



**Meeting Date:** January 20, 2021

**Submitted by:** Dan FitzGerald MPI, Planner

**Report No:** PLA-5-2021

**Subject:** Application for Minor Variance (File No. A-26/2020)

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**Recommendation:**

THAT Minor Variance Application A-26/2020, filed by Millstone Homes c/o Dimitrij Pylypej, on behalf of Kevin Hodgins and Donna Lumani, for relief from the Comprehensive Zoning By-law in order to permit a maximum lot coverage of 40 percent for the main dwelling and all accessory buildings, whereas the maximum lot coverage for the main dwelling is 35 percent and an additional 3 percent permitted for accessory buildings; for a property legally described as Lot 78, Plan 33M746, Municipality of Middlesex Centre, County of Middlesex, and Municipally known as 222 Edgewater Boulevard, be **GRANTED**, subject to the following condition:

AND THAT notwithstanding section 4.1 b) i) of the Municipality of Middlesex Centre's Comprehensive Zoning By-law, the maximum permissible size for an accessory building shall not exceed 4.55 percent lot coverage;

AND FURTHER THAT the reasons for granting Minor Variance Application A-26/2020:

- 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 south side of Edgewater Boulevard in the Southwinds subdivision.

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 permissible lot coverage for a single detached dwelling and associated accessory buildings on the lands. The applicant is requesting a maximum lot coverage of 40 percent for the main dwelling and all accessory buildings, whereas the Zoning By-law currently permits a maximum size for a single detached dwelling as 35 percent, with an additional 3 percent afforded for the construction of accessory buildings, to an overall maximum of 38 percent. The effect of the proposal is to facilitate the construction of a single detached dwelling on the lot and future accessory building(s). A site plan is included as Attachment 2.

The subject lands were created through a plan of subdivision and the lot in question has a frontage of 28.4 metres (93.1 feet) along Edgewater Boulevard and an area of approximately 852 m<sup>2</sup> (0.22 ac), which is in compliance with the requirements of the Urban Residential First Density (UR1) Zone. The lot was purchased by a future home owner where they are proposing to construct a single detached home on the lot.

The lands are surrounded by lots for future single detached residential units to the north east and west, and open space to the south, and are located within the Southwinds subdivision. They are designated 'Settlement Area' in the County of Middlesex Official Plan, 'Residential' in the Middlesex Centre Official Plan, and zoned Urban Residential First Density (UR1) Zone in Middlesex Centre's Comprehensive Zoning By-law. The subject property is also partially regulated by the Upper Thames River Conservation Authority.

The applicant has provided a conceptual building elevation for the lot, which would accommodate the construction of a single storey single detached dwelling. As shown on their conceptual site plan, the proposed foot print of the dwelling exceeds the maximum permissible percentage of lot coverage by 0.45 percent. The applicant is requesting a maximum overall total of lot coverage of 40 percent, whereas the Comprehensive Zoning By-law permits a maximum coverage for a single detached dwelling as 35 percent, with an additional 3 percent afforded for the construction of accessory buildings, to an overall maximum of 38. As such the developer is requesting a total increase of 2 percent lot coverage for all structures on the lands. The request is summarized below:

Requirements	Relief Requested
As per section 8.1.7 the maximum permitted lot coverage for the main building is 35% and all buildings including accessory buildings subject to section 4.1 (a) to be 38%.	Two percent (2%) lot coverage for at maximum permissible size of forty percent (40%).

**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;

Enbridge Pipelines does not have any assets in the area.

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

Development Review Coordinator has reviewed the application and has indicated no objection to the proposal.

Upper Thames River Conservation Authority wishes to advise that while they have no objection to the application for minor variance, a permit from the UTRCA is required prior to any construction works taking place within the Regulation limit. Further, they would recommend that the applicant contact their office to discuss the appropriateness of the proposed pool shown on the site plan. The foregoing information is provided for the Planning Department, the Committee and the applicant.

**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.

As previously noted, the subject land is designated 'Settlement Area' according to the County of Middlesex and 'Residential' in the Middlesex Centre Komoka-Kilworth Secondary Plan, within the Middlesex Centre Official Plan. The lot is zoned 'Urban Residential First Density (UR1) Zone' by Middlesex Centre's Comprehensive Zoning By-law. Staff note that the applicants request for a minor variance to the overall lot coverage allowance is generally due to the preferred format of development, that being a single storey, single detached dwelling.

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 increase to the overall maximum coverage would not, in the opinion of staff, be out of character with the neighbourhood. Additionally, staff note that the majority of the proposed increase in overall lot coverage is the result of a future proposed accessory building. The accessory building, based on the applicant's proposal, would be tucked in behind the house and out of sight from the street. Staff do not anticipate any negative impacts and as such, 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 and single detached dwelling and associated future accessory structure(s) 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 Residential designation is to provide for a variety of dwellings and accessory buildings in the area. The dwelling and associated future accessory building(s) 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 general intent and purpose of the Comprehensive Zoning By-law as it relates to total lot coverage restrictions in residential areas, is to ensure that sufficient amenity space is available on each property. Planning staff is satisfied that the requested relief would not have a significant detrimental impact on the amenity space available on the subject property. Staff also feel that it would be appropriate given that the applicant is requesting to build a one storey home, necessitating the increased footprint to achieve the desired size. Staff are also of the opinion that there would be no adverse impact to the surrounding area and that the intent of the Zoning By-law is maintained.

Likewise, the intent and purpose of the Middlesex Centre Comprehensive Zoning By-law as it relates to the maximum permitted size for accessory buildings is to ensure that the accessory building is subordinate to the residential use. As noted, the proposed accessory building and its location in the rear of the property is not anticipated to detract from the appearance of the main residential use of the property. Additionally, staff have recommended the inclusion of a condition that any future accessory building be limited to a maximum overall lot coverage size of 4.55 percent to ensure any future building remains subordinate to the main dwelling. 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 an increase to the maximum permissible lot coverage for the main dwelling and any associated accessory buildings can be supported, subject to the recommended condition. 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:

- 1a. Planning & Positioning: Diversifying future residential development.
- 1c. Planning & Positioning: Realizing development potential.

**Attachments:**

1. Location Map.
2. Proposed Site Plan
3. Proposed Building Plan and Elevations