



**Meeting Date:** April 28, 2021

**Submitted by:** Dan FitzGerald MPI RPP

**Report No:** PLA-39-2021

**Subject:** Application for Minor Variance (File No. A-10/2021)

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**Recommendation:**

THAT Minor Variance Application A-10/2021, filed by Mike Manuel on behalf of Anna Perzia, for relief from the Middlesex Centre Comprehensive Zoning By-law 2005-005 in order to permit the installation of a swimming pool in the exterior side yard, being closer to the exterior lot line than the single-detached dwelling on the land, as generally shown on the illustration submitted in support of the proposal; for a property legally described as Lot 6, Concession 3, Plan 427, and Lot 12, Part 1 on Reference Plan 34R746, Municipality of Middlesex Centre, County of Middlesex and municipally known as 3657 Woodhull Road; be GRANTED subject to the following condition.

THAT the swimming pool be constructed in the same general location as specified in the application submission;

AND THAT the reasons for granting Minor Variance Application A-10/2021 include:

- The request complies with the general intent and purpose of the Middlesex Centre Official Plan;
- The request complies with the general intent and purpose of the Middlesex Centre 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 Woodhull Road, on the north west corner of the intersection at Woodhull Road and Longwoods Road.

A location map is included in 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 section 4.28 (a), which only permits pools in the interior side or rear yard. The effect of the application would permit the installation of a swimming pool in the exterior side yard.

The subject lands are located on the west side of Woodhull Road, on the north west corner of the intersection at Woodhull Road and Longwoods Road, and is municipally known as 3657 Woodhull Road. The lands are bounded by agricultural / residential uses to the north and west, residential homes in the format of single detached dwellings to the east, and industrial lands to the south. Existing development of the lands contains a single detached dwelling fronting onto Woodhull Road and a detached accessory building on the north west side of the property. Additionally, the property contains a mature tree line along the exterior side yard and front yard.

The property is designated 'Agricultural Area' the Middlesex County Official Plan, 'Agricultural' in the Middlesex Centre Official Plan, and a 'Agricultural Exception (A1-11) Zone' in the Middlesex Centre Comprehensive Zoning By-law.

The applicant is requesting the minor variance to permit the construction of a swimming pool in the exterior side yard as the interior side yard contains a detached accessory building and rear yard is predominately taken up by the septic system weeping bed.

An illustration of the proposal is included in Attachment 2

## **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 no concerns as there appears to be sufficient space between the road and the proposed location of the pool.

**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 Exception (A1-11) Zone' by Middlesex Centre's Comprehensive Zoning By-law. Staff note that the applicants request for a minor variance to place a pool in the exterior side yard is related to the existing position of the home, associated accessory building's and the location of the septic bed.

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

Staff is of the opinion that the proposal is considered minor in nature as the proposed location of the swimming pool is to be setback beyond the front wall of the house. It would be appropriately screened by a fence and also located behind a mature tree line along

the exterior side yard of the property and a fence. As such, Staff is not anticipating any negative adverse impacts on neighbouring properties by placing the swimming pool in the exterior side yard. Staff is satisfied that the location of the pool would provide enough privacy needed for the use and that it will not negatively impact the visual appearance of the property.

Is the variance an appropriate use of the land? YES

Staff is of the opinion that the proposal is appropriate for the property as a swimming pool is a common accessory use to a single family dwelling. The applicants have advised that the swimming pool cannot be located in the rear yard given the location of the existing septic system and the existing detached accessory building.

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 “Hamlet” designation of the property permits residential uses as well as accessory uses for residential purposes.

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 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. Based on the fact that the pool area must be enclosed with a fence in accordance with the Municipality’s pool fencing requirements, and is to be located behind an existing mature tree line along the road allowance; 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 requested location of a swimming pool in the exterior side yard 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.

**Financial Implications:**

None.

**Strategic Plan:**

This matter aligns with following strategic priorities:

- Balanced Growth

**Attachments:**

1. Location Map
2. Conceptual Site Plan