



Meeting Date: October 18, 2023

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-65-2023

Subject: Application for Minor Variance (File No. A-18/2023)

Recommendation:

THAT Minor Variance Application A-18/2023, filed by Monteith Browth Planning Consultants (Benita Senkevics), on behalf of 2638477 Ontario Limited for relief from the Comprehensive Zoning By-law in order to establish a minimum front yard setback for a residential building of 3.0 m (9.8 ft) for Unit 61, whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum front yard setback of 6.0 m (19.7 ft), for a property legally described as PLAN 33M801 BLK 126, in the Municipality of Middlesex Centre, County of Middlesex, be GRANTED;

AND THAT the reasons for granting Minor Variance Application A-12/2023:

- 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 north side of Doan Drive and south side of Glendon Drive, and east of Crestview Drive in the Kilworth Heights West subdivision 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 minimum front yard setback requirement in the "Urban Residential Third Density exception 9 (UR3-9)" Zone. The applicant is requesting a minimum front yard setback of 3.0 m (9.8 ft) for Unit 61 only, whereas the Zoning By-law requires a minimum front yard setback of 6.0 m (19.7 ft). The effect of the proposal is to facilitate the extension of the sidewalk on the north-west corner of the Unit. No changes to the location of the dwelling or townhouse block are proposed.

The subject lands are located in Kilworth and bound by medium density residential to the west and south, and low density residential uses and commercial lands to the east. Lands to the north are currently vacant but designated from medium and low density residential uses. The subject lands are located and accessed from Doan Drive.

The lands are identified as part of the Kilworth Settlement Area in the Middlesex County Official Plan, designated 'Medium Density Residential' in the Middlesex Centre Official Plan, and zoned "Urban Residential Third Density exception 9 (UR3-9)" in the Middlesex Centre Comprehensive Zoning By-law.

An illustration of the proposal is included in Attachment 2. The proposed reductions are summarized below:

Requirements	Relief Requested
As per section 10.3.9 the minimum front yard setback is 6.0 m (19.7 ft).	minimum front yard setback of 3.0 m (9.8 ft)

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;

The Municipality's Chief Building Official has reviewed the application and has indicated no objection to the proposal.

The Municipality's Development Review Coordinator has reviewed the application and has indicated no objection to the proposal.

The Municipality's Director of Public Works and Engineering has reviewed the application and has no concern with the requested variance as it does not change the distance from the travel lane to the building.

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 'Medium Density Residential' in the Middlesex Centre Official Plan. The land is zoned "Urban Residential Third Density exception 9 (UR3-9)" Zone by Middlesex Centre's Comprehensive Zoning By-law. Staff note that the applicants request for a minor variance to the front yard setback is due to staff's request to extend a common sidewalk across the frontage of the Unit to improve pedestrian connectivity through the site. The location of the building is not proposed to move closer to the private roadway.

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, Planning Staff is of the opinion that the proposal is considered minor in nature since the front property line is adjusted to accommodate the sidewalk resulting in a reduced front yard setback. The dwelling unit and driveway are not proposed to be relocated or adjusted from the initial plan. Further, a previously granted minor variance permitted a front yard setback of 4.5 m. The additional reduction will not cause a significant loss of the front yard and amenity area for the landowner. Unit 61 is a corner unit, therefore, Planning Staff do not anticipate that the reduction of the front yard setback will have negative impacts on neighbouring properties.

Is the variance an appropriate use of the land? Yes

The development of a townhouse dwelling is consistent with the character of the area and planned function of the site which includes similar residential uses within the same development. 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 Medium Density Residential designation is to provide for a variety of dwelling types and densities in the area. The requested setback supports the development of the land for townhouse development. 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 subject request is to ensure that there is sufficient separation between the proposed dwelling and roadway, to provide some amenity space, and to accommodate a driveway in the front yard. The proposed reduction is a result of staff's recommendation to extend a sidewalk across the frontage of the Unit, therefore modifying the front lot line and depth. However, the location of the dwelling unit is not proposed to change and there will continue to be sufficient space for vehicle parking and amenity area immediately in front of the dwelling. As such, Planning Staff is satisfied that the requested relief would maintain the general intent and purpose of the Comprehensive Zoning By-law.

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

Attachments:

Attachment 1 – Location Map

Attachment 2 – Proposed Site Plan