zone' in the Middlesex Centre Comprehensive Zoning By-law.

The applicant has provided a conceptual site plan showing the proposed location of the accessory building, located in the interior side yard. The applicant is proposing to build an accessory building, which is described as being needed for storage of multiple vehicles, trailers and other items. The proposed variance is summarized below:

Requirements	Relief Requested
As per section 4.1 (b) (iv) no buildings or structures accessory to a dwelling shall exceed the lesser of 165.0 m ² (1776 ft ²) of gross floor area or three percent (3%) lot coverage in any <u>Agricultural Zone</u> .	20.8 m ² (223 ft ²)
As per section 4.1 (c) (iii) no buildings or structures accessory to a dwelling shall exceed 6.5 metres in height in any <u>Agricultural Zone</u> .	1.27 metres (4.16 feet)

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.

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 'Agricultural Area' according to the County of Middlesex and 'Agricultural' in the Middlesex Centre Official Plan. The lot is zoned 'Agricultural (A1) Zone' by Middlesex Centre's Comprehensive Zoning By-law. The applicant noted that the proposed increase in size is based on the request to maintain a larger area for storage of vehicles, trailers, and other items.

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 revised proposal for a 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 proposed increase in size of 20.8 square metres and height of 1.27 metres could be considered minor in nature based on the context of the development. The proposed size and height are not anticipated to detract from the residential character of the lot in a rural setting, nor is it anticipated to have a negative impact on surrounding properties. Therefore, staff is of the opinion that the minor variance could be considered minor in nature.

Is the variance an appropriate use of the land? YES

The development of an accessory building 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 Agricultural designation is primarily to protect farmland, but to permit dwellings and accessory buildings in the area as ancillary uses. The proposed accessory building would be directly associated with the 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 maximum permissible size and height for an accessory building is to limit an accessory building to maintain the dwelling as the principle use of the lands. The accessory building would be smaller than the principal dwelling. Additionally, the location of the building and existing context could be considered to maintain the intent of the Zoning By-law, as the proposed increase in size would not visually detract from the residence being viewed as the main structure on the lands. 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