



**Meeting Date:** April 28, 2021

**Submitted by:** Dan FitzGerald MPI RPP

**Report No:** PLA-25-2021

**Subject:** Application for Minor Variance (File No. A-6/2021)

---

**Recommendation:**

THAT Minor Variance Application A-6/2021, filed by Brock Development Group Inc for relief from the Comprehensive Zoning By-law in order to establish an exterior side yard setback of 5.0 metres (16.4 feet) on the side abutting the road and 1.5 metres (5 feet) on the other side, whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum exterior side yard of 8.0 metres (26.2 ft) on one side and 1.5 metres (5 feet) on the other side, for a property legally described as Lot 12, Registered Plan 33M796, Municipality of Middlesex Centre, County of Middlesex and municipally known as 217 Martin Road, be GRANTED, subject to the following conditions:

AND THAT any future access considered off Harris Road shall require a minimum exterior side yard setback of 6.0 metres (19.6 feet);

AND FURTHER THAT the reasons for granting Minor Variance Application A-6/2021:

- 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 Martin Road, on the south west corner of the intersection at Martin Road and Harris Road, and municipally known as 217 Martin 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 exterior side yard setback for a single detached dwelling in the Community Residential First Density – Holding (CR1-H-4) Zone. The applicant is requesting a minimum exterior side yard setback of 5.0 metres (16.4 feet), whereas the Middlesex Centre Comprehensive Zoning By-law requires an exterior side yard setback of 8.0 metres (26.2 ft) on one side and 1.5 metres (5 feet) on the other side. The effect of the proposal is to facilitate the construction of a single detached dwelling. A site plan is included as Attachment 2.

The subject lands are located in Delaware on the west side of Martin Road, on the south west side of the intersection at Martin Road and Harris Road. They are surrounded by low density residential lands on all sides. They are designated ‘settlement area’ in the Middlesex County Official Plan, ‘Residential’ in the Middlesex Centre Official Plan, and zoned a Community Residential First Density – Holding (CR1-H-4) Zone in the Middlesex Centre Comprehensive Zoning By-law. The land in question has a frontage of approximately 26.5 metres (86.9 feet) on Martin Road and an area of approximately 1,613.8 square metres (0.4 acres), which is in compliance with the requirements of the Community Residential First Density (CR1) Zone.

The applicant has provided a conceptual site plan showing the proposed location of the single detached dwelling, which faces Martin Road. The applicant has also provided a site triangle on the plans at the request of the municipality. As shown on their conceptual site plan, the north exterior side yard is proposed to have a minimum setback of 5.0 metres (16.4 feet). As a result, the applicant is requesting to reduce the required exterior side yard by 3.0 metres (9.8 feet). The proposed reductions are summarized below:

Requirements	Relief Requested
As per section 11.1.5 (b) the minimum exterior side yard is 8.0 m (26 ft) on the side abutting the street and 1.5 m (5 ft) on the other side.	3 metres (9.8 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.

**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 Official Plan and 'Residential' in the Middlesex Centre Official Plan. The lot is zoned 'Community Residential First Density – Holding (CR1-H-4) Zone' by Middlesex Centre's Comprehensive Zoning By-law. Staff note that the applicants request

for a minor variance to the exterior side yard is due to the preferred nature of development on the lands.

Planning has reviewed the proposed minor variance 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 variance, 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 proposed reduction to the exterior side yard has the most impact to Harris Road, given that the frontage along Martin Road meets the minimum front yard setback. In review of the proposal, Planning Staff have reviewed the existing context of development along Harris Road and note a variety of setbacks applied to the lands both in the form of large setbacks for estate sized lots, to close proximity for newer and older development. In Planning Staff's opinion, the proposal can be considered minor in nature as it would be in keeping with the residential character of the area. Additionally, the exterior side yard setback would not create undue harm to neighbouring properties.

Is the variance an appropriate use of the land? YES

The development of a single detached dwelling 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 proposed single detached dwelling 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 exterior side yard setback is to create an appropriate setback and buffer to the edge of the right of way. Additionally, they seek to create a consistent setback along the street to create a sense of place for a neighbourhood and also seek to ensure sight visibility triangles at corners are maintained for pedestrian's and drivers. Staff have reviewed the proposal against the existing development within the neighbourhood and are satisfied that the proposed reduction to the exterior side yard and location of a single detached

dwelling would not cause negative impacts to the streetscape, buffers to the street or sight visibility triangles. A condition has been included to ensure vehicle access would be restricted within an exterior side yard to any location not meeting a minimum driveway setback of 6.0 metres, thereby ensuring no vehicles will infringe into the right of way if future access is considered. 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.

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. Conceptual Site Plan
3. Sight Triangle Confirmation
4. Elevation
5. Construction Plans