



**Meeting Date: January 24, 2024**

**Prepared By: Dan FitzGerald MPI RPP MCIP, Manager of Planning**

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**Report No: PLA-3-2024**

**Subject: Application for Minor Variance (File No. A-24/2023)**

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**Recommendation:**

THAT Minor Variance Application A-44/2023, filed by Steve Flanigan for relief from the Comprehensive Zoning By-law in order to permit a reduced interior side yard setback for an accessory building, 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 the proposed reduction to the interior side yard only apply to the south interior side yard of the lot.

AND THAT the reasons for granting Minor Variance Application A-24/2023:

- 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 minimum interior side yard setback requirement for an accessory building. The applicant is requesting a minimum interior side yard setback of 0.6 metres (2 feet), whereas the by-law currently requires a minimum interior side yard setback of 1.5 metres (4.9 feet) for an accessory structure. The effect of the proposal is to facilitate the construction of one accessory building in the front yard of the property.

As Council may recall, this applicant requested and was granted a minor variance to the location of the accessory building in the front yard and size of the building. Conditions were recommended limiting the size of the structure to no larger than the house, and that the building be located in the south interior side yard. Due to a conflict with an existing well, the applicant is requesting to reduce the overall size of the structure, but also reduce the interior side yard setback to gain enough space to place the building in the south interior side yard as conditioned in the original variance.

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 south 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 a (iv), accessory buildings shall be set back a minimum of 1.5 metres to the interior side yard.	Reduce interior side yard setback on the south interior side yard to 0.6 metres (2 feet)

## **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 in the south interior side yard does not encroach into the regulated area and no permit is required.

## **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.

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 decrease in the interior side yard setback does not adversely impact any neighbouring development to the 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 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 minimum interior side yard setbacks for accessory structures is to ensure they are buffered from neighbouring properties and not impact existing drainage patterns. Additionally, appropriate setbacks permit future maintain of the structure. As the proposed setback would maintain 2 feet of clearance around the building, and no neighbouring development exists within the proximity of the building, Planning is 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