



Meeting Date: September 20, 2023

Submitted by: Dan FitzGerald MPI MCIP RPP, Senior Planner

Report No: PLA-61-2023

Subject: Application for Minor Variance (File No. A-17/2023)

Recommendation:

THAT Minor Variance Application A-17/2023, filed by Steve Charles on behalf of Chad Caines, for relief from the Comprehensive Zoning By-law in order to permit a maximum overall size of 59 square metres for all residential accessory buildings, and to place the building in the front yard, for a property legally described as Lots 12 and 17, Plan 47, in the Municipality of Middlesex Centre, County of Middlesex, and is municipally known as 2708 Gideon Drive, be GRANTED, subject to the following conditions:

THAT the accessory building be constructed in the same general location as shown in the applicants site plan, attached to this report,

THAT that all roof water be directed, using eaves and downspouts, away from neighbouring properties,

AND THAT the applicant provide an engineered lot grading plan (sealed by a Professional Engineer licensed in Ontario) which ensures that the building does not interfere with local drainage and a letter from the professional engineer stating that the additional runoff generated will not negatively impact adjacent properties

AND FURTHER THAT the reasons for granting Minor Variance Application A-17/2023:

- 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 east side of Gideon Drive, which maintains frontage on Wellington Street and York 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 maximum permissible gross floor area and location for an accessory building in the Community Residential First Density (CR1) Zone. The applicant is requesting a maximum size of all accessory buildings of 59 square metres (635 square feet), represented as 2.5 percent lot coverage, whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum size of the lesser of fifty square metres (50.0 m²) (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 50 square metres. Additionally, based on the unique characteristics of the lot, the proposed location for the accessory building, although located behind the dwelling, is proposed to be in the front yard. The Zoning By-law prohibits accessory buildings in the front and exterior side yards. The effect of the proposal is to facilitate the construction of one accessory building for personal use. A site plan is included as Attachment 2.

The subject lands are surrounded by residential lands on all side in the format of single detached dwellings and backs onto a municipal park. It is designated ‘settlement area’ in the Middlesex County Official Plan, ‘Residential’ in the Middlesex Centre Official Plan, and zoned a Community Residential First Density (CR1) Zone in Middlesex Centre’s Comprehensive Zoning By-law. The land in question has a frontage of approximately 11.56 metres (38 feet) on Wellington Street, and an area of approximately 2,358.79 square metres (0.58 acres).

The applicant has provided a conceptual site plan showing the proposed location of the accessory building, which is proposed to be located behind, but north of the existing dwelling, along the norther interior side yards. The proposed reductions based on the applicant’s submission are 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 ² (538 ft ²) of gross floor area or three percent (3%) lot coverage in any <u>Urban Residential or Community Residential Zone.</u>	9 square metres (96.8 square feet)

As per section 4.1 a (ii), be erected closer to the front lot line than the main building	Constructed in the front yard
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Consultation:

Notice of the applications have been circulated to agencies, as well as property owners in accordance with the requirements of the Planning Act.

Public Comments:

At the time of writing the subject report, one comment was received from a neighbouring landowner requesting additional information.

Agency Comments:

The following comments were received at the time of writing this report;

Enbridge Pipelines does not have any assets in the area.

Director of Public Works and Engineering: requested the following condition be included:

the applicant shall provide an engineered lot grading plan (sealed by a Professional Engineer licensed in Ontario) which ensures that the building does not interfere with local drainage and a letter from the professional engineer stating that the additional runoff generated will not negatively impact adjacent properties.

Chief Building Official: requested the following conditions be included:

that all roof water be directed, using eaves and downspouts, away from neighbouring properties,

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's Official Plan. The lot is zoned 'Community Residential First Density (CR1) Zone' by Middlesex Centre's Comprehensive Zoning By-law. Staff note that the applicants request for a minor variance to the maximum size is generally due to the preferred nature of development on the lands. However, the request to construct in the front yard is based on an interpretation in the by-law.

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 increase in size and location in the front yard is not anticipated to have any negative impacts on surrounding land. Any potential impact is mitigated through requested conditions included for consideration. The design does not exceed the existing height limitations and it is setback an appropriate distance to the interior side yard of the neighbouring property. Additionally, the principal dwelling would visually remain the dominant structure on the lands. 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

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 variances 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 increase in the maximum permissible size would not detract from the residence being the main structure on the lands. The accessory structure is subordinate to the dwelling.

Similarly, the by-law does not permit residential accessory buildings in the front yard, which would detract from the dwelling as the main structure. Front yard in this instance is Wellington Street as it represents the shortest distance on a public road. This portion functions as an interior side yard between two existing parcels. It is not anticipated to detract from the house and remaining the visual dominant structure on the parcel. 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 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. Conservation Authority Letter