



Meeting Date: October 18, 2023

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-66-2023

Subject: Application for Minor Variance (File No. A-20/2023)

Recommendation:

THAT Minor Variance Application A-20/2023, filed by Pine View Acres Limited for relief from the Comprehensive Zoning By-law in order to permit an increase to the maximum permission size of an accessory building, for a property legally described as Part of Lot 4, Concession 8 South, in the Municipality of Middlesex Centre, County of Middlesex, and municipally known as 9890 Ivan Drive, be GRANTED, subject to the following conditions:

THAT the size of the accessory building be limited to the lesser of 287.72 square metres, or the footprint of the dwelling;

AND THAT 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-20/2023:

- 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 corner of Komoka Road (County Road 16) and Ivan Drive.

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 in the Agricultural (A1) Zone for an accessory building. The applicant is requesting a maximum size of all accessory buildings of 287.72 m² (3, 097 ft²) or 0.7 percent lot coverage, whereas the Zoning By-law permits a maximum size of the lesser of 165 m² or 3% lot coverage, which in this case would be a maximum permissible size of 165 m². The effect of the proposal is to facilitate the construction of one and a half storey accessory building (pool house, storage, and garage). Floor plans and elevations provided by the applicant are included as Attachment 2.

The subject land is generally located in an agricultural area with active agricultural lands and associated farm houses. It maintains a frontage of approximately 603 m (1, 978 ft.) on Ivan Drive and 682 m (2, 237 ft.) along Komoka Road, and has an area of approximately 40 ha (100 ac). A portion of the lands along the north half of the property and along the southern perimeter are regulated by the St Clair Region Conservation Authority (SCRCA). 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 165 m ² or 3% lot coverage	an increase of 122.72 m ²

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, staff did not receive correspondence from member of the public.

Agency Comments:

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

The Municipality's Chief Building Official and the Public Works and Engineering Department has reviewed the application and has 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 a result of the garage to be used for the storage of vehicles and personal effects, and for personal recreation and storage space associated with the pool.

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 immediate community.

The proposed increase in size of 122.72 m² is not anticipated to have any negative impacts on surrounding land if the accessory structure does not exceed the footprint of the dwelling, and is located to the rear of the dwelling and within the building cluster. This location is also outside of the regulated area and is not anticipated to negatively impact neighbouring properties located to the west and south. 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 proposed accessory building is associated and located in proximity to the residential use on the property without removing agricultural land from cultivation. The accessory use is consistent with the character of the area and represents 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 and not negatively impact agricultural uses on the land. 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 condition, the accessory building would not be permitted to exceed the size of the principal dwelling. Additionally, the applicant has confirmed that the proposed accessory building will be located behind the dwelling and within the existing building cluster. This provides sufficient screening and setback from the roadway and adjacent properties, and ensures that the dwelling and agricultural uses visually remain the principal use of the lands.

The applicant has also confirmed that the proposed accessory building will not be used as an additional residential unit or habitable space. If there is intention to use the accessory building as an additional residential unit, the applicant will need to obtain the necessary permissions subject to policies in the Official Plan and Zoning By-law. As a result, 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

Attachments:

Attachment 1 – Location Map

Attachment 2 – Proposed Floor Plan and Elevations