



**Meeting Date:** May 17, 2023

**Submitted by:** Dan FitzGerald, MPI MCIP RPP, Planner II

**Report No:** PLA-36-2023

**Subject:** Application for Minor Variance (File No. A-9/2023)

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**Recommendation:**

THAT Minor Variance Application A-9/2023, filed by Mike Halliwell to permit a maximum lot coverage of 6.23% for accessory buildings for a property legally known as Lot 7 on Plan M339 in the Municipality of Middlesex Centre, County of Middlesex, and municipally known as 30 Winona Road, be GRANTED;

AND THAT the reasons for granting Minor Variance Application A-9/2023 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.

**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 Winona Road, just north of Wingreen Lane in Kilworth. 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 maximum lot coverage requirements for accessory structures in Urban Residential or Community Residential zones to facilitate the construction of a covered kitchen and seating area. The applicant is proposing to construct a structure for an outdoor kitchen and seating area having a lot coverage of 6.23% (67.36 square metres) whereas the zoning by-law permits a maximum lot coverage of 3% or 50 square metres, whichever is lesser. The subject property is designated Residential according to Middlesex Centre's Official Plan which permits residential uses including accessory uses.

The subject property is a 1080 square metre (0.2 ac) property located in Kilworth. The property contains a single detached dwelling and two accessory buildings in the form of a pool shed and a utility shed. The dwelling is serviced by municipal piped water and municipal sanitary sewage system. Surrounding land uses are residential in nature.

**Consultation:**

Notice of the application has 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:**

During circulation of the application, no concerns were identified from an internal staff or external agencies.

**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.

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 variance 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 proposed outdoor kitchen and seating area would be located in the rear yard and would meet all other requirements of the zoning by-law. The effects of this variance could be considered minor in nature.

Is the variance an appropriate use of the land? YES

Given that the neighbourhood is designated for residential purposes and the proposed outdoor kitchen and seating area would be accessory to the residential use, the proposal can be considered compatible with the surrounding neighbourhood. It is also important to note that accessory buildings and outdoor seating areas are characteristic of the neighbourhood therefore, the proposal is appropriate and desirable use of the land.

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

The intent of limiting the size of accessory buildings through a maximum floor area and lot coverage is to ensure accessory buildings remain subordinate to the primary residential use of the property. Considering the dwelling would remain the dominant structure on the property, this variance would meet the general intent of the zoning by-law. Furthermore, due to the existing accessory buildings on the property which contribute to the maximum lot coverage, the proposal is not able to stay under the 3% maximum lot area requirement.

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

As mentioned, residential designations permit residential uses and buildings accessory thereto. With the proposed kitchen and seating area being accessory to the primary use (single detached dwelling), the intent of the Official Plan would be maintained.

Staff is satisfied that the above items have been met and that a minor variance to permit an increased lot coverage of 6.23% 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