



Meeting Date: October 27, 2021

Submitted by: Dan FitzGerald MPI MCIP RPP

Report No: PLA-89-2021

Subject: Application for Minor Variance (File No. A-33/2021)

Recommendation:

THAT Minor Variance Application A-5/2021, filed by Luke Oslizlo on behalf of Jason Borbath, for relief from the Comprehensive Zoning By-law in order to establish an interior side yard and rear yard setback of 0.6 metres (2 feet) on the north interior side yard and rear yard setback of 0.6 metres (2 feet) for an accessory building, whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum interior side yard and rear yard setback for an accessory building of 1.5 metres (4.9 feet); and to permit a maximum size of 42.3 square metres (455 square feet) for the accessory building, whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum size of the lesser of 50.0 m² (538.0 ft²) of gross floor area or three percent (3%) lot coverage, for a property legally described as Lot 11, Plan 33M572 in the Municipality of Middlesex Centre, County of Middlesex, and Municipally known as 126 Prince Street, be GRANTED;

AND THAT the reasons for granting Minor Variance Application A-33/2021:

- 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 Prince Street, north of the intersection at Prince Street and Duke Street. The land is legally described as Lot 11, Plan 33M572, in the Municipality of Middlesex Centre, County of Middlesex.

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 gross floor area, interior side yard and rear yard setback for an accessory building in the Urban Residential First Density (UR1) Zone. The applicant is requesting a maximum size for all accessory buildings on the land of 42.3 square metres (455 square feet), whereas the Middlesex Centre Comprehensive Zoning By-law permits a maximum size of the lesser of 50.0 m² (538.0 ft²) of gross floor area or three percent (3%) lot coverage, which in this case would be a maximum permissible size of 20.3 square metres (218 square feet). The applicant is also requesting an interior side yard and rear yard setback of 0.6 metres (2 feet), whereas the Middlesex Centre Comprehensive Zoning By-law requires a minimum interior side yard and rear yard setback of 1.5 metres (4.9 feet). The effect of the proposal is to facilitate the construction of an accessory building a replacement / enlargement of an accessory building, for the intended purpose of storage. A site plan is included as Attachment 2.

The subject lands are located in Komoka on the west side of Prince Street. They are surrounded by residential lands on all side in the format of single detached dwellings. It is designated 'settlement area' in the Middlesex County Official Plan, 'Residential' in the Middlesex Centre Official Plan, and zoned an Urban Residential First Density (UR1) Zone in the Middlesex Centre Comprehensive Zoning By-law. The land in question has a frontage of approximately 20 metres (66 feet) and an area of approximately 678 square metres (0.17 acres), which is in compliance with the requirements of the UR1 zone.

The applicant has provided a conceptual site plan showing the proposed location of the accessory building, located along the north interior side yard at the rear of the property. As shown on their conceptual site plan, the north interior side yard and rear yard are proposed to have a 0.6 metre (2 feet) setback. Additionally, they are proposing to increase the maximum permissible size by 21.9 square metres (235 square feet). The proposed reductions are summarized below:

Requirements	Relief Requested
As per section 4.1 (b) (i) no buildings or structures accessory to a dwelling shall exceed the lesser of 50.0 m ² (538 ft ²) of gross floor area or three percent (3%) lot coverage in any <u>Urban Residential or Community Residential Zone</u> .	21.9 square metres (235 square feet) or an additional 3.2 percent lot coverage
As per section 4.1 (b) (iv) no building or structures accessory to a dwelling shall be erected closer than the lesser of 1.5 metres (4.9 ft) or the minimum interior side yard setback required for the main	0.6 metres (2 feet)

use on the lot, to an interior side lot line in any Residential or Agricultural Zone	
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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 and 'Residential' in the Middlesex Centre Komoka-Kilworth Secondary Plan, within the Middlesex Centre Official Plan. The lot is zoned 'Urban Residential First Density (UR1) Zone' by Middlesex Centre's Comprehensive Zoning By-law. Staff note that the applicants request for a minor variance to the interior side yard and rear yard setback requirements is generally due to the preferred nature of development on the lands. The applicant has also indicated that the location of the new accessory building on the lands would be necessary to the intended purpose of a pool house, placing the pool equipment next to the proposed location of the pool in the rear yard.

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 and rear yard setbacks for an accessory building in this instance would be considered minor as the proposed new building would be limited in height, and still permit access around the structure for maintenance purposes. Additionally, the increase in size of 21.9 square metres is not anticipated to have any negative impacts on surrounding land. 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 accessory building 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 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.

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 and rear yard setbacks for accessory buildings is to ensure adequate separation distance between abutting residential uses, to limit the potential impact to existing grading, and to provide access for future maintenance purposes of the structure. Staff have reviewed the proposal against the existing development within the neighbourhood and are satisfied that the proposed accessory building location would not cause negative impacts to spatial separation or grading. Additionally, the reduction to 0.6 metres (2 feet) at its closet point would still permit access for maintenance purposes of the structure. Additionally, the increase in the maximum permissible size would not detract from the residence being the main structure on the lands. 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 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

This Planning Report relates to Objective 2.3 – Promote designs and concepts that reflect a “small-community feel” in new development by matching existing development patterns within the pre-existing residential character.

Attachments:

1. Location Map
2. Site Plan