



Meeting Date: April 28, 2021

Submitted by: Dan FitzGerald MPI RPP

Report No: PLA-8-2021

Subject: Application for Minor Variance (File No. A-24/2020)

Recommendation:

THAT Minor Variance Application A-24/2020, filed by Zelinka Primao Ltd c/o Dave Hannam on behalf of Kilworth Business Park for relief from the Municipality's Comprehensive Zoning By-law's minimum front yard setback to 4.36 metres (14.3 feet), whereas the Zoning By-law requires a minimum front yard setback of 10.0 metres (33 feet), and to reduce the minimum rear yard setback requirement to 2.78 metres (9.12 feet), whereas the Zoning By-law requires a minimum rear yard setback of 10 metres (33 feet) for a lot legally described as Block 1 on Plan M324 and municipally known as 22499 Jefferies Road, be GRANTED.

AND THAT reasons for granting Minor Variance Application A-24/2020 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 west side of Jefferies Road, more specifically on the south west 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 front yard and rear yard setback requirements for commercial developments as required in the Highway Commercial Exception (C2-11) zone. The applicant is requesting a minimum front yard setback of 4.36 metres (14.3 feet), whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum front yard setback of 10.0 metres (33 feet). Additionally, the applicant is requesting permission to reduce the minimum rear yard setback requirement to 2.78 metres (9.12 feet), whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum rear yard setback of 10 metres (33 feet). The effect of the proposal is to facilitate the construction of two commercial / retail units on a currently underutilized commercial site. The applicant’s proposed minor variances are summarized below:

Requirements	Relief Requested
As per section 16.1.5 (b) the minimum front yard setback is 10.0 metres (33 feet).	5.64 metres (18.5 feet)
As per section 16.1.7 the minimum rear yard setback is 10.0 metres (33 feet).	7.22 metres (23.6 feet)

The property has a frontage of approximately 99 metres (324 feet) along Jeffries Road and area of approximately 1.4 hectares (3.48 acres). Additionally, the property fronts onto Glendon Drive and contains two existing commercial buildings and associated parking area. It is surrounded by commercially zoned lands to the east, south and west, and agricultural lands to the north.

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 zoned a ‘Highway Commercial Exception (C2-11) Zone’ by Middlesex Centre’s Comprehensive Zoning By-law.

The applicant is proposing to construct two new commercial buildings on the subject property, which are currently under site plan review. Based on the concept layout, minor variances would be required to achieve the owners desired development. Justification provided by the applicant speaks to position the building close to the street in accordance with good urban design principles. They also note that positioning of the buildings towards the front and rear lot lines allows for the provision of suitable centralized parking, while

still permitting peripheral landscaping. They also note that positioning the building next to the road provides presence and addresses street activation for the surrounding streets. A conceptual sketch of the proposal is included as attachment 2 and attachment 3.

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 but the applicant shall be aware that a spatial separation agreement may be required with a neighbouring property owner. This will be evaluated as part of the site plan agreement and building permit application.

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 the construction of two new, one storey commercial buildings located at the corner of Glendon Drive and Jefferies Road. 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 Killworth 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 are zoned Highway Commercial Exception (C2-11) 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 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. 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 front and rear yard setbacks based on the location are considered minor in nature as they would help to achieve a pedestrian oriented development along a major corridor within Middlesex Centre. By positioning the buildings closer to the street, the proposed development will help to create a consistent street wall while also serving to activate the public realm. The proposed reductions are not anticipated to negatively impact surrounding land uses or the street network. As such, the impact of the proposal can be considered to be minor in that it would help to achieve the policies outlined in the Official Plan.

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 the utilization of a currently underutilized commercial parcel. Given that commercial uses are a permitted use in the Highway Commercial (C2) Zone, staff note that the proposal is considered 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 of the property permits commercial uses of the lands. Further the Community Gateway areas as identified in the plan specifically require buildings to address the street corner, parking to be located to the rear or sides of buildings, and providing a high quality design character of development that contributes to the image and identity of Komoka-Kilworth. Given the above, Planning Staff are of the opinion that the intent of the Official Plan would be maintained by shifting buildings towards the street and locating parking behind or to the side yard of the buildings as proposed.

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, to ensure access is maintained, and to reduce the potential impact of development on the existing road network. Planning Staff are of the opinion that the proposed reductions to the front and rear yard setbacks seek to achieve a better and more efficient development scenario for the lands as desired in the Official Plan. Staff do not anticipate any negative impacts that would result from the proposed reductions 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.

Financial Implications:

None.

Strategic Plan:

This matter aligns with following strategic priorities:

- Balanced Growth
- Vibrant Local Economy

Attachments:

1. Location Map
2. Proposed Site Plan
3. Conceptual Elevation Rendering