



Meeting Date: April 19, 2023

Submitted by: Dan FitzGerald MPI MCIP RPP, Planner II

Report No: PLA-29-2023

Subject: Applications for Consent (File No. B-4/2023) & Minor Variance (File No. A-7/2023)

Recommendation for Minor Variance Application A-7/2023:

THAT Minor Variance Application A-7/2023, filed by LDS Consultants Inc. on behalf of Q.A. Cor. Versteegh to permit a reduced minimum side yard setback of 1.5 metres for a property legally known as Lot 57 to 58, Plan 55, in the Township of Middlesex Centre, County of Middlesex, and is municipally known as 115 Prince Street , be GRANTED;

AND THAT the reasons for granting Minor Variance Application A-7/2023 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.

Recommendation for Consent Application B-4/2023:

THAT Consent Application B-4/2023 filed by LDS Consultants on behalf of Q.A. Cor. Versteegh in order to amend Consent Application B-14/2023 to sever a residential lot with a frontage of approximately 19.94 metres (65.4 feet) and an area of approximately 671.7 square metres (0.165 acres) in order to facilitate the construction of a single-detached dwelling on the severed lot and the retained having a frontage of approximately 20.7 metres (68 feet) along Prince Street from a property legally described as Lot 57 to 58, Plan 55, in the Township of Middlesex Centre, County of Middlesex, and is municipally known as 115 Prince Street; be GRANTED.

AND THAT Consent B-4/2023 be subject to the following conditions:

1. That the Certificate of Consent under Section 53(42) of the *Planning Act* shall be given within two years of the date of the notice of the decision. The request for the Certificate of Consent shall be accompanied by a written submission that details how each of the conditions of severance has been fulfilled.
2. That the fees for the Certificate of Consent be paid in accordance with the Municipality's Fees and Charges By-law.
3. That a draft reference plan be prepared by an Ontario Land Surveyor for the purposes of facilitating the transaction of Consent B-4/2023, and that this plan be approved by the Municipality prior to being deposited with the Land Registry Office.
4. That the Owner's solicitor provide a Transfer in Preparation to the Municipality, together with a deposited reference plan and a Schedule describing the land to be transferred, for the purposes of the issuance of a Certificate of Consent.
5. That the Owner's solicitor submit an undertaking in a form satisfactory to the Municipality to register an electronic transfer of title consistent with the Consent decision.
6. That any outstanding property taxes for the severed and retained lots of Consent B-4/2023 be paid in full.
7. That the transfers for the subject applications be registered concurrently by the Owner's solicitor.
8. That the owner enter into a Development Agreement with the Municipality, and that the Agreement be registered against the title of the subject land, which addresses among other matters, entrance locations and construction, lot grading and drainage, building envelopes, fire hydrant location, connections to the Municipal water supply and sanitary sewer systems, a financial contribution to the future upgrading of Duke Street to a full urban standard and a security deposit for 100% of the cost of the works as well as any road reconstruction associated with the development, all to the satisfaction of the Municipality. The Development Agreement shall require the developer to provide a certification from the engineer of record confirming that all works within the road right-of-way, stormwater controls and lot grading have been completed in conformance with municipal standards and in general conformance with the approved design.

9. That upon Condition 8 of Consent B-4/2023 being satisfied, the owner shall install separate water, stormwater and wastewater service connections to the severed parcels of Consent B-44/2023 and that the connection be installed to the satisfaction of the Municipality's Public Works and Engineering Department.
10. That, if required, the Owner's engineer shall apply and receive approval for an ECA related to the extension of municipal services associated with Consent applications B-4/2023, to the satisfaction of the Director of Public Works and Engineering.
11. That the Owner submits a Storm Water Management Report to the satisfaction of the Municipality.
12. That the owner demonstrate that post development runoff from the proposed lots will not exceed the existing conditions. Any infiltration measures or other stormwater controls required shall be installed by the developer to the satisfaction of the Municipality's Public Works and Engineering Department.
13. That the Owner submits a lot grading plan for the severed and retained lands, depicting the suitable building locations, footing/foundation elevations as well as surface grades and swale flow routes, to the satisfaction of the Municipality. The lot grading design shall ensure adjacent lots will not receive increased runoff.
14. That the owner pay a cash-in-lieu of parkland dedication consistent with decision B-14/2022 to the Municipality.
15. That the Owners pay 50% of the future road reconstruction costs of Duke Street to an urban standard along the frontage of the severed lot of Consent B-4/2023, inclusive of curbs, sidewalks and road re-construction, consistent with the decision issued for consent file B-14/2022.

AND FURTHER THAT the reasons for granting Consent application B-4/2023 include:

- The proposal is consistent with the Provincial Policy Statement;
- The proposal conforms to the County of Middlesex Official Plan and the Middlesex Centre Official Plan; and
- Subject to the conditions, the proposal complies with the Middlesex Centre Comprehensive Zoning By-law.

Purpose:

The purpose of this report is to provide two recommendations; one for the Committee of Adjustment regarding a minor variance application for a property located on the east side of Prince Street, on the south east corner of the intersection at Prince Street and Duke Street in Komoka as well as a recommendation for Council regarding a consent application for the same property. A location map is included as Attachment 1.

Background:

The purpose and effect of the Application for Consent B-4/2023 is an amended request for Consent file B-14/2022 to sever a lot from an existing single detached dwelling lot. The revised application seeks to sever a lot with a frontage of approximately 19.94 metres (65.4 feet) on Prince Street, and an area of approximately 671.7 square metres (0.165 acres). The retained residential lot would have a frontage of approximately 20.74 metres (68 feet) on Prince Street, and an area of approximately 709.8 square metres (0.175 acres). The effect would be to create a new vacant residential lot for the purpose of establishing a single detached dwelling, and retain the existing dwelling on a separate lot.

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 side yard setback requirement in the Urban Residential First Density – Exception (UR1-4) Zone. The applicant is requesting a minimum side yard setback of 1.5 metres in relation to the proposed lot to be retained whereas the Zoning By-law requires a minimum side yard setback of 3 metres on one side and 2 metres on the other side for interior side yards. The effect of the proposal is to facilitate an increased lot area for the subject land for the future construction of a single detached dwelling, in particular, for the lot proposed to be severed.

The subject property is a 0.2 hectare (0.5 ac) residential lot situated on the east side of Prince Street, on the south east corner of the intersection at Prince Street and Duke Street in Komoka. The lot contains a single detached dwelling and an accessory building in the form of a shed. The dwelling is serviced by municipal piped water and municipal sanitary sewage system. Surrounding land uses are residential in nature.

The lands are subject to Applications for Consent B-14/2022 and B-15/2022 which sought to sever two lots from an existing lot which were conditionally granted by Municipal Council on January 25, 2023. In particular, B14-2022 sought to sever a lot with a frontage of approximately 18.44 meters (60.5 ft) and an area of 620 square metres (0.15 ac) which is now being amended.

Policy Regulation:

The subject lands are designated Settlement Area according to the County of Middlesex Official Plan and designated Residential according to Middlesex Centre's Official Plan. The subject lands are zoned site-specific Urban Residential First Density (UR1-4) in Middlesex Centre's Comprehensive Zoning By-law.

Provincial Policy Statement (PPS)

Section 3 of the Planning Act requires all decisions made under the Act "to be consistent with" the Provincial Policy Statement (PPS). The following PPS policies are relevant to the proposed development and need to be considered when evaluating the subject applications.

Section 1.1.3 of the PPS speaks to Settlement Areas, which identifies settlement areas as the focus of growth and development. Section 1.1.3.3 of the PPS states, 'Planning authorities shall identify appropriate locations and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.

Section 1.1.3.4 speaks to 'appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.

Section 1.6 of the PPS speaks to servicing. The PPS has a hierarchy for services, where municipal services are the preferred form of servicing. Section 1.6.6.1a) states 'Planning for sewage and water services shall direct and accommodate expected growth or development in a manner that promotes the efficient use and optimization of existing municipal sewage services and municipal water services'.

County of Middlesex Official Plan

The County of Middlesex Official Plan speaks to settlement areas in section 2.3.8. This section states 'urban areas and community areas shall be the focus for future growth including residential, commercial and industrial development'. The County Official Plan also has a similar servicing hierarchy as the PPS, and prefers full municipal services within urban areas.

Section 4.5.3.3 of the County Official Plan speaks to Settlement Areas and promotes infilling development in built-up areas, where the proposed lots are compatible with the lot area, frontage and density patterns of the surrounding area and the application represents orderly and efficient use of land, and its approval would not hinder future development of the retained lands.

Middlesex Centre Official Plan

Middlesex Centre's Official Plan designates the subject lands as 'Residential'. Within this designation residential dwellings are permitted in a variety of forms, including single detached dwellings.

Section 9.3 of the Local Official Plan speaks to municipal infrastructure and servicing policies. These policies have a similar hierarchy as the PPS and the County Official Plan.

Section 10.3 of Middlesex Centre's Official Plan speaks to lot creation and states,

- a) Severances shall only be granted if a plan of subdivision is not necessary for the proper and orderly development of the land. Plans of subdivision will not be required where three or fewer new lots are proposed to be created, or where circumstances exist where a plan of subdivision is not considered by the Municipality to be necessary. Where more than three new lots are proposed to be created, the Municipality may exercise flexibility in determining whether a plan of subdivision process is required for the orderly development of the land. Notwithstanding the above, in all cases where the creation or extension of municipal streets and/or services is proposed, a plan of subdivision process will be required.
- b) Where individual wells and septic systems are proposed, lot areas must be of a size and configuration to accommodate an appropriate septic system, sewage envelope and contingency area. For a conventional septic system, a storage envelope consists of the area occupied by the tile bed and mantle. The size of the storage envelope will vary depending on the projected water use of the anticipated use and the soils and slope of the subject site. The contingency area will be equal in size to the tile bed and sewage mantel.
- c) All lots must front on and have access to an existing public road maintained on a year round basis and at a reasonable standard of construction. Direct access to and from County or Provincial roads will be limited in accordance with the policies and regulations established by the agencies having jurisdiction over these roads.
- d) An adequate and potable water supply must be available for any proposed lots created by consent. An exception to this policy may be made if it can be shown that the purpose for which the lot(s) in question is to be used does not require a water supply.
- e) All lots created by severance must be suitable or capable of being made suitable to support a sewage disposal system.

- f) Severances may be permitted for the purposes of making a lot boundary correction provided that such corrections are minor in nature.

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:

At the time of writing the subject report, no comments or concerns had been received from internal or external agencies / departments.

Analysis:

The Provincial Policy Statement, County Official Plan and the Municipality's Official Plan generally permit lot creation within Settlement Areas, subject to servicing and compatibility.

The Planning Policies have a servicing hierarchy and prefer municipal services when available. The proposed infill development represents a more efficient use of land in an Urban Settlement Area of the Municipality that will utilize municipal water and sanitary sewer services that are available in Komoka-Kilworth. These services are required to be extended to the lot as per the recommended conditions, if the subject application is approved.

Given the size of the subject property, the proposed infill development represents a more efficient use of land within the village of Komoka that will utilize municipal water and sanitary sewer services in the area. Much of Komoka was developed on private services and as such, lot sizes tend to be significantly larger than is now necessary given the availability of full municipal services in the village. Intensification is encouraged by provincial policy as well as the County and Middlesex Centre official plans and is the preferred form of development, as it promotes a more efficient use of land and infrastructure, while also reducing the need for expansion of settlement area boundaries. Planning staff is of the opinion that the subject property is suitable for intensification within the village and would promote compact form and more appropriate development standards for residential lots having access to full municipal services.

Both the County and the local Official Plan speak to lot creation via the consent process versus a plan of subdivision and contemplate three lots being permitted via the consent process where no extension of infrastructure is required. Given that only a new lot is proposed on an existing road, staff find the subject applications comply with the consent policies.

The proposed residential development for the severed and retained lands is compatible with the surrounding land uses and there are no anticipated negative impacts from the subject consent application.

The proposed development would occur within a built-up area of Komoka and would be adjacent to existing residential development. The Urban Residential First Density – exception (UR1-4) zone that applies in the subject area stipulates a minimum lot frontage of 15 metres (49 ft) and a minimum lot area of 450 square metres (4,844 sq ft). The requested lot frontages and lot areas for the parcel proposed to be severed and retained exceed the minimum requirements in the area and the development represents an intensification of land uses in a fully serviced settlement area of the Municipality. Planning staff is of the opinion that the subject property is a suitable candidate for intensification within the village that would promote compact form and more appropriate development standards for residential lots having access to full municipal services.

Planning staff is satisfied that the above-noted items, as well as other matters identified through the review of the subject proposal, can be adequately addressed through conditions of approval; thus ensuring that the development would be consistent with the Provincial Policy Statement, conform to the Middlesex Centre and County of Middlesex official plans, comply with the Middlesex Centre Comprehensive Zoning By-law and represent sound land use planning.

Furthermore, 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.

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.

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

Unacceptable adverse impacts on neighbouring lands are not anticipated given that the existing dwelling would be 1.5 metres (4.9 metres) from the westerly property line. The effects of this variance could be considered minor in nature.

Is the variance an appropriate use of the land? YES

The subject property is designated Residential and is intended to be used for residential purposes for the long term. This development would be consistent with the character of the area which includes residential development in the form of single detached dwellings. This variance is compatible with the surrounding neighbourhood and is appropriate and desirable use of the lands.

Does the variance maintain the intent of the Zoning By-law? YES

The intent of the minimum side yard setback for the UR1-4 zone for the lands to be retained is to ensure sufficient access to the rear yard and to allow the dwelling to be maintained with no encroachment onto neighbouring lands. Although the reduced minimum side yard setback would allow the existing dwelling to be less than required 3 metres (10 feet) on one side and 2 metres (7 feet) on the other side, the reduced side yard of 1.5 metres (4.9 feet) would continue to provide access to the rear yard and the ability to maintain the dwelling on the subject property. The intent of the Zoning By-law would be maintained.

Does the variance maintain the intent of the Official Plan? YES

Under the Low Density Residential designation, permitted uses include single detached dwellings, therefore the proposal maintains the intent of the Official Plan.

As previously stated, much of Komoka was developed on private service, therefore the lot sizes tend to be significantly larger than is now necessary given the availability of full municipal services in the village. This request can be considered valid as it is not uncommon to request relief from the standard zoning provisions when creating an infill lot.

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, 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

This report conforms to Strategic Plan objective 2.2 – Through the Official Plan review and other means, manage the pace of new residential development and encourage the complementary availability of commercial, school, and public amenities by encouraging infill development within existing settlement areas.

Attachments:

1. Location Map
2. Proposed Severance Sketch