



Meeting Date: April 28, 2021

Submitted by: Dan FitzGerald MPI RPP

Report No: PLA-37-2021

Subject: Application for Minor Variance (File No. A-8/2021)

Recommendation:

THAT Minor Variance Application A-8/2021, filed by Morgan Hall and Richie Anand for relief from the Comprehensive Zoning By-law in order to establish an interior side yard setback of 1.5 metres (5 feet) on one side, whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum interior side yard setback of 3.0 metres (10 feet) on both interior side yards, and to permit a pool in the front yard, whereas pools are only permitted in an interior side yard or rear yard, for a property legally described as Part of Lot 12, Concession 12 S, Municipality of Middlesex Centre, County of Middlesex and municipally known as 25235 Nairn Road, be GRANTED, subject to the following condition:

AND THAT the pool be required to meet the minimum exterior side yard setback as established in the Zoning By-law;

AND FURTHER THAT the reasons for granting Minor Variance Application A-8/2021:

- 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 west side of Nairn Road, on the north west corner of the intersection at Nairn Road and Greystead Drive. The subject property is municipally known as 25235 Nairn 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 and the location of a pool as required in the Agricultural (A1) Zone. The applicant is requesting a minimum interior side yard of 1.5 metres (4.9 feet), whereas Middlesex Centre’s Comprehensive Zoning By-law requires a minimum interior side yard setback of 3.0 metres (10 feet) for a single detached dwelling. They applicant is also seeking permission to locate a pool in the front yard. The effect of the proposal is to facilitate the construction of an addition to the existing non-complying single-family home as well as the construction of a pool. A site plan is included as Attachment 2.

The subject lands has a frontage of approximately 37.18 metres (122 feet) along Greystead Drive and an area of approximately 0.37 hectares (0.92 acres) and as such represents a non-complying, legal existing lot of record in Middlesex Centre. It is located on the north side of Greystead Drive, on the north west corner of the intersection at Greystead Drive and Nairn Road. It is surrounded on all sides by agricultural land in crop production.

The property is designated ‘Agricultural Area’ 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 proposed addition to the single detached dwelling as well as proposed pool location. As shown on their conceptual site plan, the west interior side yard is proposed to maintain a 1.5 metre (4.9 feet) setback for the single detached dwelling, resulting in a requested reduction in 1.5 metres (4.9 feet). Additionally, the applicant is proposing to locate a pool in the front / exterior side yard, where they are currently only permitted within interior side yard and rear yards. The proposed reductions are summarized below:

Requirements	Relief Requested
As per section 4.28 (a) no swimming pool shall be located in any yard other than in an interior side yard or a rear yard.	Front / Exterior Side Yard
As per section 5.1.5 (a) the minimum interior side yard setback is 3.0 metres (10 feet)	1.5 metres (4.9 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, 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.

County Engineer pools shall maintain the minimum exterior side yard setback from Nairn Road to ensure no conflict with motor vehicles.

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 'Agricultural Area' according to the County of Middlesex and 'Agricultural' Middlesex Centre Official Plan. The lot is zoned 'Agricultural (A1) Zone' by Middlesex Centre's Comprehensive Zoning By-law. Staff note

that the applicants request for a minor variance to the interior side yard setback requirements is generally due to the request to expand a legal non complying setback standard of an existing home. Additionally, based on the setback of the home on the lot, there is limited opportunity to construct a pool within an interior side yard or rear yard on the land.

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 reduction to the interior side yard is required based on an existing condition on the property. The applicants request to expand a legal non complying setback standard by way of an addition is considered minor in nature as the proposed form of development is not anticipated to have any negative impacts on surrounding land. Additionally, the request to build a pool within the front / exterior side yard is necessitated by the location of the house on the lands. 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

The development of an addition to a single detached dwelling and associated accessory use (pool) 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 secure agricultural land and protect them from development. They also permit associated residential uses as well as accessory uses to residential dwelling. The proposed addition to the dwelling and accessory use (pool) 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 interior side yard setback for residential development is to provide for an adequate separation distance between abutting residential uses, to limit the potential impact to

existing grading, and to provide access to the rear of the property. Staff have reviewed the proposal against the existing development and are satisfied that the proposed reduction to the interior side yard setback is appropriate given the existence of a structure already at the requested setback, as well as the buffer distance provided to the neighbouring residential development. As such, planning staff are satisfied that the general intent and purpose of the Zoning By-law would be maintained as staff do not anticipate a negative impact to abutting property owners.

Regarding the request to locate a pool in the front / exterior side yard, Planning Staff note that the general intent and purpose of the Comprehensive Zoning By-law as it relates to the subject request is to ensure that the pool is located a safe distance from the traveled portion of the road allowance, and that the residential dwelling remains the main use on this portion of the lot. In consultation with the County Engineer, it has been determined, as a condition recommended in this minor variance application, that the location of the pool be set back the minimum required exterior side yard setback from the Nairn Road allowance. Thereby ensuring no potential conflict between the proposed pool location and motorists. Taking this into consideration, Planning staff is 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 proposed minor variance can be supported. 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:

- Balanced Growth

Attachments:

1. Location Map
2. Proposed Site Plan
3. Conceptual Elevations