

Report No.: PLA-25-2024
Meeting Date: May 22, 2024
Submitted by: Dan FitzGerald, Manager of Planning
Subject: Application for Minor Variance (File No. A-7/2024)

Recommendation:

THAT Minor Variance Application A-7/2024, filed by Zelinka Primao Ltd c/o Katelyn Crowley on behalf of Orange Rock Developments for relief from the Municipality's Comprehensive Zoning By-law's minimum interior side yard setback to 3.5 metres (11.48 feet), whereas the Zoning By-law requires a minimum interior side yard setback of 6.0 (18 feet), for a lot legally described as Part of Block 60, Plan 33M656, in the Municipality of Middlesex Centre, County of Middlesex, be **GRANTED**, subject to the following condition:

THAT the reduced interior side yard setback only apply to the lands identified as Part 2 on the attached reference plan.

AND FURTHER THAT reasons for granting Minor Variance Application A-6/2024 include:

- 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 east side of Jefferies Road, more specifically on the south east corner of the intersection at Jefferies Road and Glendon Drive, 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 permitted interior side yard setback required for the site-specific Highway Commercial –



exception (C2-9) Zone. The applicant is proposing an interior side yard setback of 3.5 metres (11.4 feet), whereas the zone requires a minimum interior side yard setback of 6.0 metres. The effect of the variance is to permit a future severance of the lands for a proposed multi-family residential block with a reduced interior side yard setback of the commercial building.

The proposal is summarized below:

Requirements	Relief Requested
As per section 16.1.6 (a) the minimum interior side yard setback is 6.0 meters.	Proposed interior side yard setback 3.5 metres (11.4 feet).

The property has a frontage of approximately 102 metres (335 feet) along Dausett Drive and an area of approximately 2.97 hectares (7.33 acres). Additionally, the property maintains frontages along three roads, those being Glendon Drive, Jefferies Road, and Dausett Drive. It contains three existing commercial buildings and associated parking area. It is bordered by commercial lands to the west, and residential lands to the north, east and south.

The property is designated 'Settlement Area' in the County of Middlesex Official Plan. It is designated 'Settlement Commercial' in the Middlesex Centre Official Plan, is located within 'Special Policy Area #2' and is identified as a Community Gateway. Additionally, the lands are split zoned a 'Highway Commercial Exception (C2-9) Zone' and Urban Residential Third Density – Exception (UR3-27-h-2, h-3, h-7) by Middlesex Centre's Comprehensive Zoning By-law.

By way of a separate application, the Owner is seeking to sever the lands with the commercial zoned parcel being one portion, and the residential zoned portion being the second. As a result of a proposed severance, the applicant would be non compliant with an interior side yard setback for the existing commercial building located at 22428 Jefferies Road. As per the proposed property boundary, the applicant would be deficient 2.5 metres from the existing building to the proposed property line. The proposed setback is depicted in attachment 3 and 4 to this planning report.

Consultation:

Notice of the application has 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:

Municipality's Chief Building Official no objection.

Public Works and Engineering Department have reviewed the subject application and have no concerns and/or requirements.

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.

The applicant has requested the Minor Variance in order to accommodate a severance application for a proposed residential development. As previously noted, the subject lands are located within the Urban Settlement of Komoka-Killworth and are designated Settlement Commercial on Schedule A-2 - Komoka Kilworth Urban Settlement Area Secondary Plan of the Middlesex Centre Official Plan. Also within the Official Plan, the lands are within the Community Gateway area and subject to Special Policy Area 2. The subject lands subject to the variance are zoned Highway Commercial Exception (C2-9)



Zone on Schedule A Key Map U-8 of Zoning By-law 2005-005 and are intended for commercial / office 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. Additionally, staff have reviewed the request against the Official Plan as well as other commercial zoning within close proximity to the development. The reduction to the interior side yard at this point is proposed to accommodate a proposed severance and establishment of a new property line against a vacant parcel, intended for residential development. This proposed setback reduction poses limited impact to any other adjacent lands as the commercial buildings have already been constructed. As such, the impact of the proposal can be considered to be minor in nature.

Is the variance an appropriate use of the land? YES

Staff is of the opinion that the proposal is appropriate for the property as it would represent an opportunity to achieve higher density residential development as previously considered by Council. Given that commercial uses are a permitted use in the Highway Commercial (C2) Zone and any impact of the reduction would need to be mitigated by the developer through site plan control, staff consider that the proposal is an appropriate use of the lands.

Does the variance maintain the intent of the Official Plan? YES

Staff is satisfied that the proposal meets the intent of the Middlesex Centre Official Plan as the "Settlement Commercial" designation as well as the adjacent "Residential" designation. The reduced interior side yard would achieve higher density residential targets as previously considered by Council through Official Plan Amendment Application OPA 50, and Zoning By-law Amendment Application Z-9-2020.

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 proper separation distances occur between buildings and property lines. Planning Staff are of the opinion that the proposed reduction to the interior side yard setback achieves a better and more efficient development scenario for the lands as desired in the Official Plan Amendment and Zoning By-law Amendments previously considered by Council. Staff do not anticipate any negative impacts that would result from the proposed reduction and as such, are 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 requested reductions to the front and rear yard setbacks satisfies the aforementioned Planning Act tests and recommends that the subject application be approved.

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.