



Meeting Date: January 20, 2021

Submitted by: Dan FitzGerald MPI, Planner

Report No: PLA-4-2021

Subject: Application for Minor Variance (File No. A-25/2020)

Recommendation:

THAT Minor Variance Application A-25/2020, filed by Callon Dietz Land Surveyors on behalf of David Walker for relief from the Comprehensive Zoning By-law's maximum size, height, and the location of an accessory building, where the applicant is requesting a maximum size of 154.3 m² (1,660.8 ft²), whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum size of the lesser of 50.0 m² (538.0 ft²) of gross floor area or three percent (3%) lot coverage for all accessory buildings, to permit a maximum height of 8.8m (28.8 ft) for one accessory building and 6.2 m (20.3 ft) for the other, whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum height of 5.5m (18 ft), and to permit the placement of the accessory building in the format of a detached garage in the front yard, whereas section 4.1 (a)(ii) does not permit accessory buildings to be erected closer to the front lot line than the main building or structure on the lot, for a lot legally described as Part of Lot 14, Plan 305, in the Municipality of Middlesex Centre, in the County of Middlesex, and municipally known as 147 Harris Road, be **GRANTED** subject to the following conditions;

THAT the accessory buildings be constructed in the same general location as specified in the application submission;

AND THAT the accessory building be limited to 1 storey in height and the elevation attached be largely implemented as shown;

AND FURTHER THAT the reasons for granting Minor Variance Application A-25/2020 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 north side of Harris Road, north of the intersection at Harris Road and Martin Road, in the Municipality of Middlesex Centre.

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 size, height, and location of an accessory building for a new development located in the Community Residential First Density (CR1) Zone. The owner is requesting a maximum size of 154.3 m² (1,660.8 ft²) for all accessory buildings on the property, whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum size of the lesser of 50.0 m² (538.0 ft²) of gross floor area or three percent (3%) lot coverage for all accessory buildings. As such, the owner is requesting a minor variance of 104.3 m² (1123 ft²).

Additionally, the owner is also requesting to increase the maximum permitted height of one accessory building to 8.8m (28.8 ft) and the other to 6.2 m (20.3 ft), whereas the maximum permitted height for an accessory building in the Community Residential First Density (CR1) Zone is 5.5 m (18 ft). As such, the owner is requesting a minor variance of 3.3 m (10.8 ft) for the one building and 0.7 m (2.3 ft) for the other.

Lastly, the owner is also requesting permission to construct one of the proposed accessory buildings in the front yard, whereas section 4.1 (a)(ii) does not permit accessory buildings to be erected closer to the front lot line than the main building or structure on the lot. The requested minor variances are outlined below:

Requirements	Relief Requested
As per section 4.1 (b) (i) no buildings or structures accessory to a dwelling shall exceed the lesser of 50.0 m ² (538 ft ²) of gross floor area or three percent (3%) lot coverage in any <u>Urban Residential or Community Residential Zone</u> .	104.3 m ² (1122.6 sq/ft)
As per section 4.1 (c) (i) no buildings or structures accessory to a dwelling shall exceed 5.5 metres (18 feet) in height in any <u>Urban Residential or Community Residential Zone</u> .	3.3 m (10.8 ft) for one building 0.7 m (2.3 ft) for one building

As per section 4.1 (a)(ii) no buildings or structures accessory to a dwelling shall, with the exception of buildings and structures for agricultural uses, be erected closer to the front lot line or exterior side lot line than the main building or structure on the lot.	Construct one building in the front yard
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The property has an area of approximately 10.6 ac (4.29 ha) and is a residential property where a 5,378 square foot single detached dwelling is currently under construction. The property is surrounded by large community residential lots and dwellings to the east, south, and west along Harris Road, and natural open space lands to the north. The property is almost entirely regulated by the Upper Thames River Conservation Authority and backs onto a named waterway. A portion of the rear of the property is also identified as a Significant Woodland and is identified as a Natural Heritage feature in the Middlesex Natural Heritage Systems Study. It is designated 'Settlement Area' in the County of Middlesex Official Plan, 'Residential' by Middlesex Centre's Official Plan and zoned 'Community Residential First Density (CR1) Zone' in Middlesex Centre's Comprehensive Zoning By-law.

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, one comment was received from the public in opposition to the proposal. The concern listed arose from the impact of the development on the property as not being minor. The applicant's comment is attached to the report as attachment 5.

Agency Comments:

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

Chief Building Official no comments / concerns noted.

Director of Public Works and Engineering Department no concerns and/or requirements.

Enbridge no comments are concerns with the proposed application.

Upper Thames River Conservation Authority wishes to advise that a section 28 permit from our office will be required prior to the commencement of any development works within the UTRCA's Regulation limit. The foregoing comments are provided for the information of the applicant, the Committee and the Planning Department.

Policy and 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. Planning staff is of the opinion that the proposal satisfies the aforementioned Planning Act tests.

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's proposal is to construct two separate accessory buildings on the lands, one for a detached garage for the purpose of storage, and the other as a pool house. The existing zoning on the land limits the size of an accessory building to the lesser of 50 m² (538 ft²) or 3 % of lot coverage. In this case, 3 % of lot coverage would permit a maximum size of 1,287 m² (13,853 ft²). Given the above, the lesser of the two would be a maximum permissible size of 50 m² (538 ft²).

In addition, the applicant is proposing a maximum permissible height for the accessory building in the format of a detached garage as 8.8m (28.8 ft), and the second a maximum height of 6.2 m (20.3 ft), where the existing Zoning By-law provision permits a maximum permissible height of 5.5 m (18 ft). The purpose for the requested increase in height is not to create a larger interior height for the proposed structure, rather it is to match the proposed roof pitch for the single detached dwelling. Since the maximum height for an accessory building is based on the grade to peak, the high pitch of the proposed roof is necessitating a sizeable variance request.

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 variances, 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 proposal is generally located well beyond the line of sight from the street and the proposed size and height of the developments are not out of character with the scale of the single detached dwelling. Staff also note that given the above, the impact of the proposal can be considered to be minor in that it would be in keeping with the residential character of the area.

Is the variance an appropriate use of the land? YES

This development of accessory structures would be consistent with the character of the area which includes residential uses and uses accessory thereto. The use of the accessory building, such as detached garages and pool sheds are commonly found on residential properties as well as properties within the area. 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 Residential designation is to provide for a variety of dwellings and accessory buildings in the area. The accessory buildings proposed would be for residential use, 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 intent of requiring accessory buildings to be located behind the forward most portion of the home is to promote orderly development through a consistent building line and also to ensure the residential structure appears as the dominant, main use on the lands. Due to the unique characteristics of the lot and the location of the home, Planning Staff find that while one of the accessory buildings is technically located beyond the front wall of the home, the location is well screened from the road. Additionally, the location of the building is also abutting the side yard property line rather than the front yard. Staff do not foresee a potential impact given the setback from the road is well beyond the minimum requirement. As such staff are of the opinion that the intent would be maintained.

The intent of the maximum floor area requirement for accessory buildings on residential properties is to ensure that the accessory uses remain secondary to the primary use of the property, that being residential. Staff note that the necessity for the minor variance to increase the maximum size is for two separate accessory buildings located on the lands. The pool house is located behind the single detached dwelling, well beyond the line of sight of any existing neighbouring residential development. The second building, located

to the south of the home in the interior side yard, is respectful of the neighbouring property by locating the garage doors away from the neighbouring property and setting the building back well beyond the required interior side yard setback. Additionally, staff note that the provision in the by-law generally is meant to limit the size of accessory building on a much smaller lot size, while not necessarily contemplating a 10 acre parcel of land. Based on the size of the dwelling (499 m²) and the size of the lands, the proposed maximum size for all accessory buildings at 154.3 m² is well below the size of the home. As the dwelling would remain the dominant feature on the lands, staff is satisfied that the intent of the Zoning By-law would be maintained with the proposed size of the accessory buildings.

Likewise, the intent and purpose of the Middlesex Centre Comprehensive Zoning By-law as it relates to the maximum height permitted for accessory buildings is to ensure that the accessory building is subordinate to the residential use. As noted, the proposed accessory buildings and their heights are not anticipated to detract from the appearance of the main residential use of the property. The applicant has indicated that the desired height is a function of matching the aesthetic look of the residential dwelling. The additional height serves no other function and the accessory building is limited to one storey. Furthermore, staff is satisfied that the visual impact from the requested relief would be minor given the location of the proposed buildings on the property. Staff note that one of the buildings is located behind the main dwelling, out of sight of neighbouring properties. Respecting the second building, staff note that the existing zoning would permit an interior side yard setback of 1.5 metres for the accessory building. Being located at approximately 7.0 metres from the interior property line, staff are of the opinion that the increase in the setback would limit any potential impact to neighbouring properties. Therefore, planning staff find that the subject proposal would maintain the general intent and purpose of the of Zoning By-law.

Given the above, Planning Staff is satisfied that the proposed minor variance for the maximum permissible size, height, and location of one of the accessory buildings can be supported. Given the above, planning staff recommend that the subject application be approved, 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:

- 1c. Planning & Positioning: Realizing development potential.

- 3c. Quality of Life: Meeting the needs of both current and future citizens.

Attachments:

1. Location Map.
2. Proposed Site Plan
3. Proposed Accessory Building Elevation
4. Proposed Single Detached Dwelling Elevation
5. Public Comment.