



**Meeting Date: November 24, 2021**

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

**Report No: PLA-100-2021**

**Subject: Application for Minor Variance (File No. A-39/2021)**

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**Recommendation:**

THAT Minor Variance Application A-39/2021, filed by Denis Basic, for relief from the Comprehensive Zoning By-law in order to establish a maximum size of 50.2 square metres (540 square feet) or 5.8 percent lot coverage for all accessory buildings, whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum size of the lesser of 50.0 m<sup>2</sup> (538.0 ft<sup>2</sup>) of gross floor area or three percent (3%) lot coverage, for a property legally described as Lot 132, Plan 33M761, in the Municipality of Middlesex Centre, County of Middlesex, and Municipally known as 69 Locky Lane, be GRANTED, subject to the following condition.

THAT the design of the proposed accessory building and location be substantially in accordance with the plans attached to this report and decision.

AND THAT the reasons for granting Minor Variance Application A-39/2021:

- 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 side of Locky Lane, west of the intersection at Locky Lane and Benner Boulevard, in the Kilworth Heights West subdivision.

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 permissible gross floor area for an accessory building in the Urban Residential First Density - Exception (UR1-38) Zone. The applicant is requesting a maximum size for all accessory buildings on the land of 50.2 square metres (540 square feet) or 5.8 percent lot coverage, whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum size of the lesser of fifty square metres (50.0 m<sup>2</sup>) (538.0 square feet) of gross floor area or three percent (3%) lot coverage, which in this case would be a maximum permissible size of 25.7 square metres (276.6 square feet). The effect of the proposal is to facilitate the construction of one accessory building to act as a detached pool house and outdoor covered seating area. A site plan is included as Attachment 2 and plans included as Attachment 3.

The subject lands are located in Kilworth. It is surrounded on all side by residentially designated lands intended for residential development, as part of the Kilworth Heights West subdivision. It is designated 'settlement area' in the Middlesex County Official Plan, 'Residential' in the Middlesex Centre Official Plan, and zoned an Urban Residential First Density – Exception (UR1-38) Zone in the Middlesex Centre Comprehensive Zoning By-law. The land in question has a frontage of approximately 15.35 metres (50 feet) on Locky Lane and an area of approximately 860 square metres (0.21 acres), which complies with the requirements of the Urban Residential First Density – Exception (UR1-38) Zone.

The applicant has provided a conceptual site plan showing the proposed location of the accessory building, located at the back of the property along the rear yard property line. The applicant is proposing to build an accessory building to accommodate pool equipment and storage, as well as a large covered outdoor seating area. Based on the request, they are proposing to increase the maximum permissible size by 24.5 square metres (263.7 square feet). The proposed variance is summarized below:

Requirements	Relief Requested
As per section 4.1 (b) (i) no buildings or structures accessory to a dwelling shall exceed the lesser of 50.0 m <sup>2</sup> (538 ft <sup>2</sup> ) of gross floor area or three percent (3%) lot coverage in any <u>Urban Residential or Community Residential Zone</u> .	24.5 square metres (263.7 square feet) or an additional 2.8 percent lot coverage

## 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 Official Plan. The lot is zoned 'Urban Residential First Density – Exception (UR1-38) Zone' by Middlesex Centre's Comprehensive Zoning By-law. The applicant noted that the proposed increase in size is based on the request to include a covered outdoor seating area.

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 proposed increase in size of 24.5 square metres is not anticipated to have any negative impacts on surrounding land. Also the requested increase would not necessitate any additional variances such as setbacks. Therefore, the impact of the proposal can be considered minor in that it would be in keeping with the existing character of the area.

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 Residential designation is to provide for a variety of dwellings and accessory buildings in the area. 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 for an accessory building is to limit an accessory building to maintain the dwelling as the principle use of the lands. As the building would still be smaller than the dwelling, Planning Staff is satisfied that the proposed increase in size would not detract from the residence being 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 as staff do not anticipate a negative impact to abutting property owners.

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
3. Proposed Building Plan