



Meeting Date: October 18, 2023

Submitted by: Marion-Frances Cabral, Planner

Report No: PLA-68-2023

Subject: Application for Minor Variance (File No. A-22/2023)

Recommendation:

THAT Minor Variance Application A-22/2023, filed by Sifton Properties Limited for relief from the Comprehensive Zoning By-law in order to establish a minimum front yard set back of 5.5 m (18.0 ft) for Units 15, 16, 19, 28, and 31, a minimum side yard setback on the side abutting a public street of 3.0 m (9.8 ft) for Unit 1, and a maximum density of 31 units per hectare, whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum front yard set back of 6.0 m (19.7 ft), a minimum side yard setback on the side abutting a public street of 6.0 m (19.7 ft) and a maximum density of 30 units per hectare, for a property legally described as Block 55 of 33M-836, in the Municipality of Middlesex Centre, County of Middlesex, be GRANTED, subject to the following conditions:

THAT the driveway of Unit 1 is located in the front yard of the unit and connected to the internal private road;

AND THAT the driveway of Units 15, 16, 19, 28, and 31 contain sufficient space for at least 1 parking space in compliance with the Zoning By-law;

AND FURTHER THAT the reasons for granting Minor Variance Application A-22/2023:

- 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 medium density residential block located on the southwest extension of Arrowwood Path, west of Timberwalk Trail in Phase 5 of the Timberwalk subdivision in Ilderton.

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 set back, minimum side yard setback on the side abutting a public street, and maximum density in the “Urban Residential Third Density exception 12 (UR3-12)” Zone.

The applicant is requesting a front yard set back of 5.5 m (18.0 ft), a minimum side yard setback on the side abutting a public street of 3.0 m (9.8 ft) and a maximum density of 31 units per hectare, whereas the Zoning By-law requires a minimum front yard set back of 6.0 m (19.7 ft), a minimum side yard setback on the side abutting a public street of 6.0 m (19.7 ft), and a maximum density of 30 units per hectare. The effect of the proposal will facilitate the development of 31 townhouse dwelling units within a vacant land plan of condominium.

The subject lands are located in Ilderton and surrounded by existing and future low density residential development to the north, agricultural lands to the south and west, and a woodlot and some medium density residential development within proximity to the subject Block to the east. Lands to the north are currently vacant but designated from medium and low density residential uses. The Block is accessed by an extension of Arrowwood Path west of Timberwalk Trail.

The lands are identified as part of the Ilderton Settlement Area in the Middlesex County Official Plan, designated ‘Residential’ in the Middlesex Centre Official Plan, and zoned “Urban Residential Third Density exception 12 (UR3-12)” in the Middlesex Centre Comprehensive Zoning By-law.

The proposed reductions are summarized below:

Requirements	Relief Requested
Maximum Density - 30 units per hectare	Maximum Density - 31 units per hectare
Minimum Front Yard Setback to an attached garage - 6.0 m (19.7 ft)	Minimum Front Yard Setback to an Attached Garage 5.5 m (18.0 ft)
Minimum Side Yard Setback on the side abutting a public street - 6.0 m (19.7 ft)	Minimum Side Yard Setback on the side abutting a public street - 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 Fire Chief has reviewed the application and has indicated no objection to the proposal, but provided additional comments related to the site plan application.

The Municipality's Director of Public Works and Engineering has reviewed the application and has no issues with the requested density. With regard to the requested front yard setback (Units 15, 16, 19, 28, and 31), the reduction of the setback to the garage may have some vehicles that can exceed the 5.5 m length and make one side of the driveway unusable. Since the VLC does not have boulevards that a municipal road allowance would have there may be some cars that overhand the curb line creating a safety hazard and make snow removal more difficult. As a result, a condition should be added to require one full parking space to be provided with the driveway in the front yard in addition to the parking space(s) available in the garage. With regard to the side yard setback from a public road (Unit 1), given the low traffic volume of the cul-de-sac there is no issue with a reduction but perhaps a 4m setback would be better to be consistent with the corner lots of Phase 4. A condition should be added that the driveway must be located on the frontage of Unit 1 to the internal private road.

The St. Clair Regional Conversation Authority has reviewed the application and has no concerns with the proposed variances.

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 lots are zoned "Urban Residential Third Density exception 12 (UR3-12) Zone' by Middlesex Centre's Comprehensive Zoning By-law. The applicant is requesting the minor variance to increase the maximum density, reduce the front yard setback of Units 15, 16, 19, 28, and 31, and reduce the side yard setback of Unit 1, to facilitate the development of a 31 unit townhouse development.

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, Planning Staff is of the opinion that the proposal is considered minor in nature. The increase in density will result in the addition of 1 unit which will not substantially increase traffic and it is not anticipated that it will negatively impact neighbouring properties.

The reduction of the front yard setback to Units 15, 16, 19, 28 and 31 can be considered minor since the setback reduction is a result of the curving of the internal roadway on one side of the unit. This reduces the front yard setback and the length of a portion of the driveway to be 5.5 m. However, there is sufficient space within the front yard to provide a single parking space within a driveway, and maintain a 6 m setback for majority of the dwelling consistent with the rest of the townhouse block. Staff request that the single parking space be identified and dimensioned appropriately on the site plan to denote the vehicle access to the dwelling.

Finally, the reduction of the side yard setback to a public road from 6 m to 3 m can be considered minor since the travel road consists of a cul-de-sac with low traffic volumes and an additional 4.5 m of land within the right-of-way further separates the dwelling from the roadway. At such time that future development occurs to the west, the cul-de-sac will be removed and additional land will separate the dwelling from the roadway. As a result, Planning Staff do not anticipate that the requested variances will have negative impacts on affected dwellings units or neighbouring properties.

Is the variance an appropriate use of the land? Yes

The variances facilitate the development of a townhouse plan of condominium that is the planned function of the site. 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 dwelling types in the area. The requested variances continue to support the development of residential uses, and provides an opportunity to add more housing into the 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 requests are to ensure that there is sufficient separation between the proposed dwelling and roadway, to provide amenity space and adequate space for residents, and ensure sight-lines are maintained at intersections.

The proposed reduction in concurrence with other regulations of the Zoning By-law, continue to provide sufficient amenity area on each lot, and adequate separation between the dwelling unit and the roadways. Further, the front yard and side yard setback reductions will not interfere with the required daylight triangle at the corner of the roadways or significantly impede sight visibility. 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 subject to conditions 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