



Meeting Date: September 20, 2023

Submitted by: Dan FitzGerald MPI MCIP RPP, Senior Planner

Report No: PLA-59-2023

Subject: Application for Minor Variance (File No. A-14/2023)

Recommendation:

THAT Minor Variance Application A-14/2023, filed by Steve Flanigan for relief from the Comprehensive Zoning By-law in order to permit an increase to the maximum permission size of an accessory building and permit the accessory building to be constructed in the front yard, for a property legally described as Part of Lot 16, Concession 7, in the Municipality of Middlesex Centre, County of Middlesex, and municipally known as 24089 Bear Creek Road, be **GRANTED**, subject to the following conditions:

THAT an increase to the maximum permissible size for an accessory building shall only be applicable in such situation that an accessory building is constructed south of the southern most interior side yard of the dwelling, and setback a minimum of 33 metres from the front property line; and,

THAT the size of the accessory building be limited to the lesser of 222.9 square metres, or the footprint of the dwelling.

AND THAT the Owner confirm the building shall only be used in accordance with the permissions of the Zoning By-law, and that the building shall not be used for any type of commercial business.

AND FURTHER THAT the reasons for granting Minor Variance Application A-14/2023:

- 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 west side of Bear Creek Road, south of the intersection at Ivan Drive and Bear Creek Road.

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 Agricultural (A1) Zone. The applicant is requesting a maximum size of all accessory buildings of 222.9 square metres (2400 square feet) or 4.7 percent lot coverage, whereas the Zoning By-law permits a maximum size of the lesser of 110 m² or 3% lot coverage, which in this case would be a maximum permissible size of 110 square metres. The applicant is also seeking relief to locate the accessory structure in the front yard, beyond the forward most portion of the house. The effect of the proposal is to facilitate the construction of one accessory building in the front yard of the property. A site plan is included as Attachment 2.

The subject lands are generally located in an agricultural area, surrounded by large rural residential lots. It is bounded by residential development to the north and west, and agricultural lands to the east and south. It maintains a frontage of approximately 73.15 metres (240 feet) along Bear Creek Road, and an area of approximately 1.16 acres (0.47 hectares). A portion of the lands along the north interior side yard are regulated by the St Clair Region Conservation Authority. 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 front yard, along the northwestern interior side yard of the property. The applicant is proposing to build an accessory building, which is being used for personal use. The proposed variance is summarized below:

Requirements	Relief Requested
As per section 4.1 b (iv), the maximum gross floor area the lesser of 110 m ² or 3% lot coverage	maximum lot coverage of 4.75% or an increase of 112.9 m ²
As per section 4.1 a (ii), be erected closer to the front lot line than the main building	Constructed in the front yard

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, two comments were received, one indicating they supported the proposal, and the second indicating objections to the proposal. The letter objecting to the development is appended to this report.

Agency Comments:

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

Enbridge Pipelines does not have any assets in the area.

Development Review Coordinator has reviewed the application and has no concerns.

Chief Building Official has reviewed the application and have no concerns.

St Clair Region Conservation Authority indicates portion of the subject property is regulated by the Conservation Authority under Ontario Regulation 171/06. SCRCA has no comments regarding the minor variance application. The proposed accessory building encroaches into the regulated area and will require written permission from the Conservation Authority prior to construction. The applicant should submit a permit application after the minor variance has been approved. Information on our permit application process can be found here:

<https://www.scrca.on.ca/planning-and-regulations/permits/>

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 'Agriculture' 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 personal effects and to have a space for personal use.

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, subject to conditions.

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 112.9 square metres and location in the front yard is not anticipated to have any negative impacts on surrounding land, so long as the accessory structure does not exceed the footprint of the dwelling. The preferred location being proposed in proximity to the neighbouring landowner, due to the size of the structure, may cause potential impact. This location is also impacted by a regulated area, which development should be located outside of should other opportunities existing on the lands. Planning has recommended a condition that should the Owner prefer to construct an accessory building of this size, it be constructed south of the most southern interior side yard of the dwelling. At this location, the maximum overall size and height is not anticipated to have a negative impact on neighbouring property owners. 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 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 location for an accessory building is to limit an accessory building to maintain the dwelling as the principal use of the lands. Based on recommended conditions, the accessory building would not be permitted to exceed the size of the principal dwelling. Additionally, the location of the building, subject to the location condition, 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. Additionally, as the existing location of the dwelling is at the rear of the property, it would be difficult to locate the accessory building behind the front wall of the dwelling. Existing mature trees on the lands will help shield the accessory building from the road to ensure the dwelling visually remains the principal use. 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 tests 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. Opposition Letter