



**Meeting Date:** September 22, 2021

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

**Report No:** PLA-73-2021

**Subject:** Application for Minor Variance (File No. A-18/2021)

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**Recommendation:**

THAT Minor Variance Application A-18/2021, filed by Llyod Monteith, for relief from the Comprehensive Zoning By-law in order to establish a maximum height of 13.4 metres (44 feet) for an accessory building, whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum height of 6.5 metres (21.3 feet), for a property legally described as Lot 17, Concession 3 East, in the Municipality of Middlesex Centre, County of Middlesex, and Municipally known as 5749 Woodhull Road, be DENIED;

AND THAT the reasons for denying Minor Variance Application A-18/2021 include:

- The request does not comply with the general intent and purpose of Middlesex Centre's Comprehensive Zoning By-law;
- The request is not minor in nature; and
- The request does not 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 west side of Woodhull Road, north of the intersection at Woodhull Road and Littlewood Drive, and municipally known as 5749 Woodhull 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 maximum permissible height for an accessory building in the Agricultural (A1) Zone. The applicant is requesting relief from the maximum permissible height for an accessory building to 13.4 metres (44 feet), whereas Middlesex Centre's Comprehensive Zoning By-law permits a maximum height of 6.5 metres (21.3 metres). The effect of the proposal would be to

facilitate the construction of one accessory building, for the stated purpose of residential storage. A site plan is included as Attachment 2 and building plans included as Attachment 3.

The subject lands are located in an agricultural area. They are surrounded by agricultural lands on all sides. It is designated 'agricultural area' in the Middlesex County Official Plan, 'Agriculture' in the Middlesex Centre Official Plan, and zoned Agricultural (A1) Zone in the Middlesex Centre Comprehensive Zoning By-law. The land in question has a frontage of approximately 309 metres (1,013.4 feet) and an area of approximately 28.7 hectares (71 acres), which is considered a non-compliant lot based on lot area requirements of the Agricultural (A1) Zone.

The applicant has provided a conceptual site plan showing the proposed location of the accessory building, located behind the existing home. Based on the request, they are proposing to increase the maximum permissible height by 6.9 metres (22.6 feet). The proposed reductions are summarized below:

Requirements	Relief Requested
As per section 4.1 (c) (iii) no buildings or structures accessory to a dwelling shall exceed 6.5 metres (21.3 feet) in height in any <u>Agricultural, Restricted Agricultural or Surplus Residence Zone</u> .	6.9 metres (22.6 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 building division has no objection to the height request but has not reviewed the plans submitted to the Committee of Adjustment and may require additional design details or limitations to this structure which are not related to building height.

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 'Agricultural Area' according to the County of Middlesex and 'Agriculture' in the Middlesex Centre Official Plan. The lot is zoned 'Agricultural (A1) Zone' by Middlesex Centre's Comprehensive Zoning By-law. The applicant is requesting the increase in the maximum permissible height to be able to provide secure storage on their 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? No

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 proposed increase in height to 13.4 metres is not considered minor in consideration of an accessory building

to a residential use. The proposed height exceeds that of the main dwelling, which detracts from its appearance as a principle use. Staff is not aware of any comparable residential accessory buildings of similar height, both within the existing neighbourhood or within Middlesex Centre. Given the above, Planning Staff are of the opinion that the requested relief from the maximum height permission is not minor in nature.

Is the variance an appropriate and desirable use of the land? No

The development of an accessory building would be consistent with the character of the area which includes residential uses and uses accessory thereto. However the proposed increase in height, beyond the maximum height permissions for principle structures on the lands, is not considered to be appropriate or desirable development. Therefore, the proposed use of an accessory building as proposed would not be considered an appropriate and desirable 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 accessory building 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 as accessory to a residential use.

Does the variance maintain the intent of the Zoning By-law? No

The general intent and purpose of the Comprehensive Zoning By-law as it relates to the maximum permissible size and height for an accessory building is to limit an accessory building to maintain the dwelling as the principle use of the lands. At a height of 13.4 metres (44 feet), the accessory building would exceed the height of the dwelling. As such, Planning Staff are of the opinion that the requested height would not meet the general intent and purpose of the Zoning By-law.

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.

### **Attachments:**

1. Location Map
2. Proposed Site Plan

### 3. Proposed Building Design