



**Meeting Date:** April 17, 2024

**Prepared By:** Marion-Frances Cabral, Planner

**Submitted by:** Marion-Frances Cabral, Planner

**Report No:** PLA-18-2024

**Subject:** Application for Minor Variance (File No. A-2/2024)

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**Recommendation:**

**THAT** Minor Variance Application A-2/2024, filed by Sifton Properties Limited for relief from the Comprehensive Zoning By-law in order to establish a Minimum Exterior Side Yard Setback to a public road of 4.0 m and a Maximum Density of 37 UPH, for a property legally described as Block 56 of 33M-836, in the Municipality of Middlesex Centre, County of Middlesex, be **DENIED**.

**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 Timberwalk Trail, south of Arrowwood Path in Phase 5 of the Timberwalk subdivision in Ilderton.

A location map is included as Attachment 1.

**Background:**

The applicant initially requested several variances to seek relief from the Middlesex Centre Comprehensive Zoning By-law 2005-005 as it relates to the (1) Minimum Lot Area, (2) Minimum Lot Depth, (3) Minimum Front Yard Setback, (4) Minimum Exterior Side Yard Setback to a public road, (5) Minimum Rear Yard Setback, (6) Maximum Density, and (7) Minimum Outdoor Amenity Space in the “Urban Residential Third Density exception 12 (UR3-12)” Zone.

A public meeting was held on February 21, 2024 where the Committee of Adjustment deferred the application as a result of outstanding concerns from staff and members of the public.

The applicant has since adjusted their development plan (Attachment 2) by adjusting the building footprints to reduce the variances requested. The revised application seeks relief from the Comprehensive Zoning By-law as it relates to the (1) Maximum Density; and (2) Minimum Exterior Side Yard Setback. A summary of the revised variances are shown in the table below.

	<b>Requirements in UR3-12</b>	<b>Relief Requested (REVISED)</b>
<b>Minimum Exterior Side Yard Setback (to a public road)</b>	6.0 m	3.0 m for Unit 1
<b>Maximum Density</b>	30 Units per Hectare	37 Units per Hectare

The subject lands are located in Ilderton and surrounded by existing and future low density residential development, a significant woodland, natural heritage features and open space to the south, and within proximity to a future medium density development to the west. The lands are accessed from Timberwalk Trail south of Arrowwood Path.

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.

**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 the Public Meeting, Staff received several letters from area residents who identified significant concern with the amount of development being proposed, proposed density, lack of privacy due to small rear yards, additional traffic, height of the dwellings, lack of greenspace, impact on property values, and lack of on-site parking. All comments were provided to members of the Committee at the Public Meeting.

Staff did not receive any additional comments from area residents at the time of writing this staff report.

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 variances.

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

The Municipality's Director of Public Works and Engineering has reviewed the applications and identified concerns with the reduced setback of 3.0 m to Timberwalk Trail, and location of the private road as it intersects with Timberwalk Trail.

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 now requests the minor variance to (1) reduce the Minimum Exterior Side Yard Setback to a public road and (2) increase the Maximum Density to facilitate the development of a 50-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? NO**

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.

Planning Staff reviewed the proposed minor variances within the context of development on the lands and the existing characteristics of the neighbourhood. The requested increase in density results in a development form that does not consider the impact on abutting lands. Specifically, the interface between the rear yards of existing development and side yards and dwellings of the proposed development plan does not maintain sufficient separation to support privacy and reasonable enjoyment of the land for both the existing and proposed development.

Planning Staff suggest that revisions to the development plan would be appropriate such as shifting the dwellings further south or reorient rear yards to abut the rear yards of the existing development. The result of the suggestions may warrant a reduction in the number of units and requested density. As such, Planning Staff cannot consider the variance minor in nature as the variance negatively impacts surrounding development.

Further, Planning and PWE staff reviewed the variance to reduce the exterior side yard setback to Timberwalk Trail. As identified by PWE the setback reduction to 3.0 m along a public right-of-way is not consistent with the building line along Timberwalk Trail where the front yard setback is 6.0 m for other dwellings. Additionally, a minimum of 4.0 m is considered in other areas of the Timberwalk subdivision on corner lots where the site characteristics warrant the reduction.

PWE Staff have suggested to shift the blocks a minimum of 4.0 m or greater from Timberwalk Trail, or remove a dwelling to accommodate the townhouse block. Moreover, Planning Staff have previously identified that the requested density of 37 UPH results in the need for other variances including this Exterior Side Yard Setback reduction. The compounding impact of the proposed variances cannot be considered minor as the impact of one variance necessitates another variance.

As a result of the above, Planning Staff do not consider the variance minor in nature.

### **Is the variance an appropriate use of the land? NO**

Generally residential development is considered an appropriate use of the land. In this case, Planning Staff have reviewed the request in the context of the existing characteristics of the neighbourhood. The requested variances result in a development plan that impacts surrounding development and is not compatible with characteristics of the neighbourhood. Therefore Planning Staff are of the opinion that the proposed

variances would not represent an appropriate use of land given the existing character of the area.

**Does the variance maintain the intent of the Official Plan? NO**

The intent of the Official Plan through the Residential designation is to permit residential uses including medium density residential development. The Applicant is proposing to develop the lands for a townhouse dwellings which is consistent with the designation.

Section 5.2.3 of the Official Plan provides additional policy direction and criteria for multiple dwelling developments within the Residential designation. Specifically multiple dwelling developments should propose densities that are compatible with adjacent densities when adjacent to or within existing residential areas.

Planning Staff do not consider that this policy directive is to ensure the density is the same as surrounding low density development. However, it is Planning Staff's opinion that it is to ensure that where higher density is proposed, the density does not negatively impact existing residential areas. As noted above, Planning Staff are of the opinion that the proposed density results in a development plan (inclusive of the setbacks and orientation of the townhouse blocks) that conflicts with and impacts existing residential areas. As such the variance would not meet the intent of the Official Plan.

**Does the variance maintain the intent of the Zoning By-law? NO**

The general intent and purpose of the Comprehensive Zoning By-law as it relates to the maximum density is to ensure there is a sufficient and an appropriate balance between the living spaces, and private and communal amenity spaces. Additionally, density contributes to the placement of buildings and how the site functions. Further, the intent of the minimum exterior side yard setback is to ensure separation and mitigate impacts between dwelling units and rights-of-way.

While Planning Staff support medium density development, the proposed variances create a development plan that create impacts that do not maintain the general intent of the Zoning By-law.

Given the above, Planning Staff recommends denial of the proposed minor variance as it does not meet the four test of a minor variance of the Planning Act.

This opinion is provided with the benefit of holding a public meeting and receiving all comments from agencies or members of the public. Should new information arise regarding this proposal, 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 (March 12, 2024)

Attachment 3 – Letter from the Applicant (March 13, 2024)